

## Submission by

## Hamilton City Council Staff

# CHANGES TO MĀORI WARD AND CONSTITUENCY PROCESSES (STAGE TWO) - DISCUSSION DOCUMENT

**Due: 27 August 2021**

It should be noted that the following submission is from staff at Hamilton City Council and does not represent the views of the Council itself.

### 1.0 EXECUTIVE SUMMARY AND KEY MESSAGES

- 1.1 Following the legislative changes for the removal of the binding polls relating to establishing Maaori wards, Hamilton City Council undertook a Maaori representation review which involved engagement with our Maaori partners and the wider community.
- 1.2 On 19 May 2021 the Council resolved that Maaori wards will be established in Hamilton City for at least the next two trienniums (2022-2025 and 2025-2028).
- 1.3 As a result of that decision, the Council is required to undertake a wider representation review in 2021/2022 to determine representation arrangements for the 2022 local authority elections.
- 1.4 Hamilton City Council staff have considered the impact of stage two of the legislative change in light of the recent Maaori representation review process and the engagement completed, the subsequent establishment of Maaori wards and the current wider representation review taking place now. Feedback provided is based on the impact on Hamilton City Council and the Hamilton community.

### 2.0 INTRODUCTION

- 2.1 Hamilton City Council staff would like to thank the Department of Internal Affairs for the opportunity to make a submission to the '**Changes to Māori Ward and Constituency Processes' Discussion Document** (referred to as the Discussion Document).
- 2.2 Hamilton City Council staff have considered the impact of the unaligned processes for Maaori wards and general wards based on its current constituencies and answered the questions, as well as provided feedback to the questions in the Discussion Document - this is outlined in sections 4.0 - 9.0 below.
- 2.3 Hamilton City Council's Elected Members and Maangai Maaori have not formally made recommendations on this feedback due to timing restraints, but have reviewed the staff feedback and are supportive of the points made.
- 2.4 Hamilton City Council looks forward to being able to provide further feedback on this key issue, including when the Government prepares another Maaori Wards Amendment Bill for Parliament's consideration in early 2022.

## 3.0 BACKGROUND

### 3.1 Hamilton City Council's Partnerships

3.2 Hamilton City Council supports and acknowledges the Crown's obligations under Te Tiriti o Waitangi and the importance of strengthening the Maaori-Crown relationship at a local level.

3.3 We acknowledge the removal of the binding poll is a driving factor behind increasing participation of Maaori in local elections.

3.4 Hamilton City Council is proud of the strong partnership it has with Iwi and other organisations in the Hamilton community, including the relationship with Waikato-Tainui and its partnership with Te Haa o te whenua o Kirikiriroa (THaWK) and Te Runanga o Kirikiriroa (TeROK).

### 3.5 Maangai Maaori Appointees to Council Committees

3.6 On 9 October 2018, Hamilton City Council approved five new Maaori appointees to the standing committees of Council, marking the beginning of a new era for partnership-based decision-making for the city. The new appointees were respectfully given the title of Maangai Maaori, which means 'The voice of Maaori'.

### 3.7 Establishment of Maori Wards for the 2022 and 2025 Local Authority Elections and the Consultation

3.8 In response to the legislation change to remove the binding poll mechanism for Maaori wards, Hamilton City Council undertook a Maaori representation review process outside of its normal review cycle.

3.9 As part of this review, the Council undertook engagement with its Maaori partners and the wider community on the establishment of Maaori wards and how Maaori are best represented in the Council decision-making process.

3.10 The consultation resulted in 994 people sharing their voice, with the majority of the feedback indicating support for enhanced Maaori representation, including Maaori wards, at Hamilton City Council.

3.11 Analysis of the consultation showed that more than four out of five people who submitted (81%) favoured Hamilton City Council introducing Maaori wards to achieve better representation.

3.12 Submissions in support of Maaori wards gave three clear themes for their views:

- Direct input into decision-making by Maaori and voting rights on Council;
- Addressing obligations under Te Tiriti o Waitangi; and
- Greater Maaori representation from the community.

3.13 16% of submitters indicated they did not favour Maaori wards, with the themes being:

- Maaori wards would be divisive in the city.
- Maaori can currently stand for election in existing wards.
- Maaori currently have an equal opportunity to have their say.

