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| Report No:               | RCN11-11-07      |
| File No:                 | E319             |
| Date:                    | 23 November 2011 |
| <b>Decision Required</b> |                  |

## REPORT SUMMARY

**Report to:** Mayor and Councillors  
**Meeting Date:** 23 November 2011  
**Report Author:** Sandra Hartley - Executive Officer – Strategic Development  
**Subject:** **REPRESENTATION REVIEW - ESTABLISHMENT OF MĀORI WARDS FOR ELECTORAL PURPOSES**

### EXECUTIVE SUMMARY

This report outlines the processes and timeframes that the Council is required to follow for the establishment of Māori wards, either as a result of a Council resolution or a poll of electors, and to make a decision on this matter.

### RECOMMENDATION/S

Staff recommend that the status quo remain, i.e. there is no Māori ward for the Tasman District. This would enable the electors of the District the right to demand a poll on the matter if they do not agree with Council.

### DRAFT RESOLUTION

**THAT the Tasman District Council:**

- 1 Agrees to retain the status quo of no Māori wards, and this decision be reviewed in the 2018 representation review process;**
- 2 Notes that the public can seek a poll on the issue of Māori wards, which would require a valid demand being received Council, and if such a demand is received prior to 28 February 2012 and the poll is held before 21 May 2012, the result of that poll would take effect for the 2013 elections;**
- 3 Notes that Council will be looking at alternative ways of working and engaging with Māori in Council's decision making processes.**

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MĀORI WARDS FOR ELECTORAL PURPOSES**

## **1. Purpose**

- 1.1 The purpose of this report is for Council to consider whether or not a Māori Ward should be established for Tasman District, as part of the representation review.

## **2. Background**

- 2.1 Territorial authorities or regional councils may establish separate Māori wards/constituencies (for electoral purposes) under section 19Z of the Local Electoral Act 2001 (LEA).
- 2.2 Council carried out its last representation review in 2006 in time for the 2007 elections, and is required to carry out its next review in 2011/12, in time for the 2013 election.
- 2.3 As part of Council's representation review, it may, if it wishes, establish separate Māori wards either by way of a Council resolution or as a result of a poll.
- 2.4 Council has an ongoing working relationship with Māori and iwi. It has a policy for fostering participation in Council decision making processes in its Long Term Council Community Plan 2009-2019. In recent years Council has implemented a number of new initiatives for working with Māori including:
- Appointment of Council Kaumatua;
  - Support for Tiakina te Taiao input into resource management, policy and consents;
  - Preparation of iwi management plan;
  - Involvement of representatives in specific projects, e.g. Motueka Flood Control, Lee Valley Dam.

There are further opportunities for enhancing Māori participation in Council decision making processes which could occur with each of the options outlined in Section 5 of this report. Treaty settlements are likely to establish new processes for working with Māori in relation to water management.

### **3. Discussion**

- 3.1 The legislation which allows for the establishment of Māori wards came into effect on 25 December 2002. The provisions are not mandatory and do not preclude the use of any other options available to Council to enhance Māori representation, such as appointments to committees and memoranda of understanding with iwi/hapu.
- 3.2 Apart from Environment Bay of Plenty and Waikato Regional Councils (and latterly Nelson City Council decision to create a Māori ward) no other Councils have established separate Māori wards to date. A number of Councils have considered the option and some have run polls on the questions. The results of those polls have, on all occasions, been opposed to their establishment.
- 3.3 **Options available for the establishment of Māori wards**

The decision to establish Māori wards can be initiated in two ways:

- i. a local authority can resolve that its district be divided into one or more Māori wards for electoral purposes; or
- ii. a poll of electors of the local authority can be held to decide the issue.

A poll can arise from either:

- i. a public demand (i.e. 5% of the number of electors enrolled as eligible to vote at the previous triennial election); or
- ii. a Council decision.

