

NGĀ TUKUNGA HAEPAPA A TE KAUNIHERA

COUNCIL DELEGATIONS

Type of Committee	Council
Subordinate to	
Subordinate Committees	<p>Strategy, Policy and Finance committee</p> <p>Operations and Monitoring committee</p> <p>District Licencing committee</p> <p>CEO performance committee</p> <p>RMA Policy Committee</p> <p>Audit and Risk Committee</p>
Legislative Basis	<p>Schedule 7 S30 (1) (A), Local Government Act 2002</p> <p>Committee delegated powers by the Council as per Schedule 7, S32, Local Government Act 2002</p>
Purpose	The purpose of the Council is to make decisions on all matters that cannot be delegated, that it has not delegated or that it has had referred to it by staff or a committee.
Reference	01-15-016-01
Membership	<p>Mayor Steve Chadwick (Chair)</p> <p>Deputy Mayor Councillor Dave Donaldson (Deputy Chair)</p> <p>All councillors</p>
Quorum	6
Meeting frequency	Monthly
Delegations	<ul style="list-style-type: none"> • the power to make a rate • the power to make a bylaw • the power to borrow money, or purchase or dispose of assets, other than in accordance with the Long-term Plan • the power to adopt a long-term plan, annual plan, or annual report • the power to appoint a chief executive • the power to adopt policies required to be adopted and consulted on under the LGA 2002 in association with the long-term plan, or developed for the purpose of the local governance statement; and • the power to adopt a remuneration and employment policy • the power to set and support strategies in measures related to emergency matters. • all the powers, duties and discretions under the Civil Defence Act for the proper operation and administration of the approved Civil Defence Plan; such delegation to be executed solely within the defined policy guidelines as determined from time to time by the Council and subject to the Financial limits imposed by the approved Council estimates.
Relevant Statutes	All the duties and responsibilities listed above must be carried out in accordance with the relevant legislation.
Limits to Delegations	Powers that cannot be delegated to committees as per the Local Government Act 2002 Schedule 7 S32

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1 Opening Karakia - Karakia Whakapuaki

He karakia mō Te Kaunihera o ngā Roto o Rotorua

E te Atua kaha rawa, ko koe te tohu Rangatira, te tohu mātauranga.

Manaakitia mai mātau, wāu pononga i tēnei wā, e mahi nei i a mātau mahi, mō te painga o ngā tāngata, o Te Kaunihera o ngā Roto o Rotorua.

Takua mai kia tau te rangimārie ki runga i a mātau i ngā wā katoa.

Ko Ihu Karaiti hoki tō mātau Ariki

Āmine

Council Prayer

Almighty God, who alone is the leader of all mankind and the fountain of all knowledge.

Send thy blessing upon us your servants this day as we strive to do all things good for the betterment of the people of the Rotorua district.

May we be tolerant in ourselves at all times.

Through Jesus Christ our Lord.

Amen

2 Apologies - Ngā Whakapāha

The Chairperson invites notice from members of:

1. Leave of absence for future meetings of the Rotorua Lakes Council; or
2. Apologies, including apologies for lateness and early departure from the meeting, where leave of absence has not previously been granted.

3 Declarations of Interest - Whakapuakitanga Whaipānga

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

4 Staff Reports – Pūrongo Kaimahi

File No: 01-14-440\05
RDC-1132905

ROTORUA LAKES COUNCIL

Mayor
Members
COUNCIL

4.1 CONSIDERATION OF MĀORI WARDS

Report prepared by: Gina Rangi, DCE Te Arawa Partnership

Report approved by: Geoff Williams, Chief Executive

1. TE PŪTAKE PURPOSE

The purpose of this report is to receive and consider the recommendation of Te Tatau o Te Arawa to establish a Māori ward for the 2022-25 triennium.

2. HE TŪTOHUNGA RECOMMENDATION

1. That this report 'Consideration of Māori Wards' be received.
2. That Council accepts the recommendation of Te Tatau o Te Arawa and approves the establishment of a Māori Ward for the triennium 2022 election.
3. That Council note a representation review (with full public engagement) will be conducted to determine representation arrangements.
4. That Council agree to carry out a wider review of Council's governance framework, including the purpose, membership and powers of Council's committees and community boards, and a discussion with Te Arawa and the broader community about the possibilities of strengthening co-governance.
5. That Council directs staff to prepare a proposal on the process and scope of the proposed review process.

3. TE TĀHUHU BACKGROUND

On 26 May 2015, Council adopted the Te Arawa Partnership Model. On 18 December 2015, the partnership agreement was signed between Council and Te Tatau o Te Arawa Charitable Trust to formally establish the partnership model. At that time Te Arawa did not seek to establish Māori Wards, partly because Māori Wards did not adequately provide for accountability to mana whenua and partly because of the contentious nature of the Local Electoral Act 2001 (**LEA/01**) poll provisions in force at that time

On 2 March 2021, the Local Electoral (Māori Wards and Māori Constituencies) Amendment Act 2021 (**the Amendment Act**) came into effect. The Amendment Act:

- Ended all mechanisms for binding polls on whether to establish Māori wards or Māori constituencies, which the bill’s explanatory note described as “an almost insurmountable barrier”.
- Created a transition period ending 21 May 2021. The transition period enabled local authorities to make a decision on Māori wards in time for the 2022 local elections.

