

Notice is given that a meeting of the Tasman District Council will be held on:

Date: Thursday 5 September 2024
Time: 1:00pm - Māori Ward decision
Meeting Room: Tasman Council Chamber
Venue: 189 Queen Street, Richmond
Zoom conference link: <https://us02web.zoom.us/j/88087881480?>
Meeting ID: 880 8788 1480
Meeting Passcode: 635947

Tasman District Council

Kaunihera Katoa

AGENDA

MEMBERSHIP

Mayor	Mayor T King	
Deputy Mayor	Deputy Mayor S Bryant	
Councillors	Councillor C Butler	Councillor M Kininmonth
	Councillor G Daikee	Councillor C Mackenzie
	Councillor B Dowler	Councillor K Maling
	Councillor J Ellis	Councillor B Maru
	Councillor M Greening	Councillor D Shallcrass
	Councillor C Hill	Councillor T Walker

(Quorum 7 members)

Contact Telephone: 03 543 8400
Email: Robyn.Scherer@tasman.govt.nz
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AGENDA

1 OPENING, WELCOME, KARAKIA

2 APOLOGIES AND LEAVE OF ABSENCE

Recommendation

That apologies be accepted.

3 PUBLIC FORUM

Nil

4 DECLARATIONS OF INTEREST

5 LATE ITEMS

6 CONFIRMATION OF MINUTES

Nil

7 REPORTS

- 7.1 Decision on Māori ward as required under the Local Government
(Electoral Legislation and Māori Wards and Māori Constituencies)
Amendment Act 2024 4

8 CONFIDENTIAL SESSION

Nil

9 CLOSING KARAKIA

7 REPORTS

7.1 DECISION ON MĀORI WARD AS REQUIRED UNDER THE LOCAL GOVERNMENT (ELECTORAL LEGISLATION AND MĀORI WARDS AND MĀORI CONSTITUENCIES) AMENDMENT ACT 2024

Decision Required

Report To:	Tasman District Council
Meeting Date:	5 September 2024
Report Author:	Renee Thomas, Kaihautū - Te Kāhui Hononga; Leith Townshend, General Counsel
Report Authorisers:	Leonie Rae, Chief Executive Officer
Report Number:	RCN24-09-1

1. Purpose of the Report / Te Take mō te Pūrongo

- 1.1 The purpose of this report is to decide on whether the Council should affirm or rescind its decision to establish a Māori ward for the 2025 local elections, in accordance with the Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Act 2024 (the Amendment Act).

2. Summary / Te Tuhinga Whakarāpototo

- 2.1 On 21 September 2023, the Council resolved to establish a Māori ward for electoral purposes pursuant to section 19Z of the Local Electoral Act 2001. At the time of this decision there was no requirement for the Council to hold a binding poll on whether to have a Māori ward.
- 2.2 Following the General Election in 2023, the incoming government signalled its intention to amend the Local Electoral Act 2001 to restore the requirement for councils to hold a binding poll when establishing a Māori ward.
- 2.3 The Amendment Act came into effect on 31 July 2024.
- 2.4 For councils such as Tasman District Council, a decision is required whether to affirm or rescind the previous decision.
- 2.5 If the decision is to affirm the previous decision:
- 2.5.1 the Council's current representation review will continue;
 - 2.5.2 there will be a Māori ward for the 2025 local government election;
 - 2.5.3 a binding poll will be held concurrently with the 2025 local government election, and
 - 2.5.4 the results of that poll will be applied to the 2028 and 2031 local government elections.
- 2.6 If the decision is to rescind the previous decision:
- 2.6.1 the current representation review process could end;

- 2.6.2 there will not be a Māori ward for the 2025 local government election; and
- 2.6.3 the Council can continue with its existing representation arrangements (as for the 2019 and 2022 elections) for the 2025 local elections.
- 2.7 In the lead up to this legislation being passed, the Council has engaged with representatives of the eight local iwi. Five iwi have responded, requesting that the Council affirms its previous decision of September 2023 to establish a Māori ward.
- 2.8 Based on this, the officer recommendation is that the Council affirms the decision to have a Māori ward.

3. Recommendation/s / Ngā Tūtohunga

That the Tasman District Council

1. receives the ‘Decision on Māori ward as required under the Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Act 2024’ report; and
2. resolves, pursuant to clause 29, part three of schedule one of the Local Electoral Act 2001, to affirm the previous decision of the Council to establish a Māori ward;
3. notes that the effect of this decision is that the Tasman District will have a Māori ward for electoral purposes for at least the 2025 local government election; and
4. notes that a binding poll will be held at the 2025 local election with the results of that poll being in place for the 2028 and 2031 local elections; and
5. notes that the holding of a binding poll will require additional expenditure which will need to be incorporated into the 2025/2026 Annual Plan.

