



If calling, please ask for Democratic Services

Te Tiriti o Waitangi Komiti

Thursday 15 August 2024, 1.00pm

Taumata Kōrero - Council Chamber, Greater Wellington Regional Council
100 Cuba St, Te Aro, Wellington

Quorum: Seven Members

Members

Councillors

Hikitia Ropata (Chair)

Daran Ponter (Deputy Chair)

David Bassett

Ros Connelly

Quentin Duthie

Penny Gaylor

Chris Kirk-Burnnand

Ken Laban

David Lee

Thomas Nash

Yadana Saw

Adrienne Staples

Simon Woolf

Recommendations in reports are not to be construed as Council policy until adopted by Council

Te Tiriti o Waitangi Komiti (A Committee of the Whole)

1 Purpose

Enable Council, committees, and Greater Wellington to implement robust decisions that uphold Te Tiriti o Waitangi obligations, commitments, and responsibilities to ensure equitable outcomes for Māori.

2 Specific responsibilities

- 2.1 Apply Council's Te Tiriti o Waitangi principles when conducting the Committee's business and making decisions.
- 2.2 Influence Council, committees, and Greater Wellington decision-making across strategies, policies, plan, programmes, initiatives, and indicators through application of Council's Te Tiriti o Waitangi principles, which are as follows:
 - a **Pātuitanga | Relationships and Partnerships** – ensure decisions are based on shared knowledge, expertise and values maintained and sustained through active relationships and partnerships with mana whenua. These relationships and partnerships will influence Greater Wellington's core business services, functions, and systems to develop and deliver our shared aspirations across our Greater Wellington rohe
 - b **Kōwhiringa | Options** – actively partner with mana whenua to enable effective governance decision making that is informed by kaupapa Māori and mātauranga Māori analytical frameworks and knowledge systems in identifying feasible and meaningful options and solutions
 - c **Tino rangatiratanga | Self Determination** – position Greater Wellington to give effect to Te Tiriti o Waitangi and uphold the interests of mana whenua in exercising their tino rangatiratanga in planning and promoting quality services that enable self-determination for whānau and community
 - d **Whakamaru | Active protection** – assess how decisions work towards protecting mana Motuhake (rights and interests of mana whenua) through relevant mutually beneficial strategies, policies, plans, programmes and initiatives
 - e **Oritetanga | Equity** - uphold the principle of fairness in the design and distribution of Greater Wellington's resources and services through the Long Term Plan to meet the needs and aspirations of whānau within our Greater Wellington rohe.
- 2.3 Oversee the development of a work programme across Greater Wellington to improve outcomes and uphold the priorities for mana whenua and Māori.
- 2.4 Review and monitor the implementation of this work programme using Te Tiriti o Waitangi principles.
- 2.5 Consider and recommend to Council on negotiation issues for Treaty settlements in the Wellington Region, and on the upholding of Greater Wellington's commitments under concluded settlements.

- 2.6 Review and monitor (every six months) the performance of Council and Greater Wellington in giving effect to statutory responsibilities to Te Tiriti o Waitangi, and recommend to Council on initiatives and changes to enhance effectiveness.
- 2.7 Consider and recommend to Council on the transfer of Council's statutory functions, duties, and powers to mana whenua.
- 2.8 Provide, for consideration by Council, direction on Māori representation and partnership structures or initiatives with mana whenua, including a recommendation to Council on the establishment of Māori constituencies under the Local Electoral Act 2001.

3 Delegations

The Committee has the authority to approve submissions to external organisations for matters pertaining directly to the Committee's purpose.

4 Members

All thirteen Councillors.

5 Quorum

Seven Councillors.

6 Meeting frequency

The Committee shall meet four times a year, with additional meetings as required.

Te Tiriti o Waitangi Komiti

15 August 2024, 1.00pm

Taumata Kōrero - Council Chamber, Greater Wellington Regional Council
100 Cuba St, Te Aro, Wellington

Public Business

No.	Item	Report	Page
1.	Apologies		
2.	Conflict of interest declarations		
3.	Public participation		
4.	Confirmation of the Public minutes of the Te Tiriti o Waitangi Komiti meeting on 10 October 2023	23.523	5
5.	Māori Constituency Matters	24.406	7



Please note these minutes remain unconfirmed until the Tiriti o Waitangi Komiti meeting on 15 August 2024

Report 23.523

Public minutes of the Te Tiriti o Waitangi Komiti meeting on 10 October 2023

Raukawa Marae
90 Mills Road, Ōtaki, at 10am

Members Present

Councillor Ropata (Chair)
Councillor Ponter (Deputy Chair)
Councillor Bassett
Councillor Connelly
Councillor Duthie
Councillor Gaylor
Councillor Laban
Councillor Lee
Councillor Nash
Councillor Staples
Councillor Woolf

Karakia timatanga

Te Komiti Chair invited Denise Hapeta, Ngā Hapū o Ōtaki, to open the meeting with a karakia timatanga.

