

29 May 2024

Justice Select Committee
Parliament Buildings
Wellington
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Tēnā koe

PREAMBLE:

He Whakaputanga o te Rangatiratanga o Nu Tirenī and Te Tiriti o Waitangi were some of the enabling frameworks, outside of Te Ao Māori, that our tupuna envisioned would support the development of our nationhood as Aotearoa/New Zealand.

This submission is an ongoing part of that continuum to realise and reassert the aspirations of our tupuna to facilitate intergenerational equity whilst recognising and upholding Te Mana me te Mauri o te Taiao and Te Tiriti o Waitangi.

Submission to the Justice Select Committee on the Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Bill

1. This response is made on behalf of Te Kahu o Taonui (Te Tai Tokerau Iwi Chairs Forum).
2. Te Kahu o Taonui was established in 2006/07 and is now a collective of Authorities in Te Tai Tokerau namely Ngāti Kuri Trust Board, Te Rūnanga Nui o Te Aupōuri, Te Rūnanga o Te Rarawa, Te Rūnanga o Ngāi Takoto, Te Iwi o Ngāti Kahu Trust, Kahukuraariki Trust / Ngātikahu ki Whangaroa, Te Rūnanga o Whaingaroa, Te Runanga-Ā-Iwi-O Ngāpuhi, Te Runanga o Ngāti Hine, Ngātiwai Trust Board, Te Iwi o Te Roroa and Te Rūnanga o Ngāti Whātua.
3. The aim of Te Kahu o Taonui is to advance the collective aspirations of Te Tai Tokerau iwi and hapū. Me mahi tahi tātou mō te iwi te take".

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

POSITION:

4. Te Kahu o Taonui (Te Kahu) is **strongly opposed** to the Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Bill (Māori Wards Amendment Bill), specifically:
 - Reinstating polls on Māori wards and Māori constituencies; and
 - Requiring a poll to be held if one has not been held previously.

5. Apart from the above, Te Kahu o Taonui is supportive of the proposed changes relating to the postal delivery of voting papers and extensions to timeframes.
6. In seeking to participate in local government decision-making in matters that affect them, Māori have repeatedly sought to be represented on Councils.
7. Māori wards and constituencies have significantly increased Māori representation in local government within Te Tai Tokerau and also enables the Crown to meet its Treaty obligations.
8. Binding polls unfairly give the majority the right to make decisions on a matter affecting the rights of a Māori minority in our region and this is further exacerbated by typically low Māori voting numbers due to how they view local government.
9. Māori seats exist at a national level where Māori who register on the Māori roll can vote for Māori Members of Parliament. Establishment of Māori wards and constituencies enables the same approach for Māori representation on Council. Māori who register on the Māori roll are only able to vote for those who stand in the Māori constituencies.
10. The reintroduction of a binding polling system will impose a higher procedural standard for Māori wards and constituencies than is required for general wards and constituencies, which is contrary to natural justice and democratic principles.
11. Reversion to a polling system will likely result in reduced Māori roles in decision-making functions in Councils and make it more difficult for them to meet legislative requirements to facilitate Māori participation and representation.
12. Council decision-making on issues of importance to Māori will likely be negatively affected, and Māori voices will likely be heard less.
13. For Councils without Māori elected members, Māori roles will be limited to participation, engagement and consultation.
14. Decisions on representation and relationships should be made via a deliberative, balanced and considered dialogue – not through a binary choice offered by a poll.
15. We trust the Select Committee will carefully reflect on our submission in its consideration of the Māori Wards Amendment Bill.

STATEMENT OF KEY MATTERS OF CONCERN:

Te Tiriti o Waitangi / Treaty of Waitangi

16. The Crown has an obligation to make decisions in a way that is consistent with Aotearoa / New Zealand's founding document, Te Tiriti o Waitangi.
17. Article 1 of Te Tiriti provision of kāwanatanga relates both to the Crown's responsibilities to ensure that its delegation of authority to local government is Treaty consistent and to local government exercising kāwanatanga functions at the local level.
18. Article 2 guarantees Māori the right to make decisions over the resources and taonga they wish to retain, which includes but not limited to, maintaining and improving opportunities for Māori to contribute to local government decision-making processes.

19. Article 3 extends to voting rights in both local and central government elections¹.
20. Māori wards and constituencies are not a race-based selection, but rather a Te Tiriti and legislative outcome both appropriate and necessary to deliver equity in decision-making for which prior to the 2021 Amendments was not implemented within Te Tai Tokerau.

Te Tiriti o Waitangi settlements²

21. Within Te Tai Tokerau seven of our iwi members have negotiated Treaty Settlements with the Crown whereby a range of formal and informal arrangements have been negotiated in response to the Crown's Treaty breaches.
22. Within the local government perspective these arrangements range from:
 - Letters of Commitment
 - The rateability of returned assets; through to
 - The development and establishment of Statutory Boards and/or Joint Committees of Council.
23. In response to the governments proposed Amendments, no consultation and/or engagement has occurred with our Treaty Settlement Entities.
24. Ministry officials clearly identified that there was limited opportunity to investigate the specific impacts on Māori, iwi and hapū, and any impacts on Treaty settlement agreements. The Regulatory Impact Assessment further identified that it failed to fully meet the "complete" and convincing criteria prescribed by Cabinet, which also precluded any meaningful consultation with affected parties³. Te Kahu o Taonui members are affected parties.
25. Te Kahu o Taonui considers this another fundamental breach to our Te Tiriti / Treaty partnership relationship.