On 19 March 2021, Te Tatau began a wide consultation process seeking feedback from Te Arawa peoples, communities and entities. The process allowed an extensive range of opportunities to participate including hui (which were also live-streamed), social media, and online surveys. Te Tatau representatives also attended meetings of other groups and entities including Te Pukenga Kōeke o Te Arawa, the Ngāti Pikiao Council of Elders, Te Pae Tapu o Ngāti Whakaue and Te Arawa Lakes Trust.

On 11 May 2021, Te Tatau o Te Arawa provided their report “*Consideration of Māori Wards and Māori Representation for Rotorua District*”. The report records that Te Arawa support the establishment of Māori wards for the 2022 election and retention of Council’s partnership with Te Tatau o Te Arawa. Accordingly, Te Tatau o Te Arawa have formally requested:

- That Rotorua Lakes Council establish Māori wards for the 2022 election (and retain Te Tatau o Te Arawa); and
- That the representation review to follow reflects the outcome of the establishment of Māori wards.

The Te Tatau report records strong views from Te Arawa that local government arrangements should reflect Te Tiriti o Waitangi, and that this is a broader discussion than whether to establish Māori wards.

As at 5 May 2021, 18 local authorities had agreed to establish a Māori ward. Several other councils have advised that they will also consider establishing a Māori ward before the transition period ends on 21 May 2021. In terms of public concern in other districts, controversy has arisen mainly when a council has declined or postponed establishing a Māori ward.

Representation review

Under the LEA/01, council is required to review its representation arrangements at least every six years. The process requires a comprehensive public engagement process, public submissions and hearing, and a potential appeal to the Local Government Commission. The representation review will consider:

- The total number of members for Council.
- If wards are created, the number, name and boundaries of each ward.
- The number of Community boards, their membership and boundaries.

The last representation review was undertaken in 2015/16 and therefore a representation review is scheduled for later this year.

4. TE MATAPAKI ME NGĀ KŌWHIRINGA DISCUSSION AND OPTIONS

Discussion - Local Government reforms

The decision on Māori wards should be considered within the context of the current local government reforms including re-introducing local government responsibility for the four wellbeings,

Three Waters Reform, repeal and replacement of the RMA and the recently announced Local Government Review Panel, which seeks recommendations to achieve:

- a resilient and sustainable local government system fit for purpose and able to adapt to future needs;
- public trust/confidence;
- effective partnerships between mana whenua, and central and local government to better provide for social, environmental, cultural, and economic wellbeing
- local government that actively embodies the Treaty partnership, through the role and representation of iwi/Māori in local government, and seeks to uphold the Te Tiriti o Waitangi / Treaty of Waitangi and its principles through its functions and processes.

It is also increasingly clear that complex community issues require collaboration and unified approaches between iwi, central government and local government. The recent Emergency Housing Taskforce is a good example of this collaborative approach.

In this context, Māori wards (and the subsequent representation review) maintain Council's reputation and relationships with Te Arawa, but do not adequately address the current reform process and future shape of local government. To address those broader issues would require Council to reflect on its governance framework including:

- The purpose and membership of Council's committees;
- The powers of Council committees (ie recommendation only, or exercise some delegated powers);
- The purpose and membership of community boards;
- A discussion with Te Arawa and broader community about the possibilities of co-governance.

It is noted that "co-governance" does not mean "50% of seats on Council are set aside for Māori". Co-governance is a broad term that encompasses collaborative decision-making, respecting the mana and different roles/responsibilities of Council and of iwi. The Te Arawa Lakes Strategy Group is a local example of co-governance.

Discussion - Relationships with Māori

Council must provide opportunities for Māori to contribute to its decision-making processes. This is set out in key legislation, such as the Local Government Act 2002 (LGA), the Local Electoral Act 2001 and the Resource Management Act 1991 (RMA).

It is important to note the difference between providing for Māori (of any iwi, and not necessarily with ancestral connection to Rotorua) and providing for a partnership with mana whenua. There are statutory requirements in respect of both groups:

- *Provision for Māori:* Council is required to provide for Māori involvement decision-making. This is necessary to satisfy the requirement for "fair and effective representation"¹, to provide for diverse voices and views in a healthy democracy, and to reflect modern community demographics. This is part of ensuring good and functioning kawanatanga under Article 1 of Te Tiriti o Waitangi / Treaty of Waitangi. The establishment of Māori wards is a mechanism to achieve fair and effective representation.
- *Providing for the role of mana whenua:* this is a separate issue. Mana whenua encompasses hapū and iwi who have an ancestral relationship with the district based on customary law and traditional values. Mana whenua does not include Māori who whakapapa to iwi based outside the district. When mana whenua iwi and hapū engage with local authorities, they expect that Council

¹ The Local Electoral Act requires Councils to provide for 'fair and effective representation' for individuals and communities.

will respect their tino rangatiratanga (consistent with their Article II right). Te Arawa designed and created the Te Arawa Partnership and, as such, it is an expression of mana whenua.

