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Committee Policy, Finance and Strategy
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Māori constituencies

1. Purpose

To consider the establishment of Māori constituencies for Greater Wellington's 2007 triennial general elections and recommend that Council do one of the following:

- pass a resolution to establish Māori constituencies, or
- pass a resolution not to establish Māori constituencies, or
- make no decision on establishing Māori constituencies, or
- initiate a poll on the matter of establishing Māori constituencies.

2. Significance of the decision

The decision on whether or not to establish Māori constituencies is a significant decision. The Local Electoral Act 2001 (LEA) sets out the specific process the Council must follow when making this decision. This process overrides the decision-making requirements in the Local Government Act 2002 and Greater Wellington's Significance Policy.

3. Background

Greater Wellington must review its representation arrangements in 2006, in preparation for the local government elections in 2007. When making a decision on its representation arrangements the Council must take into account whether or not the region will be divided into Māori constituencies. Because of the legislative timetable set out in the LEA the consideration of Māori constituencies needs to take place before the Council determines its representation arrangements.

Under the LEA there are two ways that a decision can be made on establishing Māori constituencies:

- The Council may **resolve** that the region be divided into Māori constituencies. This is optional; or
- A **poll** may be conducted whereby every elector in the region (on both the Māori and general electoral rolls) has the opportunity to vote on whether or not the region should be divided into Māori constituencies. The majority view of those who voted will determine the result of the poll. Such a poll could either be initiated by Council or demanded by the public.

It is important to note that neither of these options is mandatory. The Council could in fact do nothing. This would, in effect, be a decision to retain the status quo i.e. no Māori constituencies.

3.1.1 Council passing a resolution by 23 November 2005

If the Council decides to pass a resolution on establishing Māori constituencies, it must pass a resolution by 23 November 2005 for the Council's decision to take effect for the 2007 elections. The Council meeting on 18 October is the last meeting of Council before 23 November 2005. The decision of Council would be effective for the next two triennial elections (unless a poll is held), and would continue in effect after these two elections until a further resolution is made by Council or a poll of electors is held.

3.1.2 Council initiates a poll by 28 February 2006

If the Council decides to initiate a poll on the matter of establishing Māori constituencies, it must do so by 28 February 2006 for the result of the poll to be effective for the 2007 elections. The outcome of a poll is binding and overrides a resolution of Council. The result of the poll would be effective for the next two elections.

3.1.3 Public demands a poll by 28 February 2006

Five percent of the region's public (approximately 15,000 people) also have the right to demand that a poll be held on the subject of establishing Māori constituencies. As above, demand for a poll must be received by 28 February 2006 for the result to be effective for the 2007 elections. Again, the outcome of a poll is binding and overrides a resolution of Council, and the result of the poll would be effective for the next two elections.

3.1.4 Act determines number of Māori constituencies, constituency boundaries and number of Māori members

A Council resolution or a poll decides whether or not Māori constituencies will be established. They do not, however, determine how many Māori constituencies shall be established, the boundaries of the Māori constituencies or the number of members that shall be elected by the electors of each Māori constituency. These matters must be determined in line with the requirements of the LEA (see 4.1.1 below).

4. Comment

4.1 Application of legislation

4.1.1 Only one Māori member for this Council

The number of Māori members for election must be calculated in line with the LEA (Clause 4 of Schedule 1A). When we use this formula it becomes evident that Greater Wellington could have only one Māori member. This is the outcome regardless of the total number of elected representatives to this Council.

4.1.2 One Māori constituency to cover entire region

One Māori member would mean that only one Māori constituency could be established and this constituency would need to cover the entire region.

4.1.3 Māori and general constituencies

If a Māori constituency were created, one member of Council would be elected from the Māori constituency and the other members would be elected from the general constituencies. Only electors on the Māori electoral roll for central government elections can vote for candidate members in a Māori constituency. Only electors on the general electoral roll can vote for members from general constituencies. No-one can vote in both a general and a Māori constituency.

4.1.4 How it relates to general representation

The establishment of Māori constituencies impacts on the number of general constituency members. This is mainly because the number of general constituency members would be determined by subtracting the number of Māori constituency members from the proposed number of general members. If, for example, there were thirteen members of Council in total, one member would be a Māori constituency member and 12 would be general constituency members.

