

22 March 2021

Consultation on whether to establish Māori Constituencies for Hawke's Bay Regional Council

Tukua mai ō whakaaro
Have your say

What we are consulting on

Hawke's Bay Regional Council is seeking the views of the regional community on **whether to establish Māori constituencies for voters on the Māori roll to elect councillors onto the Regional Council.**

The purpose of the consultation is to inform a Regional Council decision in May 2021 about whether to establish Māori seats at the Regional Council table in time for the 2022 election.

Regional Council is not taking a position on whether it supports the establishment of Māori constituencies until it considers the feedback received from this consultation.

Why we are asking now

In February 2021 the Local Electoral Act was changed to remove:

- the requirement for a binding referendum if 5 percent of voters sign a petition, and
- the ability for councils to initiate a binding poll on whether to establish Māori wards or Māori constituencies.

This prompted the Regional Council to vote unanimously to undertake public consultation on whether to establish Māori constituencies.

The Regional Council needs to make a decision by 21 May 2021 to take advantage of the "transition period" afforded by the Local Electoral (Māori wards and Māori constituencies) Amendment Act.

The scope of that decision is whether or not to establish Māori constituencies for voters on the Māori electoral roll to elect councillors on to Hawke's Bay Regional Council in the 2022 elections.

What the options are

For the purposes of this consultation there are two options, no other options are being considered.

Do you support the establishment of Māori constituencies for Hawke's Bay Regional Council (to be elected by voters on the Māori electoral roll)?

Yes No

Submissions

People wishing to submit on this consultation are invited to do so by **4pm, 22 April 2021.**

Submissions can be made online at **hbrc.govt.nz** or in writing to the Regional Council by completing the submission form on the back page of this document.

Constituencies

A constituency is a group of voters within a specified area who elect a representative to a regional council.

Regional councils are required to have constituencies. City and district councils have wards.

The difference between a Māori constituency and a General constituency is the voters in the Māori constituency are enrolled on the Māori roll while voters in General constituencies are on the General roll. No person can be on both rolls at the same time.

The aim of Māori constituencies is to guarantee Māori representation on the Regional Council, like the dedicated electorate seats in Parliament.

Māori wards and constituencies were established as an option for councils by the Local Electoral Act 2001, which allowed councils to decide to have one or more Māori constituencies based on population.

Māori Constituencies

The number of Māori constituency members for election is not discretionary. It is calculated in accordance with the following formula prescribed by the Local Electoral Act 2001, based on population.

The formula is:

$$nmm = \frac{mepr}{mepr + gepr} \times nm$$

- **nmm** is the number of Māori constituency members
- **mepr** is the Māori electoral population of the region
- **gepr** is the General electoral population of the region
- **nm** is the proposed number of members of the Regional Council

Fractions are rounded up or down to the nearest whole number.

For Hawke's Bay Regional Council there would be either one or two Māori constituency members, depending on the total number of councillors. A Regional Council consisting of 6-8 elected representatives (councillors) would include only one Māori representative and a Regional Council made up of 9-14 elected representatives would include two Māori representatives.

If Māori constituencies are created, only Māori registered on the Māori electoral roll can vote for candidates in the Māori constituencies, and only electors on the General electoral roll can vote for candidates in General constituencies. No one can vote in both a General and a Māori constituency.

The fundamental democratic principle of one person, one vote remains.

Why Māori Constituencies?

The Regional Council is required under the Local Government Act 2002 (LGA) to provide for Māori participation in Regional Council's decision-making.

The key provision is Section 4 of the LGA, namely: "In order to recognise and respect the Crown's responsibility to take appropriate account of the Treaty of Waitangi (Te Tiriti o Waitangi) principles, and to maintain and improve opportunities for Māori to contribute to local government decision-making processes, Parts 2 and 6 provide principles and requirements for local authorities that are intended to facilitate participation by Māori in local authority decision-making processes."

Hawke's Bay currently has no dedicated Māori regional council seats. The Regional Council is not required to, but can decide to establish Māori constituencies as one way to give effect to Section 4.

Māori representation is premised on Māori being a distinct 'community of interest' that has not been well served by traditional electoral arrangements. As noted following, Māori participation is currently

provided for in a range of ways and whether it is necessary to extend this to dedicated Māori constituencies is a question for the Regional Council to determine.

Māori constituencies would ensure Māori are guaranteed representation on the Regional Council. The option to have guaranteed representation reflects the particular constitutional status of Māori under Te Tiriti o Waitangi (the Treaty of Waitangi) and provided for in the Local Government and Local Electoral Acts.

