

Notice of Meeting:

I hereby give notice that an extraordinary Meeting of the Council will be held on:

Date: Thursday 29 August 2024
Time: 12:30 pm
Meeting Room: Council Chamber
Venue: Municipal Building, Garden Place, Hamilton

Lance Vervoort
Chief Executive

Council Kaunihera OPEN AGENDA

Membership

Chairperson Mayor Paula Southgate
Heamana

Deputy Chairperson Deputy Mayor Angela O'Leary
Heamana Tuarua

| | | |
|----------------|----------------------|---------------------|
| Members | Cr Maxine van Oosten | Cr Geoff Taylor |
| | Cr Moko Tauariki | Cr Sarah Thomson |
| | Cr Ewan Wilson | Cr Emma Pike |
| | Cr Mark Donovan | Cr Maria Huata |
| | Cr Louise Hutt | Cr Anna Casey-Cox |
| | Cr Andrew Bydder | Cr Kesh Naidoo-Rauf |
| | Cr Tim Macindoe | |

Quorum: A majority of members (including vacancies)

Meeting Frequency: Monthly – or as required

Amy Viggers
Mana Whakahaere
Governance Lead

19 August 2024

Telephone: 07 838 6699
Amy.Viggers@hcc.govt.nz
www.hamilton.govt.nz

Purpose

The Council is responsible for:

1. Providing leadership to, and advocacy on behalf of, the people of Hamilton.
2. Ensuring that all functions and powers required of a local authority under legislation, and all decisions required by legislation to be made by local authority resolution, are carried out effectively and efficiently, either by the Council or through delegation.

Terms of Reference

1. To exercise those powers and responsibilities which cannot legally be delegated by Council¹:
 - a) The power to make a rate.
 - b) The power to make a bylaw.
 - c) The power to borrow money, or purchase or dispose of assets, other than in accordance with the Long Term Plan.
 - d) The power to adopt a Long Term Plan or Annual Plan, or Annual Report.
 - e) The power to appoint a Chief Executive.
 - f) The power to adopt policies required to be adopted and consulted on under the Local Government Act 2002 in association with the Long Term Plan or developed for the purpose of the Council's Governance Statement.
 - g) The power to adopt a remuneration and employment policy.
 - h) The power to approve or change the District Plan, or any part of that Plan, in accordance with the Resource Management Act 1991.
 - i) The power to approve or amend the Council's Standing Orders.
 - j) The power to approve or amend the Code of Conduct for Elected Members.
 - k) The power to appoint and discharge members of committees.
 - l) The power to establish a joint committee with another local authority or other public body.
 - m) The power to make the final decision on a recommendation from the Parliamentary Ombudsman, where it is proposed that Council does not accept the recommendation.
 - n) The power to amend or replace the delegations in Council's *Delegations to Positions Policy*.
2. To exercise the following powers and responsibilities of Council, which the Council chooses to retain:
 - a) Resolutions required to be made by a local authority under the Local Electoral Act 2001, including the appointment of an electoral officer and reviewing representation arrangements.
 - b) Approval of any changes to Council's vision, and oversight of that vision by providing direction on strategic priorities and receiving regular reports on its overall achievement.
 - c) Approval of any changes to city boundaries under the Resource Management Act 1991.
 - d) Adoption of governance level strategies plans and policies which advance Council's vision and strategic goals.

¹ [Clause 32, Schedule 7, Local Government Act 2002](#)

- e) Approval of the Triennial Agreement.
- f) Approval of the local governance statement required under the Local Government Act 2002.
- g) Approval of a proposal to the Remuneration Authority for the remuneration of Elected Members.
- h) Approval of any changes to the nature and delegations of the Committees.
- i) Approval or otherwise of any proposal to establish, wind-up or dispose of any holding in, a CCO, CCTO or CO.
- j) Approval of city boundary changes, including in respect of Strategic Boundary Land Use Agreements.
- k) Approval of Activity Management Plans.
- l) Sister City relationships.