If the decision is taken to establish such wards there is a tight legislative process and timeframe that must be followed.

If a valid public demand is received the Council must hold a poll. The result of any poll held either as a result of an electors' demand or a Council decision, is binding for at least the next two triennial elections and any associated elections (i.e. by-elections) and continues in effect until a further resolution or poll of electors takes effect.

The decision to establish separate Māori wards must be built into the Council's initial representation review proposal which is then open to the normal representation review consultation process as set out in the LEA.

### **3.4 Establishment of Māori wards by Council resolution**

A local authority may resolve to establish one or more Māori wards for electoral purposes. The timing, however, of that resolution determines when the decision comes into effect.

If the resolution is made after a triennial election, and no later than 23 November of the year that is two years before the next triennial election, the resolution takes effect, unless the result of any subsequent poll that may countermand that decision. That means that if the decision to establish Māori wards is made by 23 November 2011 and that decision is not countermanded by any poll of electors that might be successfully demanded (before 28 February 2012) Māori wards would be in place for at least the 2013 and 2016 local elections.

If the resolution is made after 23 November 2011 (and before 23 November 2014), and the result of any poll that may be held does not countermand that decision, the resolution will take effect at least for the 2016 and 2019 triennial elections. A further representation review would also be required in 2014/2015 if that were the case.

If the Council resolves to establish Māori wards it is required to give public notice (within seven days of its decision) of the right of electors, who may be opposed to the Council's decision, to demand that a poll be held on the issue.

### **3.5 Demand for poll by electors**

Five percent of the electors of Tasman District may, at any time, demand that a poll be held to determine whether the District should be divided into one or more Māori wards. The requirement that five percent of the people on the general roll are needed to demand that a poll be taken ensures that Māori representation in councils is determined by the whole community.

If a valid demand is received before 28 February in the year before the next triennial election, the poll must be held within 82 days of notice having being given to the Electoral Officer that a poll is required. If the poll is held before 21 May in the year before the next triennial election, the result of the poll takes effect at that election (2013).

If a valid poll is received after 28 February in the year before the next triennial election, the poll required by the demand must be held after 21 May in that year. The result of a poll held under these circumstances does not take effect until the next but one triennial election (2016).

If a valid demand is received a poll must be held in accordance with the provisions of the Local Electoral Act 2001.

A valid demand in Tasman District Council's case would require the signatures of 1,679 electors (i.e. 5% of 33,589 as at 2010).

### **3.6 Council decision to hold a poll**

The Council may, at any time, resolve to hold a poll on whether the District should be divided into one or more Māori wards. Any poll must be held within 82 days of the Electoral Officer receiving notice that a poll is required.

As outlined in the previous section, if the decision to hold a poll is made before 28 February 2012 the poll must be held before 21 May 2012 and the result of the poll will take effect from the 2013 election.

If however the decision is made after 28 February 2012 (and before 28 February 2014) the result of the poll will not take effect until the 2016 election.

### **3.7 Effect of polls**

If the result of any poll held before 21 May 2012 requires the division of the District into one or more Māori wards, those wards must be retained:

- i. for the next two triennial elections (i.e. 2013 and 2016) and any associated elections; and
- ii. for all subsequent triennial elections and by-elections until a further Council resolution or poll takes effect, whichever occurs first.

If the result of the poll is against the establishment of Māori wards, that decision (i.e. that the district not be divided into Māori wards for electoral purposes) must also stand for at least the two subsequent triennial elections.

### **3.8 Cost of holding a poll**

The cost of running a poll would be \$90,000, and no provision has been made for this in the budget.