Establishing Māori constituencies would add to the Regional Council's existing methods to engage with Māori, not replace them. They provide another avenue for issues of priority, concern or interest to Māori on the Māori electoral roll to be more directly brought to the Regional Council.

Māori constituencies may also encourage more Māori to participate in local elections by standing for office and voting.

Council's obligations to Māori

The Regional Council has an obligation under the Local Government Act (LGA) and a strong desire (articulated through Council's Strategic Plan) to support Māori participation in Regional Council's decision-making.

The Regional Council has a responsibility on behalf of the Crown, to take appropriate account of the principles of Te Tiriti o Waitangi (the Treaty of Waitangi) and to maintain and improve opportunities for Māori to contribute to local government decision-making processes (LGA s4).

Under LGA s14(1)(d) the Regional Council must establish and maintain processes to provide opportunities for Māori to contribute to decision-making processes. The Regional Council also needs to consider ways in which to foster the development of Māori capacity to contribute to decision-making processes (LGA s81).

In the course of its decision-making processes, the Regional Council needs to take into account the

relationship of Māori and their culture and traditions with their ancestral land, water, sites, waahi tapu, valued flora and fauna, and other taonga (LGA s77).

Hawke's Bay Regional Council's Strategic Plan states: "As expressed in our purpose statement, "working with our community" is at the heart of everything we do. This is particularly relevant to our relationships with tangata whenua in terms of co-governance and co-management. Successful relationships involve building trust, which in turn enables us to support each other to respond to new challenges as they arise."

Values in Council's Strategic Plan include Partnership and Collaboration "We work with our community in everything we do".

The Strategic Plan sets out the Regional Council's approach, which includes Collaboration - "Develop our skills and capacity to partner with tangata whenua, communities, councils, central government, businesses, farmers and growers for collective action."

Council's current engagement with Māori

Currently, the Regional Council has several mechanisms in place to support Māori participation in Council decision-making. These include, at the governance level, the Māori Committee and the Hawke's Bay Regional Planning Committee.

Māori constituencies would be additional to the Regional Council's existing engagement through the Māori Committee and Regional Planning Committee.

The Māori Committee, established in 1991, includes 12 representatives appointed by the four Taiwhenua in the region. It also includes three councillors. Each Taiwhenua representative¹ is expected to engage with those they represent on behalf of the Māori Committee. The Māori Committee makes recommendations to the Regional Council in an advisory capacity.

The Hawke's Bay Regional Planning Committee (RPC), was established in 2011 ahead of an Act of Parliament coming into effect in 2015. The RPC includes nine representatives appointed by post-settlement governance entities (PSGEs) of the region and an equal number of Hawke's Bay Regional Councillors. The role of the RPC is to oversee the review and development of the Regional Policy Statement and regional plans which aim to manage the region's natural resources. The decisions of the RPC are recommended to the Regional Council to either confirm or refer back to the RPC for further consideration.

In addition, the Chair of the Māori Committee and a tangata whenua representative of the RPC participate

in Regional Council meetings as non-voting members. Tangata whenua representatives from the RPC and Māori committees are appointed to Council committees as voting members (Hearings, Corporate & Strategic, Environment & Integrated Catchments).

Changes to Regional Council's committee structure, including the Māori Committee, are at the discretion of the Council to determine from time to time, typically at the beginning of each new Council term. The RPC is established by an Act of Parliament so cannot be changed by the Regional Council.

Currently there are two Hawke's Bay Regional Councillors of Māori descent. There is no guarantee however, under the current arrangements, that Māori will have the same level of representation in the future.

The operational arm of the Regional Council includes a Māori Partnerships Group to ensure strategic planning and engagement support and to aid the meaningful participation of tāngata whenua in council processes. The Regional Council is currently consulting, as part of its 2021 - 31 Long Term Plan, on expanding this team to assist with Essential Freshwater reform, the Kotahi Plan and Mātauranga Māori.

The Regional Council provides other opportunities for Māori to contribute to decision-making depending on the issue, such as through Māori consultative groups, or appointments to sub-committees and working groups.

¹The Taiwhenua area for Te Wairoa also includes a Ngāti Kahungunu executive representative

Hawke's Bay's Māori population

Māori represent over one-quarter of the region's population

27% of Hawke's Bay's population are of Māori descent.

6.8% of our region's population speak Te Reo Māori.

There are **11** iwi groups, **91** hapū and **79** marae throughout Hawke's Bay.