Oversight of Strategies, Plans and Reports:

- Long Term Plan
- Annual Plan
- Annual Report
- Shaping Hamilton Kirikiriroa Together
- Our Climate Future
- He Pou Manawa Ora

Oversight of Policies and Bylaws:

- *Corporate Hospitality and Entertainment Policy*
- *Delegations to officers specific to the Resource Management Act 1991*
- *Delegations to Positions Policy*
- *Elected Members Support Policy*
- *Significance and Engagement Policy*
- *Climate Change Policy*
- *Any Community Engagement Policies*

| ITEM | TABLE OF CONTENTS | PAGE |
|------|--|------|
| 1 | Apologies – <i>Tono aroha</i> | 5 |
| 2 | Confirmation of Agenda – <i>Whakatau raarangi take</i> | 5 |
| 3 | Declarations of Interest – <i>Tauaakii whaipanga</i> | 5 |
| 4 | Public Forum – <i>Aatea koorero</i> | 5 |
| 5 | Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Bill | 6 |

1 Apologies – *Tono aroha*

2 Confirmation of Agenda – *Whakatau raarangi take*

The Council to confirm the agenda.

3 Declaration of Interest – *Tauaakii whaipanga*

Members are reminded of the need to be vigilant to stand aside from decision making when a conflict arises between their role as an elected representative and any private or other external interest they might have.

4 Public Forum – *Aatea koorero*

As per Hamilton City Council's Standing Orders, a period of up to 30 minutes has been set aside for a public forum. Each speaker during the public forum section of this meeting may speak for five minutes or longer at the discretion of the Mayor.

Please note that the public forum is to be confined to those items falling within the terms of the reference of this meeting.

Speakers will be put on a Public Forum speaking list on a first come first served basis in the Council Chamber prior to the start of the Meeting. A member of the Governance Team will be available to co-ordinate this. As many speakers as possible will be heard within the allocated time.

If you have any questions regarding Public Forum please contact Governance by telephoning 07 838 6699.

Council Report

Committee: Council

Date: 29 August 2024

Author: Amy Viggers

Authoriser: Janet Carson

Position: Governance Lead

Position: General Manager
Partnerships,
Communication & Maaori

Report Name: Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Bill

Report Status

Open

Purpose - *Take*

1. To seek a decision from the Council on Maaori Wards, following the passing of the [Local Government \(Electoral Legislation and Māori Wards and Māori Constituencies\) Amendment Bill \(The Act\)](#).

Staff Recommendation - *Tuutohu-aa-kaimahi*

2. That the Council:
 - a) receives the report; and
 - Either**
 - b) affirms the retention of the Kirikiriroa Maaori Ward and directs the Electoral Officer to hold a binding poll as part of the 2025 Local Government Elections to determine whether or not the community supports the retention of Kirikiriroa Maaori Ward (Option 1);
 - or**
 - c) resolves to disestablish the Kirikiriroa Maaori Ward and revert to the 2019 representation arrangements of 6 East ward Elected Members, 6 West ward Elected Members and Mayor, noting that this representation arrangement meets the requirements for fair and effective representation under the Local Government Electoral Act 2001 (option 2a);
 - or**
 - d) resolves to disestablish the Kirikiriroa Maaori Ward and undertake a shortened representation review noting that the initial proposal would be due 13 September 2024, and approves \$100,000 unbudgeted operational funding for this review.