Public Business

Whakawhanaungatanga

Te Komiti Chair invited each person present to introduce themselves.

1 Apologies

Moved: Cr Ponter / Cr Connelly

That the Komiti accepts the apologies for absence from Councillors Kirk-Burnnand and Saw.

The motion was **carried**.

2 Declarations of conflicts of interest

There were no declarations of conflicts of interest.

3 Public participation

There was no public participation.

4 Opportunity to Establish a Māori Constituency – Report 23.321

Francis Ryan – Kaiwhakahaere Mana Urangi, Manapori | Head of Governance and Democracy, tabled an updated table for paragraph 31 of the report, provided a verbal update on mana whenua comments, and spoke to the report. On the invitation of the Komiti Chair, Denise Hapeta, Chair, Ngā Hapū o Ōtaki, advised the meeting of the views of Ngā Hapū o Ōtaki on the matter.

Moved: Cr Gaylor / Cr Staples

That te Komiti:

- 1 Notes that if Council agrees to establish a Māori constituency, that this will inform the full representation review scheduled for 2024.
- 2 Recommends that Council establishes a Māori constituency for the 2025 triennial local elections onwards, noting that the Māori constituency is supplementary and not a replacement for Council's Te Tiriti o Waitangi obligations with mana whenua.

The motion was **carried**.

Te Komiti sung a waiata, Te Aroha, to close the meeting.

The public meeting closed at 11.16am.

Councillor H Ropata

Chair

Date:

Te Tiriti o Waitangi Komiti
15 August 2024
Report 24.406



For Decision

MĀORI CONSTITUENCY MATTERS

Te take mō te pūrongo

Purpose

1. To advise Te Tiriti o Waitangi Komiti on the legislative requirements for Council to resolve to affirm or rescind its October 2023 resolution to establish a Māori constituency for the 2025 and 2028 triennial local elections, and on the proposed name for that constituency.

He tūtohu

Recommendations

That Te Tiriti o Waitangi Komiti:

Either

- 1 **Recommends** that Council resolves to affirm its resolution of 26 October 2023 to establish a Māori constituency for the 2025 and 2028 triennial local elections.
- 2 **Recommends** that Council agrees that the name for the Māori constituency is Te Upoko o te Ika a Māui Māori Constituency.

Or

- 3 **Recommends** that Council resolves to rescind its 2023 resolution to establish a Māori constituency for the 2025 and 2028 triennial local elections.

Te horopaki

Context

2. On 26 October 2023, following a recommendation from Te Tiriti o Waitangi Komiti, Council resolved (Report 23.539 – Opportunity to Establish a Māori Constituency) to:

Establish a Māori constituency for the 2025 triennial local elections onwards, noting that the Māori constituency is supplementary to and not a replacement for Council's Te Tiriti o Waitangi obligations with mana whenua.

Note that the establishment of a Māori constituency will inform the full representation review scheduled for 2024.

3. The Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Act 2024 (the Amendment Act 2024) alters the Local

Electoral Act 2001 (the LEA), which governs the conduct of triennial local elections. The Amendment Act 2024 took effect on 30 July 2024.

Te tātaritanga Analysis

4. Officers' advice considers the Local Government Commission's *Guidelines for local authorities undertaking representations reviews*¹ and *Guidelines for local authorities making decisions on Māori wards and Māori constituencies*².

Mana whenua and the Māori constituency

5. The Council Chair, Te Tiriti o Waitangi Komiti Chair and officers have engaged with five of Greater Wellington's six mana whenua partners on the matter of the Māori constituency. Mana whenua have expressed a range of views on whether Council should resolve to affirm or rescind its resolution to establish a Māori constituency.
6. The majority of the mana whenua partners with whom we have engaged encourage Council to continue with the establishment of the Māori constituency as an opportunity to ignite Māori across the region to stand together on an important kaupapa.
7. Other mana whenua partners encourage Council to carefully consider its next steps. If Council were to continue with the establishment of the Māori constituency, followed by a poll in 2025, they consider that it could leave iwi exposed to levels of racism and mana-diminishing approaches that would be harmful to whanau, hapū, iwi and Māori communities of the region.
8. Regardless of Council's resolutions on the Māori constituency, there are opportunities to explore alternative options that provide for mana whenua / Māori representation in decision-making processes.