It is not possible to tell at this point what the general constituencies would look like if a Māori constituency was established. This is because the Council has not yet conducted its representation review. Even once the Council has decided on its arrangements the Local Government Commission might make a different determination.

4.2 View of Ara Tahi

At its meeting on 7 September 2005 Ara Tahi considered the establishment of Māori constituencies. They formed the view that that the Council should make no decision for the 2007 triennial elections.

Ara Tahi approached the matter in two stages. Iwi members first attended a workshop on Māori constituencies which outlined the legal requirements and some of the implications. Then, at their meeting on 7 September 2005 Ara Tahi had a lengthy discussion *in committee* during which they considered, among

other things, the impact Māori constituencies would have on Māori representation, mana and tikanga (**Attachment 1**).

4.3 Practical and philosophical considerations

Māori are currently under-represented in local government and Māori constituencies are one way of addressing this. But are Māori constituencies a necessary or effective way of tackling this under-representation? The discussion below reflects some of the practical and philosophical discussions on separate Māori representation both at the local and national levels of government. Because separate Māori representation is new to the local government context, with the exception of the Bay of Plenty, much of the discussion is values-based or conjectural. One's opinion on the matter probably comes down to the values one holds.

4.3.1 Māori are currently under-represented in local government

In the 2001 local authority elections only four percent of people elected to councils were Māori. Yet Māori make up fourteen percent of the national population. This did not change in the 2004 elections where there were a number of councils that were elected by the single transferable vote electoral system. In the Wellington region about ten percent of the population identifies as Māori but there are no Māori members on Council.

The Environment Bay of Plenty provides an interesting case study. In a report from the Justice and Electoral Committee that considered the Māori Constituency Empowering Bill, the Committee commented that the Council's current system had been unable to sustain long-term Māori involvement. The Committee said that "The pattern of Māori being elected to their Council is that they last one term before being voted out by the majority Pākehā electorate in their ward, seemingly because they have spoken out on Māori concerns."

4.3.2 Guaranteed Māori voice on Council

The principal advantage of establishing Māori constituencies is to provide a guaranteed Māori voice. It provides for political power sharing because Māori are injected directly into a decision-making role on Council.

Māori constituencies deliver accountability by Māori to Māori. A candidate who is elected from a Māori constituency, rather than a general constituency, is more likely to represent the views of Māori voters.

The 1986 Report of the Royal Commission on the Electoral System, which comments on elections at the national level but is still relevant to the local government context, says that Māori interests should be represented by elected members who are part of the Māori community and who are democratically accountable to Māori electors. The report states that any democratic political system demands that interests be given their due weight for influence on public policy and that minority interests ought to be protected.

Supporters of the creation of Māori constituencies have argued that there are many commonsense reasons to achieve greater representation for Māori in

local government. Janine Hayward, Senior Lecturer, Political Studies at the University of Otago, says that “. . . Māori are, or will be, significant regional economic players and landowners, not to mention managers of local resources. They are, or will be, key stakeholders in the business of local government.”¹ She also says that “in a post settlement culture there . . . is a need for meaningful dialogue that goes beyond mere formalities. A treaty response must include real power sharing and decision-making.”²

Opponents argue that Māori constituencies are separatist and divisive. The 1986 Report of the Royal Commission on the Electoral System states that separate Māori representation introduces political separation. It observes that the principal disadvantage of separate Māori representation is that it “has served to isolate the Māori MPs by encouraging the non-Māori majority to regard Māori concerns as the sole preserve of separately elected MPs.” There is a risk that Māori constituencies would set up a dynamic where councillors elected from general constituencies are discharged of their duty to represent all of their community, which includes Māori, and that Māori constituency members would be discharged of their duty to make decisions that take into account the views of all of the region’s community. Some fear that this could mean that elected members and communities “would lose sight of the importance of communities embracing all the diverse interests and views within them.”³

Others argue against the system of Māori constituencies because they regard it as contrary to the principle of equality.