Accordingly, the Te Arawa Partnership and Maori wards serve different purposes.

Discussion – technical aspects of Māori wards

Voters in New Zealand are registered on either the General Roll or the Māori Roll. The current Rotorua District electoral population is 77,300². This is split as follows:

- Voters registered on the General Roll: 55,600 (72%)
- Voters registered on the Māori Roll: 21,700 (28%)

Therefore, if Māori wards are introduced, 28% (or thereabouts) of elected members would come from the Māori wards, and 72% from general wards. Based on 10 elected members, this means 3 from the Māori ward and 7 from the general ward.

If a Māori ward is established, residents on the Māori electoral roll will vote in the Māori ward, and residents on the General electoral roll will vote in the general ward. All voters will also be able to vote for any 'at large' roles (such as the mayor), and for a relevant community board.

Māori wards are subject to the same population ratio rules as general wards. This ensures that all representation at the council is fair.

Options

The options available are:

- **OPTION ONE: To decline to establish Māori wards**

A decision not to establish a Māori ward will significantly impair the Te Arawa Partnership. It is likely that Te Arawa people will consider Council has ignored their views and acted contrary to the Partnership.

This would undermine council's reputation and credibility in the eyes of Te Arawa, making it significantly more difficult to work effectively with Te Arawa communities and landowners. It would also undermine council's reputation and credibility in the eyes of central government. A loss of reputation and credibility with Te Arawa and central government would have significant negative effect on all council work programmes.

- **OPTION TWO: To establish Māori wards**

A decision to establish a Māori ward would uphold the Te Arawa partnership but may attract controversy and anti-Māori sentiment. This was a feature of the public debate when the Te Arawa Partnership was established.

However, since then, public attitudes have shifted. Te Tatau o Te Arawa has achieved significant community goodwill because of its constructive contribution to good decision-making. This goodwill includes Local Government NZ recognising the Te Arawa Partnership with the Judges' Choice Award for Outstanding Value and Service Delivery.

² 30 June 2020 estimate, based on 2018 census.

- **OPTION THREE: To establish Māori wards and also begin broader consideration of governance arrangements**

The establishment of a Māori ward and the LEA/01 representation review do not adequately address the future shape and role of local government, and the reform processes currently underway. To address those broader considerations would require a broader consideration of Council's governance arrangements.

If Option Three is selected, staff will prepare a report identifying a proposed process. This could include, for example, both short term and long term steps, as well a possible scope and membership for a working party to lead and oversee community discussion.

5. TE TINO AROMATAWAI ASSESSMENT OF SIGNIFICANCE

The decisions being sought from Council are considered significant in accordance with Council's Significance and Engagement Policy. Under the Significance and Engagement Policy where the Council undertakes community engagement, the level of engagement, and the tools and techniques to be applied, will be tailored to the nature and significance of the matter being considered and to the target audience, notwithstanding legislative requirements. Targeted engagement has been undertaken with Te Arawa led by Te Tatau o Te Arawa. Staff are satisfied this engagement met the Significance and Engagement criteria.

6. NGĀ KŌRERO O TE HAPORI ME TE WHAKATAIRANGA COMMUNITY INPUT/ENGAGEMENT AND PUBLICITY

The group likely to be affected includes people of Te Arawa descent and people enrolled on the Māori electoral roll. Despite the legislation allowing only a short consultation period, it is very unlikely that a longer timeframe would have resulted in a different outcome.

It is important to note that a representation review will be held later this year. This will provide an opportunity for extensive community engagement to ascertain the views of the whole community on the detail of how wards will be implemented, and the representation arrangements for the whole district.

7. HE WHAIWHAKAARO CONSIDERATIONS

7.1 He Whaiwhakaarotanga Mahere Pūtea Financial/budget considerations

The establishment of Māori wards will not have a material financial impact. The cost of a representation review is already required this year.

7.2 Kaupapa Here me ngā Hiraunga Whakariterite Policy and planning implications

A decision is required by 21 May in order to meet statutory timeframes for the representation review. A decision on whether Māori wards is introduced sets considerations for the direction of the representation review.

7.3 Tūraru Risks

As noted above, to establish a Māori ward may attract controversy and anti-Māori sentiment. The scale of that controversy is unlikely to be as heated as during the establishment of Te Tatau. Some of this potential criticism can be effectively mitigated by providing for robust community engagement through the representation review on the overall arrangements for the next election.

On the other hand, not establishing a Māori ward will almost inevitably lead to a loss of reputation and credibility in the eyes of Te Arawa and central government, with consequent serious impact on council work programmes.

The risk of focussing only on Māori wards (and not considering the broader governance framework) is that Council is unprepared for the reforms currently underway.

7.4 Te Whaimana Authority

Pursuant to the Amendment Act, Council has the ability to make a decision on whether to establish a Maori ward, as well as to commence a representation review under the LEA/01.

A decision on the introduction of Māori wards is required by 21 May 2021 in order to be in effect for the 2022 elections.

Council also has the power to direct staff to develop proposals for a process of review of council's existing governance framework.