Legislative requirements for resolutions on a Māori constituency

9. Under the amended Schedule 1 to the LEA and the Local Government Commission's guidelines:
 - a Council is a Group 2 local authority (as it has resolved to establish a Māori constituency for the 2025 triennial local election) (clause 10(1))
 - b Council must, by 6 September 2024, actively resolve either to affirm or rescind its resolution to establish a Māori constituency (clause 29(1))
 - c There are no specific criteria for Council to consider when making this decision, and the special consultative procedure under section 83 of the

¹ <https://www.lgc.govt.nz/assets/Resources-Representation-Review/Representation-Review-Guidelines-2023-v2.pdf>.

² <https://www.lgc.govt.nz/assets/Resources-Representation-Review/Maori-ward-supplementary-guidelines-2024.pdf>.

Local Government Act 2002 does not apply to the decision under clause 29(1) (clause 30)

- d Council should consider the principles in section 4 of the LEA that relate to representation, abide by its *Significance and Engagement Policy*, and take into account the decision-making requirements of Part 6 of the Local Government Act 2002
 - e Following a resolution to affirm, Council must:
 - i Hold a binding poll of electors at the 2025 triennial local election, using the First Past the Post electoral system, with the poll result having effect for the 2028 and 2031 triennial local elections (clause 39)
 - ii Undertake a shortened representation review to the timeframes stated in the Amendment Act 2024
 - f Following a resolution to rescind, Council:
 - i Must undertake a shortened representation review to the timeframes stated in the Amendment Act 2024
 - ii May, at any time, consider afresh a decision to establish a Māori constituency, with the earliest possible election for which a Māori constituency could be in place being the 2028 triennial election.
10. As required under the Local Government Act 2002, officers have identified a range of advantages and disadvantages for Te Tiriti o Waitangi Komiti to consider when deciding whether to recommend to Council that it resolves to affirm or rescind its resolution to establish a Māori constituency (see the Options section below).

Name of the Māori constituency

- 11. If Te Tiriti o Waitangi Komiti agrees to recommend that Council affirms its resolution to establish a Māori constituency, then Te Tiriti o Waitangi Komiti may also make a recommendation on the proposed name for the Māori constituency.
- 12. On 4 March 2024, the Te Tiriti o Waitangi Komiti Chair and Council Chair jointly wrote to Council's six mana whenua partners suggesting the proposed name of *Te Upoko o te Ika a Māui Māori Constituency* to recognise the regional nature of the Māori constituency and seeking their views.
- 13. Te Upoko o te Ika a Māui recognises and pays homage to the whakapapa and history of the Wellington Region and Māori culture; it is often used to describe the wider Wellington Region and its surroundings.
- 14. As the name of a Māori constituency is formally part of the Representation Review 2024, any naming recommendation by Te Tiriti o Waitangi Komiti will be included in the related report to Council (Report 24.407 – Initial representation proposal for 2025 triennial local election) and, if Council accepts that recommendation, in the statutory consultation on that initial representation proposal.

Nga kōwhiringa

Options

Option 1: Affirm Council's resolution to establish a Māori constituency

15. Under this option:
 - a The Māori constituency will be in effect for the 2025–28 Council triennium
 - b Council is required to hold a binding poll of electors at the 2025 triennial local election, with the poll result having effect for the following two triennial local elections.
16. The advantages of this option are that it:
 - a Gives effect to Council's resolution of 26 October 2023, at least for the 2025–28 Council triennium
 - b Signals to the Wellington Region's electors the commitment of Council and mana whenua partners to dedicated Māori participation in Council's decision-making processes
 - c Upholds the integrity of Council, following engagement with its mana whenua partners, to establish a Māori constituency
 - d Enables the Wellington Region's electors to indicate their views on the establishment of a Māori constituency in the binding poll.
17. The disadvantages of this option are that it:
 - a Exposes Council, its mana whenua partners, and the community to potentially significant publicity and lobbying from those opposing dedicated Māori representation in Council's decision-making processes
 - b May distract Greater Wellington significantly, due to this publicity and lobbying, from continuing to build relationships with its six mana whenua partners
 - c Could become a primary election platform for candidates standing in the 2025 triennial local election, giving rise to a negative, single issue pre-election period
 - d Could result in the Māori constituency seat at the 2025 triennial local election being unfilled due to the potential, where the binding poll result is 'no Māori constituency', that the seat will not exist from the 2028 triennial local elections. This situation would expose Council to the cost and associated resourcing requirements of a by-election to fill the vacancy for the seat
 - e Could contribute to elector confusion due to the increased number of voting decisions required at the 2025 triennial local election (e.g., the potential for most of the Wellington Region's electors to consider decisions on both a poll on a regional council Māori constituency proposal and a poll on a territorial authority Māori ward proposal in the same voting pack)

- f Results in unbudgeted and unfunded costs for Council at a time of increased cost pressures and significant rates rises for the community. Greater Wellington’s Electoral Officer estimates these costs as:
 - i \$350,000 (GST exclusive) for a poll held with the 2025 triennial local election
 - ii \$95,000 (GST exclusive) for each by-election where the Māori constituency seat was unfilled.
- g Requires Council, where the binding poll result is ‘no Māori constituency’, to undertake another representation review in 2027 for the 2028 triennial local election (rather than in 2030 for the 2031 triennial local election)³.