Māori Representation

26. The Local Government Act 2002 requires Councils to establish more formal, meaningful and sustainable relationships with Māori. These relationships, guided by the Treaty are intended to foster:
 - Opportunities for Māori to contribute to decision-making processes of Council
 - The development of Māori capacity to contribute to the decision-making processes of Council
 - The provision of information to Māori so they are enabled to contribute to the decision-making processes of Council; and
 - Improved consultation with Māori.
27. Councils have discretion to consider both electoral and/or non-electoral options for Māori representation and whilst the Local Electoral Act (LEA) provides for Māori wards and

¹ See [Maori Wards W.pdf \(justice.govt.nz\)](https://www.justice.govt.nz/maori/maori-wards/maori-wards-w.pdf)

² See [Quarterly-report-to-31-Mar-2024.pdf \(tearawhiti.govt.nz\)](https://www.tearawhiti.govt.nz/quarterly-report-to-31-Mar-2024.pdf)

³ See [Regulatory-Impact-Statement-reinstating-the-Māori-wards-poll-provisions.pdf \(dia.govt.nz\)](https://www.dia.govt.nz/regulatory-impact-statement-reinstating-the-maori-wards-poll-provisions.pdf)

constituencies, the alternative non-electoral options, as participation mechanisms, are not the same as having a dedicated seat at the decision-making table.

28. Prior to the 2021 Amendments within Te Tai Tokerau, the “representative” options consisted of Māori Standing Committees within the Far North District Council, Whangārei District Council and Northland Regional Council.
29. Following the 2021 Amendments Māori electoral options have been implemented across all Te Tai Tokerau Councils.
30. Te Taitokerau hapū⁴ have identified that the 2021 Amendments have significantly helped in addressing the issue of their under representation in local government and that the repeal of the LEA will place Māori representatives in their local government at a disadvantage⁵.
31. The establishment of Far North District Councils Māori Ward has facilitated the establishment of the Te Kuaka – Te Ao Māori [Standing] Committee which provides for 12 iwi representatives nominated through Te Kahu o Taonui.
32. For Te Kahu o Taonui, Māori Wards have been a long overdue catalyst for active participation in Councils governance and decision-making processes.
33. Te Kahu o Taonui input and participation not only provides a Treaty Settlement lens, but also advocates for those iwi, hapū and whānau who are yet to settle.
34. The ability to support Te Taitokerau Councils in navigating their Te Tiriti and Treaty Settlement obligations enables Te Kahu o Taonui to collectively round-up the ambitions and aspirations of our respective communities.

CONCLUSION:

35. Te Kahu o Taonui is adamant that repealing the 2021 Amendment Act will significantly impact the representative opportunities within Te Tai Tokerau and breaches the Crown's Treaty obligations.
36. Te Kahu o Taonui is also of the opinion that in reverting back to the LEA 2001 provisions the Crown's policy and actions will prejudicially affect Māori and damage relations between the Crown, Māori and local government.
37. Ultimately, the LEA status quo arrangements provide appropriate input into decisions about our local government representation arrangements, while maintaining a balance of Māori representation and participation in local government decision-making.
38. Therefore, Te Kahu o Taonui fundamentally opposes the Māori Wards Amendment Bill and requires the Crown to stop the amendment process to allow proper consultation and engagement with its Treaty partners.

⁴ Ngāti Korokoro, Ngāti Wharara, Te Pouka hapū and Patuharakeke.

⁵ See [Maori Wards W.pdf \(justice.govt.nz\)](https://www.justice.govt.nz/maori/maori-wards/W.pdf)

39. On a separate, yet interrelated issue, Te Kahu o Taonui is deeply concerned on the government's stance and direction especially in lieu of the wider wellbeing landscape for Māori where government:

- Disestablished Te Aka Whai Ora / Māori Health Authority
- Minimised the use of Te Reo Māori in the public service
- Changed Smokefree legislation
- Did not consider Treaty Principles within the Fast-track Amendment Bill
- Is currently repealing s.7AA of the Oranga Tamariki Act and Te Mana o Te Wai obligations; and is
- Developing a proposed Treaty Principles Bill.

From Te Kahu o Taonui perspective the above amounts to fundamental breaches in the Te Tiriti partnership which is distressing, debilitating, untenable and lacks integrity.

Also, utilising the Select Committee as a default mechanism to engage and consult directly with the Treaty partner, and Treaty Settlement partners, further exacerbates our aggrieved position.

Please note that Te Kahu o Taonui seeks to make an oral submission and wishes to be heard on the Māori Wards Amendment Bill.

Please also note that this request does not usurp the mana of our respective Authorities to engage directly with the Select Committee should they so wish.

Signed:

Dated: 29 May 2024



Harry Burkhardt
Co-Chairperson
Te Kahu o Taonui



Aperahama Edwards
Co-Chairperson
Te Kahu o Taonui

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