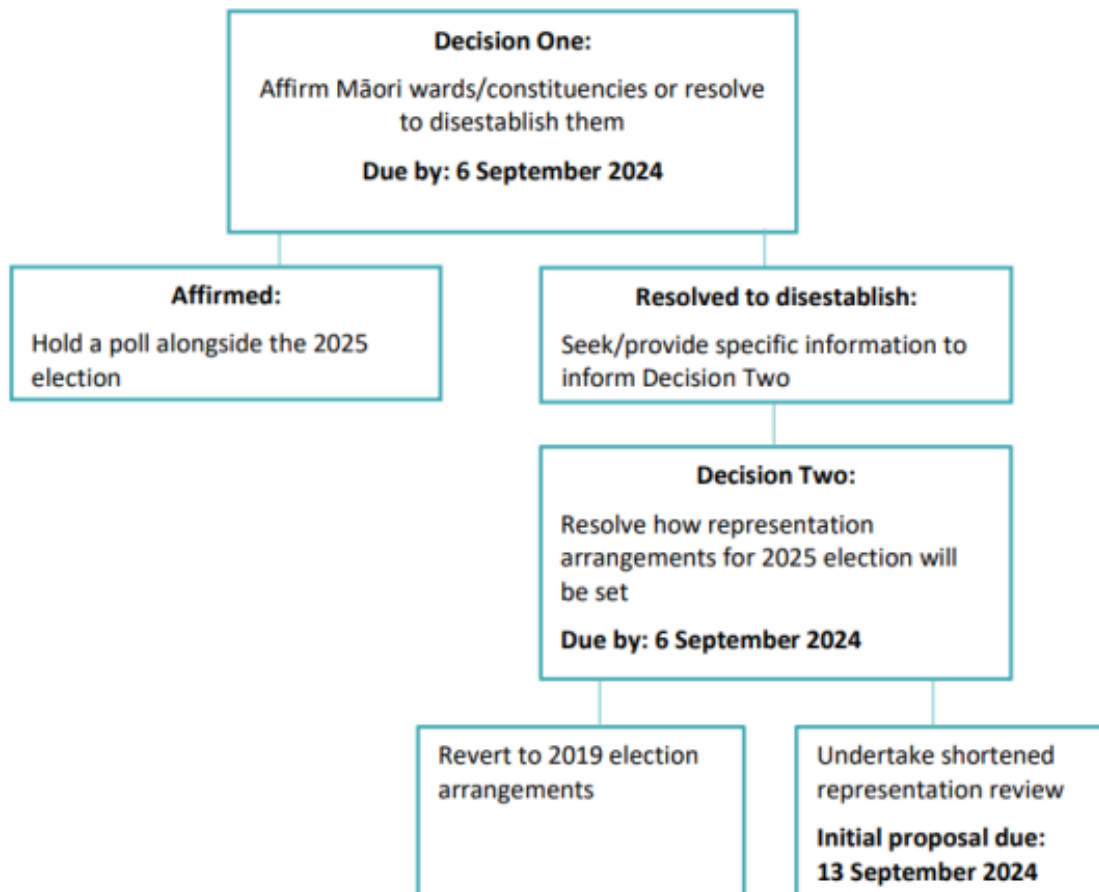
Executive Summary - *Whakaraapopototanga matua*

3. The Local Government (Electoral Legislation and Maaori Wards and Maaori Constituencies) Amendment Bill passed its third reading on 30 July 2024, received royal assent and is now law (The Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Act 2024 (the Act)).

4. The Act requires a group 1 local authority (Hamilton City is in group 1) to make **an active decision, by 6 September 2024**, on whether to retain Maaori wards established since 2020.
5. Staff consider the matter of medium to high significance and that the recommendations comply with the Council's legal requirements.

Discussion - *Matapaki*

6. There are two options (option 2 having two paths if selected) for the Council to consider.
 - **Option 1:** retention of the Kirikiriroa Maaori Ward and undertakes a binding poll as part of the 2025 Local Government Elections to determine whether or not the community supports the retention of Kirikiriroa Maaori.
 - **Option 2a:** Disestablish the Kirikiriroa Maaori Ward, revert to the 2019 representation arrangements of 6 East ward Elected Members, 6 West ward Elected Members and Mayor, and undertake a full representation review in the next triennium.
 - **Option 2b:** Disestablish the Kirikiriroa Maaori Ward and undertake a shortened representation review noting that the initial proposal would be due 13 September 2024.



7. Group 1 local authorities that resolve to disestablish Māori wards by 6 September 2024 must either revert to the representation arrangements that applied at the 2019 election (if they can meet the requirements set out in the Act) or conduct a shortened representation review.
8. The key requirements are:
 - i. 2023 population estimates have been applied to the representation arrangements that applied at the 2019 election.