3.14 At its 19 May 2021 Council meeting (refer [here](#)), it was unanimously resolved that Hamilton City Council:

- Approves that Maaori wards are established for the 2022 election;
- Notes that the decision to establish Maaori wards will legislatively be in effect for two trienniums (2022-2025 and 2025-2028) before the matter may be considered again; and
- Notes that a wider representation review will take place in 2021/22 to determine

representation arrangements as outlined in the staff report.

3.15 This decision means Maaori wards will apply to the 2022 and 2025 local authority elections. For the first time ever, Hamilton City Council will have dedicated representation for Maaori at the full Council table.

### 3.16 **Upcoming Representation Review**

3.17 Following the decision to establish Maaori wards, Hamilton City Council (as with other councils making this decision) was then required to undertake a wider representation review, which it was not ordinarily required to do. The wider representation review includes an initial proposal, that legislatively must be resolved by 21 August 2021 to determine the number of wards, number of Councillors, as well as other representation considerations.

3.18 The time available to undertake a robust Maaori representation review and a subsequent wider representation review has been greatly reduced due to timing of the change in legislation, its immediate effect, and the timing of Hamilton City Council's scheduled review cycle.

### 3.19 **Application of the Key Issues on Hamilton City Council**

3.20 Sections 4.0 - 9.0 of this submission provides the response from Hamilton City Council staff to the questions (and additional comments) around the six key issues raised in the Discussion Document and the background of the current state of the Hamilton City Council constituencies.

3.21 Section 10.0 of this submission provides additional feedback by way of key considerations from Hamilton City Council staff, that the questions in the Discussion Document did not allow for.

## 4.0 **ISSUE 1 - ANY REQUIREMENT FOR COUNCILS TO CONSIDER WARD SYSTEMS**

### 4.1 **QUESTIONS FOR DISCUSSION**

#### 4.2 **A) Should councils be required to consider Māori wards?**

√ Yes, every council (the same as general wards) – *see comments below.*

- Yes, but only councils that already have Māori wards.
- Yes, but only councils that don't already have Māori wards.
- No (the same as the current law).

#### 4.3 **B) If yes, how often?**

√ Every six years (the same as general wards) – *see comments below.*

- Another frequency (please state).

#### 4.4 **C) Do you have any other comments about this issue?**

4.5 Further to questions 4.2 and 4.3 above, Hamilton City Council is of the view that:

- All councils should be required to consider Maaori wards in consultation and partnership with Iwi.
- It should be acknowledged that all Territorial Authorities have differing relationships with Iwi. Different Iwi (and the wider community) preferences will differ from Territorial Authority to Territorial Authority and each Territorial Authority will have differing communities of interest. These all need to be balanced with obligations under Te Tiriti o Waitangi and the Local Government Act 2002 decision-making requirements.
- The frequency for reviewing Maaori representation arrangements should be in line with the requirement to review wider (general) representation arrangements.

## 5.0 ISSUE 2 - TIMING OF DECISIONS

### 5.1 QUESTIONS FOR DISCUSSION

#### 5.2 A) Should Māori ward decision-making continue to take place in two stages?

- Yes (the same as the current law).
- √ No - one stage (the same as general wards) – *see comments below.*

#### 5.3 B) How should the time between 23 November and 1 March be filled?

- More time for councils to decide about Māori wards.
  - More time for councils to decide about general wards.
  - No changes (the same as the current law).
- √ Other - *see comment below.*

#### 5.4 C) Do you have any other comments about this issue?

5.5 In response to 5.2, the two-stage process should not be fixed, but instead should align with the timing of the establishment of Māori wards in each Territorial Authority. That is, once Māori wards have been established, there should be one combined stage which incorporates one representation review for Māori wards and general wards concurrently.

5.6 The process may need to differ in circumstance where councils had not yet resolved to establish Māori wards as this decision would materially affect the scope of a wider representation review. Removing the binding poll has expedited the ability to establish Māori wards and the second stage of that process needs to follow-through respectively, so that timeframes and processes for Māori wards can align more closely with a wider representation review thereafter.

5.7 In addition to the above, the frequency of reviews should also be aligned with the Electoral Option timing, i.e., every three years to align with every election regardless of representation arrangements.