Option 2: Rescind Council’s resolution to establish a Māori constituency

18. The advantages of this option are that it:

- a Avoids the unbudgeted and unfunded costs for Council outlined in paragraph 13f above
- b Avoids the requirement for another representation review in 2027 for the 2028 triennial local election
- c Enables the 2025 triennial local election to be unencumbered by potential negative issues that may arise in the pre-election period and candidate campaigns relating to the Māori constituency
- d Enables Council to consider this matter afresh at a later time, with the possibility of a Māori constituency being established for the 2028 and 2031 triennial local elections. A new resolution to establish would be subject to the right of five percent of the Wellington Region’s electors (currently 19,620 electors) to demand a poll on the matter, rather than the mandatory poll at the 2025 triennial local election that is required if Council resolves to affirm its current resolution.

19. The disadvantages of this option are that it:

- a Sends mixed messages about Council’s commitment to dedicated Māori participation in Council’s decision-making processes
- b Exposes Council, its mana whenua partners, and the community to publicity and lobbying about this commitment and therefore distracts from Greater Wellington continuing to build relationships with its six mana whenua partners
- c Removes the opportunity for the Wellington Region’s electors to indicate their views on, including their support for, the establishment of a Māori constituency.

³ This policy approach reflects the need to determine effective and fair representations for the 2028 and 2031 triennial local elections that no longer include a Māori constituency.

Ngā hua ahumoni

Financial implications

20. If Council affirms its resolution to establish a Māori constituency for the 2025 triennial local election onwards, the:
 - a Amendment Act 2024 requires that Council holds a binding poll of electors at the 2025 local election
 - b LEA provides that, in the event that no candidates stand for the Māori constituency, Council must hold a by-election until the related vacancy is filled.
21. Greater Wellington's Electoral Officer estimates the related costs as \$350,000 (GST exclusive) for the poll and \$95,000 for each by-election. Both these costs are unbudgeted and unfunded and would need to be included in Council's Annual Plan for 2025/26.

Ngā Take e hāngai ana te iwi Māori

Implications for Māori

22. The implications for Māori of a resolution to affirm or rescind Council's resolution to establish a Māori constituency are stated throughout this report, including in the Options section.

Ngā tikanga whakatau

Decision-making process

23. The decision-making process is prescribed in the Amendment Act 2024. The application of these provisions is addressed in the Background and Analysis sections.

Te hiranga

Significance

24. Officers consider the matters for decision to be of medium significance in terms of Council's *Significance and Engagement Policy* and Greater Wellington's *Decision-making Guidelines*. The matter of Māori representation is of high community interest, with the impacts of the resolution to affirm or rescind Council's resolution to establish a Māori constituency mostly affecting those on the Māori electoral roll.

Te whakatūtakitaki

Engagement

25. The Council Chair, Te Tiriti o Waitangi Komiti Chair and officers have engaged with five of Greater Wellington's six mana whenua partners on the matter of the Māori constituency. Mana whenua feedback is stated in the Analysis section.

Ngā tūāoma e whai ake nei

Next steps

26. Te Tiriti o Waitangi Komiti’s recommendation(s) to Council will be included in reports for Council’s 27 August 2024 meeting.

Ngā kaiwaitohu

Signatories

Writer	Will Ogier - Kaitohutohu Matua Principal Advisor Democratic Services
Approvers	Francis Ryan – Kaiwhakahaere Mana Uringi, Manapori Head of Governance and Democracy Luke Troy – Kaiwhakahaere Matua Rautaki Group Manager Strategy

He whakarāpopoto i ngā huritaonga Summary of considerations
<i>Fit with Council's roles or with Committee's terms of reference</i> Council has statutory responsibility for decisions on its representation arrangements.
<i>Contribution to Annual Plan / Long Term Plan / Other key strategies and policies</i> The decisions in the report do not contribute to Council's or Greater Wellington's key strategies, policies and plans.
<i>Internal consultation</i> Te Hunga Whiriwhiri was consulted during the preparation of this report and has led the related officer engagement with Council's mana whenua partners.
<i>Risks and impacts - legal / health and safety etc.</i> The financial risk of unbudgeted costs from Council resolving to affirm its resolution to establish a Māori constituency is noted in the Financial Implications section.