Ngāti Kahungunu's area covers from Paritū north of Mahia to Tūrakirae on the south Wellington Coast.

Māori make a significant contribution to our region both as mana whenua and treaty partners, and also through:

- *their ownership of assets*
- *regional economic development*
- *participation in co-governance and their growing influence as kaitiaki in the conservation, preservation and management of our natural resources.*

Tangata whenua Representatives' Views

In February 2021, the Māori Committee resolved to "Support the Regional Council taking immediate action to revoke the previous (18 November 2020) resolution to hold a poll on the establishment of Māori constituencies at the next (2022) election, and resolve instead to establish Māori constituencies for the next (2022) election."

The RPC tangata whenua representatives discussed the issue at a Zoom hui in November 2020 and those in attendance unanimously supported the establishment of Māori constituencies for Hawke's Bay for the 2022 election. Subsequently, the Regional Council received written communication of support from those not in attendance.

Councillors' responsibilities to represent constituents

Once elected, Māori constituency councillors have the same responsibility as other councillors and are required to make a declaration (swear an oath) when they take office that they will carry out their duties and make decisions in the best interests of the whole region.

Councillors elected to Māori constituencies are not a substitute for Māori individuals, whānau, hapū, iwi, tangata whenua, mana whenua, etc. in respect of Council's obligations to consult and engage with Māori.

All councillors have the same responsibilities under various pieces of legislation to engage Māori in decision-making processes.

Election Candidates

The law requires that for a person to be eligible to stand for election they must be nominated by two electors on the electoral roll within the respective area that they are standing for.

To be eligible to stand for election, a candidate must be:

- A New Zealand citizen (by birth or citizenship ceremony); and
- Enrolled as a Parliamentary elector anywhere in New Zealand; and
- Nominated by two electors whose names appear on the electoral roll within the respective area or constituency that a candidate is standing for. Candidates for election in a Māori constituency must be nominated by two voters registered on the Māori roll.

Candidates cannot stand for both a General and a Māori constituency in the same region at the same time.

Representation Arrangements

If the Council's May 2021 decision is to establish Māori constituencies for Hawke's Bay Regional Council then a Representation Review will be conducted to determine the form of the representation arrangements.

The Representation Review would include public consultation and be completed by early 2022.

The outcome of the Representation Review will be in effect for two electoral cycles.

Through a Representation Review, the Regional Council will be required to:

- Identify the communities of interest of the region considering 'fair and effective representation' for the region as a whole
- Determine the number of constituencies (based on communities of interest), the boundaries of those (including, as far as practical, that constituencies coincide with territorial authority and ward boundaries), and the names of the constituencies; and
- Consider fairness of representation for electors including the range of options for the total number of elected representatives (councillors) on the Council.

Specific details of each option will take considerable time to develop, however for the purposes of this consultation some examples are outlined along with the current arrangement.



Currently Hawke's Bay Regional Council's representation arrangement is for nine councillors elected by five General constituencies, being:

- Central Hawke's Bay (one representative)
- Hastings (three representatives)
- Napier (three representatives)
- Ngaruroro (one representative)
- Wairoa (one representative)

Examples of what Māori constituencies might look like – to be fully developed and assessed in accordance with Local Government Act and Local Electoral Act provisions include:

Example 1:

Adding one Māori constituency to the current arrangement for a Council made up of 11 councillors elected by five General constituencies and one Māori constituency, being:

- Central Hawke's Bay (one representative)
- Hastings (three representatives)
- Napier (three representatives)
- Ngaruroro (one representative)
- Wairoa (one representative)
- Māori constituency (two representatives) – name to be determined through consultation with Hawke's Bay tangata whenua

Example 2:

Adding two Māori constituencies to the current arrangements for a Council made up of 11 councillors elected by five General constituencies and two Māori constituencies, being:

- Central Hawke's Bay (one representative)
- Hastings (three representatives)
- Napier (three representatives)
- Ngaruroro (one representative)
- Wairoa (one representative)
- Northern Māori constituency (one representative) – name and boundary to be determined through consultation with Hawke's Bay tangata whenua
- Southern Māori constituency (one representative) – name and boundary to be determined through consultation with Hawke's Bay tangata whenua

Example 3:

Adding two Māori constituencies to the current arrangement for a Council made up of nine councillors elected by five General constituencies and two Māori constituencies, being:

- Central Hawke's Bay (one representative)
- Hastings (two representatives)
- Napier (two representatives)
- Ngaruroro (one representative)
- Wairoa (one representative)
- Northern Māori constituency (one representative) – name and boundary to be determined through consultation with Hawke's Bay tangata whenua
- Southern Māori constituency (one representative) – name and boundary to be determined through consultation with Hawke's Bay tangata whenua