5.8 In response to 5.3 above, the period from November to March is generally a quieter time for Territorial Authorities being over the Christmas break period. It is recommended that legislative deadlines over this period are avoided where possible.

## 6.0 ISSUE 3 - OPPORTUNITIES FOR PUBLIC INPUT

### 6.1 QUESTIONS FOR DISCUSSION

#### 6.2 A) Should councils be required to engage with their community when considering Māori wards?

- √ Yes (the same as general wards) – *see comment below.*
- No, but they must have regard for iwi/hapū/whanau perspectives.
- No (the same as the current law).

#### 6.3 B) If yes, what type of engagement is best?

- Iwi/hapū dialogue.
  - Targeted consultation with people of Māori descent or on the Māori electoral roll.
  - Wider public consultation with the whole community.
- √ Council to decide on a case-by-case basis - *subject to comments below.*

#### 6.4 C) If your council considered Māori wards in 2020 or 2021, what type of engagement approach

### **was used and how effective do you think this was?**

6.5 Hamilton City Council engaged with its Maaori partners on the matter of Maaori wards prior to engaging with the wider community. This generated clear views from Maaori partners beforehand and helped to inform the views of the wider community and decision-making thereafter. The outcome of the wider engagement process is outlined in paragraphs 3.4 - 3.9 above.

### **6.6 D) Do you have any other comments about this issue?**

6.7 In response to question 6.2 above, this is answered as yes in-principle but there needs to be more emphasis given to Maaori partner perspectives/views/preferences. Engagement with the wider community is important from a stakeholder management and education perspective. It is also an opportunity to engage the wider community on decision-making process and civic responsibilities.

6.8 In response to question 6.3 above, Hamilton City Council approaches engagement decisions on a case-by-case basis. However, underlying principles include a requirement for any engagement with key stakeholders/partners to be timely and robust. Engagement should also benefit the democratic process and should acknowledge the importance of engaging directly with Maaori partners and giving high regard to their preferences.

6.9 Engagement approaches should be fluid, and dependent on the decision(s) being made and the Council's ability to decide what is a fair and an effective representation based on the needs and expectations of Maaori partners and the community.

## **7.0 ISSUE 4 - DECISION-MAKING RIGHTS AND ROLE FOR LOCAL GOVERNMENT**

### **7.1 QUESTIONS FOR DISCUSSION**

#### **7.2 A) What role should the Local Government Commission have in relation to Māori wards?**

- People can appeal a council's decision to create / not to create Māori wards, and the Local Government Commission must decide.

√ No role and people cannot appeal a council's decision to create / not to create Māori wards (the same as the current law) – *subject to comments below.*

√ No role but people can appeal a council's decision to create / not to create Māori wards to some other entity – *subject to comments below.*

#### **7.3 B) If some other entity, then who should this be?**

7.4 *See comment below.*

#### **7.5 C) Do you have any other comments about this issue?**

7.6 In response to question 7.2 above, Hamilton City Council staff are of the view that this is a matter of law and public interest. We would expect the reasoning behind the removal of the binding poll, (which we understand was to remove the barrier to establish Maaori wards and to meet the Crown's obligations under Te Tiriti o Waitangi) would be considered. However, it would be prudent to ensure Maaori ward and general ward processes are consistent, where possible, and avoid any opportunity for initial objections to be raised a second time.

## **8.0 ISSUE 5 - DISCONTINUANCE PROCESS AND PERIOD IN FORCE**

### **8.1 QUESTIONS FOR DISCUSSION**

#### **8.2 A) What should a council be required to do if it wishes to no longer have any Māori wards?**

- The council should be able to decide this on its own (the same as the current law).

√ The council must consult with its community (the same as general wards).

8.3 **B) How long should council decisions to create Māori wards stay in place?**

- Until the council decides otherwise, but at least 2 elections (the same as the current law).
- Until the council decides otherwise, but at least 1 election and must be reviewed after 2 elections (the same as general wards).
- 1 election only.
- 2 elections only.

√ Other – *see comment below.*

8.4 **C) Do you have any other comments about this issue?**

8.5 In response to 8.3 above, Hamilton City Council staff are of the view that the requirements for Maaori wards and general wards should be aligned to streamline the processes together with Electoral Options.