- ii. Where the Local Government Commission previously upheld an exception to the +/- 10% rule, that exception continues to apply only to those specific wards that were non-compliant at the time that the Local Government Commission approved the exemption. This means that, if a ward was compliant when the pre2020 arrangements were determined but is not compliant when 2023 population estimates are applied, the local authority may not revert to its pre-2020 arrangements and must carry out a shortened review. A shortened review is carried out under the same provisions as for a normal review but using a shortened timeline.
- 9. Based on the information available to staff at the time of writing this report, Hamilton City Council would meet the requirements outlined above, and it is open to Council to resolve that the 2019 arrangements as applied to the 2023 statistical information for Hamilton City provide for fair and effective representation. Staff will confirm this position at the Council meeting once Statistics NZ has confirmed its data.
- 10. An open briefing was held on 7 August 2024 where Council staff provided factual information to Elected Members on legislative requirements and options as outlined in the Act. A copy of the information presented to Elected Members can be found [here](#).
- 11. At the time of writing this report, four Councils have met since the Act received royal assent.
 - i. New Plymouth (6 August) – [Agenda](#) / [Minutes](#)
 - ii. Palmerston North City Council (7 August) – [Agenda](#) / [Recording](#) / [Minutes](#)
 - iii. Kaipara District Council (7 August) – [Agenda](#) / [Recording](#)
 - iv. Waikato District Council (14 August) – [Agenda](#)
- 12. A copy of the Act and associated guidance is available via the below links:
 - i. [The Act](#)
 - ii. [Te Tari Taiwhenua | Department of Internal Affairs](#)
 - iii. The [Local Government Commission Representation review pānui 12 - Māori organisations](#)
- 13. Waikato Tainui wrote to Local Councils (**attachment 1**) to highlight their strong support for the continuation of Māori Wards and opposition to the intent of the Act.

Options

- 14. The options available to Council are outlined above. Staff note that under the Act, there are no other options available to Council to consider.

Financial Considerations - *Whaiwhakaaro Puutea*

- 15. Previous estimates for cost for a stand-alone referendum or poll for 110,000 electors is in the order of \$265,000 + GST or \$2.41 + GST per elector, noting postage costs alone were estimated at \$137,600 + GST. Previous estimates for a referendum or poll at the same time as a triennial election were approximately \$60,000 + GST. Staff time and any campaign budget would be additional to this. All costs would be unbudgeted.
- 16. Staff emphasise that the above are previous estimates to illustrate the budget required if a poll or referendum were to be held. Changes in postage, material and labour costs would be advised to Council prior to the 2025 Triennial Elections.
- 17. To disestablish Māori wards and undertake a shortened representation review: the estimated cost of a 2024 representation review would be in the order of \$100,000 + GST.
- 18. Both options are unbudgeted.

Legal and Policy Considerations - *Whaiwhakaaro-aa-ture*

19. Staff confirm that matters addressed in the report comply with the Council's legal and policy requirements.

Climate Change Impact Statement

20. Staff have assessed this option against the Climate Change Policy for both emissions and climate change adaptation. Staff have determined no adaptation or emissions assessment is required.

Wellbeing Considerations - *Whaiwhakaaro-aa-oranga tonutanga*

21. The purpose of Local Government changed on the 14 May 2019 to include promotion of the social, economic, environmental and cultural wellbeing of communities in the present and for the future ('the 4 wellbeings').
22. The subject matter of this report has been evaluated in terms of the 4 wellbeings during the process of developing this report. The recommendations set out in this report are consistent with that purpose.