Example 4:

Adding one Māori constituency and incorporating the current Ngaruroro constituency into the Hastings constituency for a Council made up of nine councillors elected by four General constituencies and one Māori constituency, being:

- Central Hawke's Bay (one representative)
- Hastings (three representatives)
- Napier (two representatives)
- Wairoa (one representative)
- Māori constituency (two representatives) – name to be determined through consultation with Hawke's Bay tangata whenua



National Context

Since the Local Electoral Act 2001 enabled councils to establish Māori wards/constituencies, and prior to February 2021, 24 councils have tried to introduce Māori constituencies but only three of those were successful; the remainder were 'reversed' by binding poll results.

Councils have developed a number of different structures, mainly various types of committees (both formal and informal) for engaging Māori in decision-making and seeking their views. These are either independent, or work alongside other relationship or co-governance agreements. Two regional councils have established Māori constituencies.

Bay of Plenty Regional Council (BoPRC) was the first to establish Māori constituencies (three) under the Bay of Plenty (Māori Constituency Empowering) Act 2001. In addition to its Māori constituencies, the BoPRC governance structure includes joint committees established by legislation.

Waikato Regional Council (WRC) established two Māori constituencies through its Representation Review in 2012, and voted to retain the Ngā Hau e Wha and Ngā Tai ki Uta seats for the 2019 elections in October 2017. In addition to its Māori constituencies, the WRC governance structure includes co-governance and co-management groups.

Currently, the following councils are also considering or have resolved to establish Māori wards or constituencies for the 2022 elections.

- Kaipara District
- New Plymouth District
- Ruapehu District
- Tauranga City
- Gisborne District
- South Taranaki District
- Northland Regional
- Whangarei District
- Wellington City
- Taupo District
- Taranaki Regional

Next Steps

22 March – 22 April:

Māori constituencies public consultation campaign

3 & 4 May:

Submission Hearings

19 May: Extraordinary Regional Council meeting to decide whether to establish Māori constituencies

If, following consultation, the Council resolves to establish Māori constituencies, the process for establishment will be:

- July - November: Representation Review – which would determine:
 - How many constituencies there would be
 - How many councillors there would be
 - What the names and boundaries of the constituencies would be.

By 8 September 2021:

The Regional Council must give public notice of its initial proposal for Representation Arrangements and open public consultation for a period of 4 weeks

October 2021:

The Regional Council considers submissions on its initial proposal

By 19 November 2021:

The Regional Council must give public notice of its final Representation Arrangements (having considered submissions to the initial proposal)

By 15 January 2022:

All documentation of the Regional Council process provided to the Local Government Commission

By 11 April 2022:

The Local Government Commission must issue its Determination (confirmation of Hawke's Bay Regional Council Representation Arrangements for 2022 and 2025 local elections)

8 October 2022:

Local Government elections.



Hawke's Bay Regional Council Māori Constituencies Consultation

Tukua mai ō whakaaro
Have your say

The easiest way is
online at hbrc.govt.nz

First name: _____

Last name: _____

Email: _____

If you are submitting as the official spokesperson on behalf of an organisation,
please provide the organisation name below:

Address _____

Which electoral roll are you on?

Māori roll General roll Not registered

Are you a Hawke's Bay resident or ratepayer?

Yes No

Do you support the establishment of Māori constituencies for Hawke's Bay Regional Council
(to be elected by voters on the Māori electoral roll)?

Yes No Don't Know

Please give your reasons and/or any other feedback below

Do you wish to present your submission to Council at a hearing scheduled for 3 & 4 May 2021?

Yes No If yes please provide a daytime contact number and/or email address below

Need more room? You can attach extra pages, just make sure to include your name on them.

Privacy Statement - Submissions are public information. Your name and feedback will be included in public documents as part of the decision-making process. All other personal details will remain private. This information will be held by Hawke's Bay Regional Council but only for the purpose of this consultation process.

One submission per individual or organisation.

Email: haveyoursay@hbrc.govt.nz

Post: Hawke's Bay Regional Council, Private Bag 6006, Napier 4142

Hand deliver: 159 Dalton Street, Napier 4110

Online: hbrc.govt.nz

**Submissions must be received by HBRC
no later than 4pm on 22 April 2021**


HAWKES BAY
REGIONAL COUNCIL

TE KAUNIHERA Ā-ROHE O TE MATAU-A-MĀUI



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