## 9.0 ISSUE 6 - TYPES OF POLLS

### 9.1 QUESTIONS FOR DISCUSSION

9.2 **A) Should councils retain the ability to initiate binding polls on general wards?**

- Yes (the same as the current law).

√ No (the same as Māori wards) – *see comment below.*

9.3 **B) Do you have any other comments about this issue?**

9.4 In response to 9.2 above, Hamilton City Council staff are of the view that representation arrangements are a complex and detailed matter involving various considerations including communities of interest, fair representation etc. It would be difficult to communicate and educate the wider community on these complexities and get a considered and informed response/decision via a binding referendum.

## 10.0 KEY CONSIDERATIONS FOR HAMILTON CITY COUNCIL

10.1 **Newly established Maaori Wards:** Hamilton City Council only established Maaori wards on 19 May 2021 for the first time and is currently undergoing a wider representation review to determine representation arrangements. Given this and given the amendments for the first stage relating to the binding poll were only passed on 1 March 2021, the final impact on Hamilton City Council is uncertain.

10.2 Many other councils will be in the same position; they are being asked to provide responses to Stage Two, without much clarity as to what the impact of having Maaori wards will have on Hamilton City Council for the 2022 elections. The impact of passing Stage One and the feedback required for Stage Two overlap. At this stage we are unable to properly assess improvements that can be made to both processes and how they might need to interact with each other (timing and process wise).

10.3 **Impact on Timeline for the Current Representation Review:** Hamilton City Council last undertook a Maaori and wider representation review in 2017/18 and was not scheduled to conduct its next review until 2023/2024. While the Council supported the change in legislation to remove the binding poll mechanism for Maaori wards and completed a successful consultation, the lack of lead-in time for this change to take effect created substantial challenges for our Council. It was particularly challenging to conduct robust representation review processes in much shorter timeframes.

10.4 For example, preparation for the 2017/18 representation review process started 14 months prior to formal decision-making. Because the Council was not in its normal review cycle this

year, the change in legislation and lack of lead-in time meant Council had to make very quick decisions to ensure we completed the engagement to a high standard that we pride ourselves on. Whilst we were able to complete a successful engagement process, the lack of lead time put significant pressure on internal resources to ensure there was robust engagement with our Maaori partners and the wider community.

- 10.5 **Clarity of Decision-Making Beyond 2022:** There is uncertainty as to what decision-making beyond 2022 consists of for the Hamilton City Council. Without an understanding of what processes must be adhered to, and how timing relates to other legislative requirements, we cannot forecast what the impact on our Council might be. This applies notwithstanding that Hamilton City Council has already resolved to keep Maaori wards in place for the next two trienniums (2022-2025 and 2025-2028).
- 10.6 **Successful Consultation with Iwi and the Wider Community:** Hamilton City Council places a high level of importance on our key Maaori partner relationships and on the quality and level of engagement undertaken with the wider community on all key decisions/matters of importance. The lack of reasonable lead-in time impacted on the internal resources and operations that we had to conduct robust, engagement with our Maaori partners and the wider community.
- 10.7 In addition to the above comments, the timing of any future changes to Local Electoral Act processes should be carefully considered together with the other major reforms currently underway. This includes local government reform, electoral option timing, Local Government Commission process etc.
- 10.8 Allocation of time and resources for educating community on new processes and the impact on them: It is unclear whether any consideration is being given to an educational campaign to inform the local communities on the process changes around Maaori wards.
- 10.9 In addition to the above, consideration should be given to the wider educational resources required to encourage improved voter engagement in local elections. This should include education on the responsibilities of councils, plus wider resources to support elections being run by the Electoral Commission and standardisation of the electoral system. Additional community education would add value to local elections and better support community engagement in the electoral process.

## 11.0 FURTHER INFORMATION AND OPPORTUNITY TO DISCUSS OUR SUBMISSION

- 11.1 Should the Department of Internal Affairs require clarification of Hamilton City Council's submission, or additional information, please contact **Becca Brooke** (Governance Manager) on 07 838 6439 or 027 422 6469, email [becca.brooke@hcc.govt.nz](mailto:becca.brooke@hcc.govt.nz) in the first instance.
- 11.2 Hamilton City Council staff would welcome the opportunity to discuss the content of our submission with the Department of Internal Affairs in more detail.

Yours faithfully



**Richard Briggs**  
**CHIEF EXECUTIVE**