Significance & Engagement Policy - *Kaupapa here whakahira/anganui*

23. Under clause 12, Schedule 1 of the Act, a local authority is not required to use or adopt the special consultative procedure under section 83 of the Local Government Act 2002 with respect to a decision to retain or disestablish Māori wards.
24. This decision to retain or disestablish Māori wards would engage some of the significance criteria outlined in Council's Significance and Engagement Policy.
25. In 2021, when establishing the Māori ward, it was considered of medium significance under the Significance and Engagement Policy. Engagement undertaken at that time was included in the staff report available [here](#) (page 10).
26. There is a very limited period of time between the enactment of the Act, and the deadline to make a decision as to whether to retain or disestablish Māori wards (6 September 2024).
27. In addition, if a decision is made to disestablish Māori wards the Council must resolve to adopt an initial proposal for its shortened representation review by 13 September 2024. The timing of this meeting reflects those two deadlines.
28. It has not been possible to undertake public consultation prior to this meeting.
29. Even though consultation has not occurred, the Council has sought and received feedback from Waikato Tainui (**attachment 1**) on the two options before the Council. Their views are of particular significance, given that a decision to disestablish the Council's Māori ward would have a particular effect on, and is of particular interest to, Māori.
30. If the Council votes to disestablish the Māori ward, the community will have the opportunity to have input into the Council's representation proposal through the shortened representation review process that the Council will be required to undertake. The shortened representation review does not include reconsideration of whether or not there is a Māori Ward.

Attachments - *Ngaa taapirihanga*

Attachment 1 - Letter from Waikato Tainui

05 August 2024



Mayor Paula Southgate
Hamilton City Council
By email

Mayor Jacqui Church
Waikato District Council
By email

Mayor Susan O'Regan
Waipaa District Council
By email

E ngaa Koromatua o ngaa Kaunihera o te rohe o Waikato-Tainui, me te takiwaa whaanui o Waikato, teenaa koutou

MAAORI WARDS IN COUNCILS WITHIN THE ROHE OF WAIKATO-TAINUI AND THE WIDER WAIKATO REGION

*Ko Tainui te waka, ko Taupiri te maunga, ko Waikato te awa,
ko Pootatau te Wherowhero te tangata,
Waikato taniwharau, he piko he taniwha, he piko he taniwha*

First, I wish to acknowledge you as Mayors of local councils within the rohe of Waikato-Tainui, and the wider Waikato region, that have established or resolved to establish Maaori wards since 2022. Teenei te mihi i eenei mootini whakahirahira moo te iwi Maaori ki oo koutou rohe.

I write to you in light of the recent enactment of the Local Government (Electoral Legislation and Maaori Wards and Maaori Constituencies) Amendment Act 2024 (**Act**) on 30 July 2024. As you know, the Act will significantly affect the Maaori ward/s in your districts. It will require you, as affected councils, to decide by 6 September 2024 to either:

- a) resolve outright to disestablish, or rescind the decision to establish, your Maaori ward (with immediate effect from the 2025 local elections); or
- b) retain the Maaori ward for the current term but hold a binding poll during the 2025 local elections on whether to retain or disestablish your ward (to have effect from the 2028 local elections).

Waikato-Tainui strongly supports the retention of Maaori wards on local councils. This has been our consistent position in our respective Joint Management Committee meetings.

Maaori wards provide Maaori with the benefit of direct representation in local government, in the context of historic under-representation of Maaori in civic life and local decision-making. Those councils themselves receive the benefit of Maaori perspectives and ideas at the council table, which strengthens local decision-making. And overall – notwithstanding the current anti-Maaori ward rhetoric in our current political environment – Maaori are more likely to engage and participate in their local council activities, elections, decisions and other aspects of civic life.

Accordingly, Waikato-Tainui feels strongly in our opposition to the intent of the Act. The Act seeks to remove recently established Maaori wards from local councils and – due to the binding polls – will make them harder to establish in future.

07 858 0430 • 0800 TAINUI • reception@tainui.com • waikatotainui.com

4 te ara o Bryce, Pouaka Taapeta 648, Kirikiriroa 3204, Aotearoa

Waikato-Tainui recently participated as a claimant in the Waitangi Tribunal 'Maaori Wards Inquiry'. We endorse the findings and recommendations of the Tribunal, which found that the government's policy on Maaori wards – now enacted into legislation via the Act – breaches Te Tiriti o Waitangi and its principles. Waikato-Tainui also made strong submissions against the Bill at Select Committee.