4.3.3 Effectiveness of one Māori member in large constituency area?

As there could only be one Māori member elected to Greater Wellington they can easily be out-voted by councillors from general seats. This means they may be limited in terms of the amount of difference they can make when it comes to making decisions. Having said this Tiipene Marr, one of the three Māori members of Environment Bay of Plenty, has commented that he believes he has already made a difference and that he would not have stood if there were not separate wards.⁴

With one Māori constituency that covers the entire region it could be a challenge for one Māori member to represent the interests of Māori electors from across the region.

4.3.3 Impact on Maori voters

Māori voters would only get to vote for one member of Council and that person would have to be standing in the Māori constituency. This could be quite a change for those Māori on the Māori electoral roll who can currently vote for up to five councillors.

¹ *Putting the case for Maori wards in LG* in NZ Local Government July 2005

² *Research Paper Number 6 – Kāwhiri ki te Kāwhiri: Face to face, local government and Maori* by LPG Academic Advisory Board

³ Report from the Justice and Electoral Committee of Environment Bay of Plenty on the Bay of Plenty Regional Council (Maori Constituency Empowering) Bill

⁴ *Maori seats on councils – now it's an election issue* in NZ Local Government August 2005

4.3.4 Impact on other arrangements with Māori

The council currently has several ways it consults and involves Māori / iwi in its decision-making processes e.g. Ara Tahi and appointment to resource management hearings panels. While the creation of a Māori constituency does not preclude other forms of Māori input into council processes and decision-making concerns have been expressed that it might change the dynamic and compromise the existing arrangements the Council has established or may wish to set in place for liaising with the Māori community. Others, however, see that it will be complementary to existing arrangements. Some of these issues were addressed further in the report submitted to Ara Tahi on 7 September 2005 (**Attachment 1**).

4.4 How to make decision on Māori constituencies

To reiterate, the Council can either do nothing, or pass a resolution or initiate a poll on the establishment of Māori constituencies. If the Council decides to pass a resolution on establishing Māori constituencies that takes effect for the 2007 elections, it must pass a resolution by 23 November 2005. The Council meeting on 18 October is the last meeting before the 23 November deadline.

4.4.1 Passing a resolution

Passing a resolution either way provides the region's public with a clear steer on the Council position on establishing Māori constituencies. If the Council decides to establish Māori constituencies, the decision, along with the public's right to demand a poll on the matter, will be publicly notified in the region's main newspapers.

4.4.2 Making no decision

Where the Council passes no resolution this is, in effect, a decision to retain the status quo i.e. no Māori constituencies. It would make particular sense to make no decision if the Council decided to initiate a poll instead.

4.4.3 Conducting a poll

A poll is a broad form of public consultation as it provides every elector with the opportunity to vote. However, history demonstrates that there is also the risk of low levels of voter participation and an unbalanced cross section of the region's community, should a poll be conducted. This can result in misrepresentation of the wider community's preference. A communication plan for the region's public about the poll may however help voter turnout for a poll and ensure voters are more informed, but there are no guarantees.

With only 10% of Greater Wellington's population identifying as Māori it is more likely that a poll would vote against the establishment of a Māori constituency.

A poll could cost the Council up to \$300,000 to conduct.

5. Communication

If the Council passes a resolution to establish Māori constituencies then it must notify the public of that resolution and the right of the public to demand a poll within 7 days of the resolution being passed.

The Council must also notify the public where it decides to initiate a poll on Māori constituencies.

The Council does not have to notify the public where a resolution is passed not to establish Māori constituencies or the Council decides to do nothing. However, the Council can still decide, if it thinks it appropriate, to place a notice advising the public of the current situation and the public's right to demand a poll on the matter.

6. Recommendations

That the Committee recommends that Council:

1. **Receive the report**
2. **Note the content of the report**
3. **Note that Ara Tahi has considered the establishment of Māori constituencies and recommended that the Council makes no decision for the 2007 triennial elections.**
4. **Either:**
 - **Pass a resolution to establish Māori constituencies, or**
 - **Pass a resolution not to establish Māori constituencies, or**
 - **Make no decision on establishing Māori constituencies, or**
 - **Initiate a poll on the matter of establishing Māori constituencies.**

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Attachment 1: Report to Ara Tahi on establishing Māori constituencies – 7 September 2005