

11 February 2021

Committee Secretariat
Māori Affairs Committee
Parliament Buildings
WELLINGTON



Tēnā koe

**Submission of Gisborne District Council to the
Māori Affairs Committee regarding the Local Electoral
(Māori Wards and Māori Constituencies) Amendment Bill**

Introduction

1. The Gisborne District Council (Council) thanks the Māori Affairs Committee for the opportunity to submit on the Local Electoral (Māori Wards and Māori Constituencies) Amendment Bill.
2. The Council supports the Local Electoral (Māori Wards and Māori Constituencies) Amendment Bill's objective to remove the legislative provisions to allow for a demand poll to overturn a council decision.
3. The Council commends the Hon. Nanaia Mahuta for swiftly introducing a Bill that addresses the anomaly that exists within the current legislation.

The Tairāwhiti Context

4. The Gisborne District Council (Council) was formed in late 1989 as part of national reorganisation of local government's structure. The Council was New Zealand's first unitary authority combining district and regional council functions.
5. The Gisborne district covers a land area of 8,265 square kilometres, located in the north-eastern corner of the North Island. This is approximately 5% of New Zealand's total land area. The estimated population of our district is 49,300.
6. Significantly, Gisborne has one of the highest proportion of Māori of all regions in New Zealand, with more than 50% identifying as Māori. Despite Māori making up more than 50% of the population in Tairāwhiti, this is not currently reflected in the current representation on Council.
7. On 23 November 2020 the Council unanimously resolved to establish Māori Wards for the 2022 and 2025 elections. The decision followed a comprehensive engagement process resulting in 293 responses. Of these responses 18 represented over 60 organisations, family trusts, iwi, hapū, marae and kura (all but one of these 18 formal submissions are in favour of establishing Māori wards). Close to 70% of the submissions received were supportive of establishing Māori wards.
8. However, Council is aware of a current petition (initiated from outside of the Tairāwhiti) seeking to force a poll to overturn Council's decision to establish Māori ward/s despite community support in favour of establishing Māori wards.

Support for the Local Electoral (Māori Wards and Māori Constituencies) Amendment Bill

9. The Council supports the Local Electoral (Māori Wards and Māori Constituencies) Amendment Bill's objective to remove the legislative provisions to allow for a demand poll to overturn a council decision.

10. The reasons for doing so (in addition to unanimous support for the establishment of Māori wards) are summarised and elaborated further below:
- The Local Government Act 2002 (LGA) places specific obligations on local authorities. A Māori ward or constituency is the only mechanism that guarantees Māori representation on the body that makes the final decisions. Council's resolution to establish Māori wards following extensive consultation gives effect to the intents of the LGA and Te Tiriti o Waitangi. A potential poll to overturn this runs contrary to the intents in which the LGA was seeking to achieve.
 - The Local Electoral Act 2001 poll provision for Māori wards and constituencies is an anomaly, encourages divisiveness and is simplistic. Matters of representation and relationships should be addressed in a deliberative manner that employs balanced and considered dialogue – not by poll.

The Local Government Act 2002

11. The Local Government Act 2002 (LGA) recognises and respects the Crown's obligations under the Te Tiriti o Waitangi (Treaty of Waitangi) by placing some specific obligations on local authorities (refer section 4 of the LGA). The LGA also requires local authorities to promote opportunities for Māori to contribute to its decision-making processes (sections 14 (d), 81 (1) (a-c) 77 (1) (c)).
12. Local government implicitly, if not explicitly, has a role in kāwanatanga (government) and local authorities must recognise mana whenua status of iwi and hapū in their rohe. Hence, the LGA places obligations on local authorities with respect to the contributions of Māori to decision-making and recognition of the principles of Te Tiriti o Waitangi.
13. Central to "local governance" is the principle of partnership which is well-established in Treaty jurisprudence. Both the Courts and the Waitangi Tribunal frequently refer to the concept of partnership to describe the relationship between the Crown and Māori. Partnership can be usefully regarded as an overarching tenet, from which other key principles have been derived.
14. The principles of partnership, participation and protection underpin the relationship between Council and Iwi/Māori under Te Tiriti o Waitangi. Partnership involves working together with iwi, hapū, whānau and Māori communities to develop strategies and structure for Māori involvement in decision-making. Participation requires Māori to be involved at all levels of the local government sector, including decision-making, planning, development and delivery of services. Protection involves the Council working to ensure Māori involvement in decision-making processes, and safeguarding Māori cultural concepts, values and practices.
15. Key to the success of local government meeting its legislative requirements is the ability to provide an environment (through systems, structures, and services) that encourages and supports Māori to enter and participate in local governance processes, for example, Māori wards.
16. Local authorities are public sector entities that make significant decisions with impacts on lands, waters and other taonga on a more or less daily basis. Māori wards or constituency is but one means for ensuring Māori perspectives are incorporated into the decision-making process. However, it is the only mechanism that guarantees Māori representation on the local authority governance body (i.e council) that makes the final decisions (for example committees of council cannot adopt a District Plan or Long Term Plan).
17. Council's resolution to establish Māori wards gives effect to the principles and obligations of the LGA and Te Tiriti o Waitangi. A potential poll to overturn this runs contrary to the intents of which the LGA was seeking to achieve.

Local Electoral Act 2001

18. The poll provision in the Act is an anomaly and apply only to the establishment of Māori wards and constituencies. They do not apply to other wards and constituencies.
19. The only other representation decision that may be overturned by poll is the decision on the voting system. The poll provision whether consciously or otherwise, imposes a higher procedural standard on one particular representation arrangement than applies to others.
20. As noted, Council is aware of a current petition (initiated from outside of the Tairāwhiti) seeking to force a poll to overturn Council's decision to establish Māori ward/s despite community support in favour of establishing Māori wards.
21. The petition for a poll has encouraged divisiveness in our community which is clearly evident through letters to the editor in the local newspaper, on social media and through a counter petition seeking to keep Māori wards.
22. The deep and considered dialogue that has occurred through our engagement process, the submissions and Council's deliberations to establish Māori wards under existing legislation, could be completely overturned through a simplistic campaign seeking signatures.
23. Māori representation in Council's governance is viewed as an important expression of Council's commitment to tāngata whenua, ensuring Council is reflective of the communities it serves and a reflection of the desire to improve the future growth and development of Tairāwhiti (as encapsulated in Council's mission statement "Ka whiria ngātahi tātau i ngā āheinga me ngā tauwhāinga kia whakahī ai te iwi. We will navigate our opportunities and challenges together to make our community proud").
24. Tangata whenua have a long historical settlement and connection to Tairāwhiti, and an equally long-term role in the future planning and decision-making for the region. The establishment of Māori wards will strengthen the existing Māori/Council partnership and support and enable Council to better reflect Māori values, issues, priorities and aspirations as they relate to Council roles and functions.
25. Matters of representation and relationships must be addressed in a deliberative manner that employs balanced and considered dialogue, contextualisation and appreciation of local issues and circumstances – not by poll.

Thank you for considering our submission. We would like to take the opportunity to speak to our submission.

Noho ora mai



Nedine Thatcher Swann
Chief Executive



Rehette Stoltz
Mayor