### 3.9 Calculation of number of Māori members

The number of members to be elected by the electors of one or more Māori wards is determined in accordance with the following formula:

$$nmm = \frac{mepd}{mepd + gepd} \times nm$$

where: nmm is the number of Māori ward members  
 mepd is the Māori electoral population of the district  
 gepd is the general electoral population of the district  
 nm is the proposed number of members of the territorial authority (other than the Mayor)

If the number of Māori ward members (other than the Mayor) calculated under the above formula includes a fraction, the fraction must be disregarded unless it exceeds half. If the fraction exceeds a half, the number of Māori ward members must be the whole next number above the number that includes the fraction. If the number is less than a half the district must not be divided into one or more Māori wards (i.e. 1.78 = 2, 2.39 = 2 and 0.48 = 0).

The population figures to be used to calculate these numbers are supplied by the Government Statistician and must be the most recent figures currently available.

The most recent certificate that has been obtained from the Government Statistician shows that the population figures, as at 30 June 2010, were as follows:

|                              |               |
|------------------------------|---------------|
| Māori electoral population   | 2,090         |
| General electoral population | <u>45,300</u> |
| Total                        | 47,390        |

If the appropriate formula is applied to those numbers it results in a fraction of .57. This means that, based on the current membership of thirteen members (excluding the Mayor), only one Māori ward member can be elected to the Tasman District Council.

## 4. Financial/Budgetary Considerations

4.1 The cost of running a poll would be \$90,000, and no provision has been made for this in the budget.

## **5. Options**

- 5.1 Council resolves to establish a Māori Ward; or
- 5.2 Council retains the status quo; or
- 5.3 Council holds a poll in conjunction with the 2013 elections.

## **6. Pros and Cons and Evaluation of Options**

### **6.1 Council resolves to establish a Māori Ward**

#### Pros

This option might increase diversity of Councillors in the 2013 and 2016 elections. It might also result in an increased contribution by Māori in Council decision making processes.

#### Cons

Judging from the recent media comment and letters to the editor on Nelson City Council's decision to establish a Māori ward, the proposal is likely to divide the community and a petition for a poll is likely to be requested.

This option is not recommended.

### **6.2 Council retains the status quo**

#### Pros

This is the lowest cost option. Although Council has not consulted with the public on this matter, feedback on similar proposals throughout New Zealand, including those where almost half the population is Māori, would indicate that Māori wards are generally not supported by the public.

#### Cons

Māori views in the decision making process would not necessarily be available at all Council and committee meetings. Council may need to consider alternative avenues to get iwi and Māori input into its decision making processes.

If a petition of 5% of voters, in favour of Māori wards is presented, then Council would need to hold a poll.

This option is the recommended option.

### 6.3 Poll included as part of the 2013 election

#### Pros

This would cost less than a separate poll, but still enable public input into whether a Māori ward was established. Feedback on similar proposals throughout New Zealand, including those where almost half the population is Māori, would indicate that Māori wards are generally not supported by the public.

#### Cons

A poll would add costs to the 2013 election, although the exact figure has not been quantified. If a poll resulted in support for a Māori ward it could not be implemented until 2016.

This option would be the second preference.

## 7. Significance

- 7.1 This is not a significant decision according to the Council's Significance Policy.

## 8. Recommendation

- 8.1 Staff recommend that the status quo remain, i.e. there is no Māori ward for the Tasman District. This would enable the electors of the District the right to demand a poll on the matter if they do not agree with Council.

## 9. Timeline/Next Steps

- 9.1 If Council wishes to resolve to have a Māori ward in place for the 2013 elections, it must do so by 23 November 2011, and advertise the right for the public to demand a poll within seven days.



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| <b>10. Draft Resolution</b> |
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**THAT the Tasman District Council:**

- 1 Agrees to retain the status quo of no Māori wards, and this decision be reviewed in the 2018 representation review process;**
- 2 Notes that the public can seek a poll on the issue of Māori wards, which would require a valid demand being received Council, and if such a demand is received prior to 28 February 2012 and the poll is held before 21 May 2012, the result of that poll would take effect for the 2013 elections;**
- 3 Notes that Council will be looking at alternative ways of working and engaging with Māori in Council's decision making processes.**