Fundamentally, as we expressed in those fora, Waikato-Tainui believes that binding polls are an unfair and inequitable tool to measure the views and perspectives of the community. In the Maaori wards context, they have been historically proven to result in the majority voting against the establishment of Maaori wards, including because Maaori are a minority group in most parts of the country; disillusioned or disenfranchised Maaori are less likely to participate in local government activities such as voting; and the undue influence of anti-Maaori ward campaigners is likely to increase negative voting and emotively influence voters against Maaori wards.

However, in the context of the choices the Act now places before you, Waikato-Tainui firmly believes that the affected councils must now resolve to retain their Maaori wards for the current term and put them to a binding poll in the 2025 local elections. Despite the difficulties with binding polls, such a strategy is the best way to seek to retain Maaori wards for the benefit of our communities. Councils that take a strong stance now will send a clear message to their community that Maaori wards are important for equity, equality and representation of te iwi Maaori in their district.

Waikato-Tainui is aware that the Waikato District Council has recently resolved to take this course, and we applaud the leadership of Mayor Jacqui Church and her fellow councillors. We call on all affected councils in the rohe of Waikato-Tainui and the wider Waikato region to take the same strong stance in favour of your Maaori wards.

We also acknowledge that this course requires strong support for Maaori wards in the polls. Come the 2025 local elections, Waikato-Tainui will advocate for and support our people to vote in favour of the affected Maaori wards during the binding polls.

To the extent that your council will be debating the issue prior to 6 September 2024, please include my letter as a letter of support in favour of option (b) – retaining your Maaori ward for the current term and putting it to a binding poll in the local elections next year.

Pai maarire ki a koutou.

Naaku noa, naa



Tukoroirangi Morgan
CHAIR, TE ARATAURA
TE WHAKAKITENGA O WAIKATO

cc: Parekawhia McLean, Co-Chair Hamilton City Council JMA
Linda Te Aho, Co-Chair, Waipaa District Council JMA



Mana Kāwanatanga ā Rohe

Local Government Commission

STATEMENT ON CONSISTENCY OF HAMILTON CITY COUNCIL'S PRE-2020 REPRESENTATION ARRANGMENTS WITH SECTION 19V(2) OF THE LOCAL ELECTORAL ACT 2001

Clause 15(2)(c)(iii) of Schedule 1 of the Local Electoral 2001 (the Act) requires the Local Government Commission to provide to Group 1 local authorities, as listed in clause 10 of Schedule 1, a statement on the consistency of their pre-2020 representation arrangements with section 19V(2) of the Act, taking into account the 2023 population estimates.

The pre-2020 representation arrangements for Hamilton City, were determined in the representation review conducted prior to the 2019 elections. Those arrangements were as follows:

| Ward | Population | Members | Population-member ratio | Difference from quota | % Difference from quota |
|--------------|----------------|-----------|-------------------------|-----------------------|-------------------------|
| West | 78,300 | 6 | 13,050 | -733 | -5.32 |
| East | 87,100 | 6 | 14,517 | 733 | +5.32 |
| Total | 165,400 | 12 | 13,783 | | |

Population statistics are sourced from the 2017 population estimates (2013 base) provided by Stats NZ

All arrangements were compliant with section 19V(2), and the Commission was not required to uphold an exception under section 19V(6) of the Local Electoral Act.

Application of 2023 population estimates to those arrangements results in the following:

| Ward | Population | Members | Population-member ratio | Difference from quota | % Difference from quota |
|--------------|----------------|-----------|-------------------------|-----------------------|-------------------------|
| West | 85,700 | 6 | 14,283 | -1158 | -7.50 |
| East | 99,600 | 6 | 16,600 | 1158 | +7.50 |
| Total | 185,300 | 12 | 15,442 | | |

Population statistics are sourced from the 2023 population estimates (2018 base) provided by Stats NZ

All arrangements are compliant with section 19V(2), when 2023 population estimates are applied to them.

Penny Langley
Chief Executive Officer
Local Government Commission

16 August 2024