4. Background / Horopaki

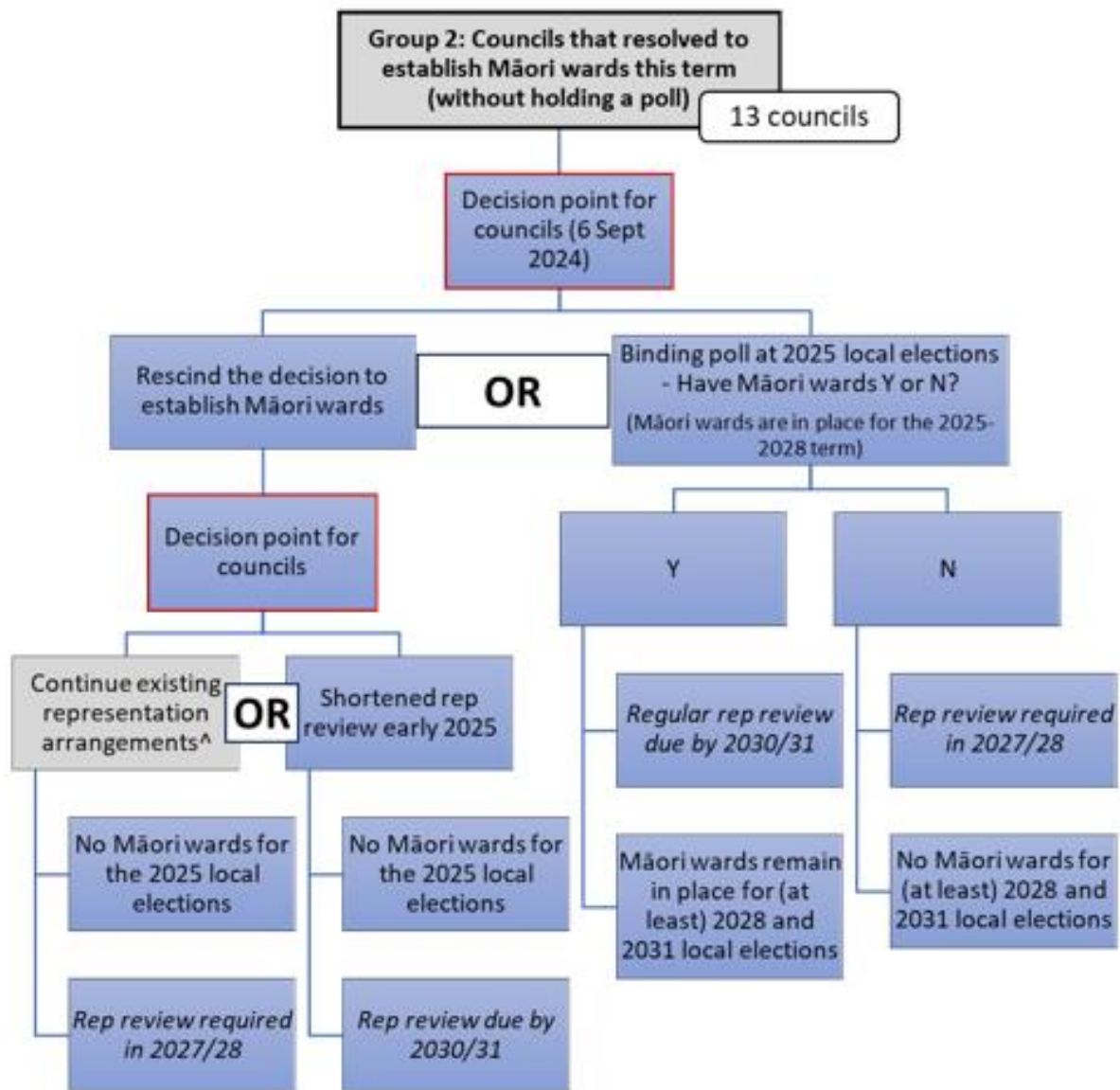
- 4.1 After feedback and support from Te Tauihu iwi Chairs, in September 2023 the Tasman District Council unanimously voted in favour of the following:
 - 4.1.1 establishing one Māori Ward for Tasman District for electoral purposes pursuant to section 19Z of the Local Electoral Act 2001; and
 - 4.1.2 approving staff engaging with the Te Tauihu Iwi Trusts on the name of the Māori ward in Tasman District which would form part of the Council’s initial proposal for its review of representation arrangements for consultation in 2024.
- 4.2 The reasons for this decision are set out in the September 2023 report to the Council which is attached to this report as **Attachment 1**.
- 4.3 Under the legislation at the time of this decision, a binding poll was not required to establish a Māori ward. Forty-five (45) councils have resolved to include a Māori ward as part of their representation arrangements without requiring a binding poll.
- 4.4 The name put forward by the iwi chairs is ‘Te Tai o Aorere Māori ward’. The Local Government Commission (LGC) has confirmed that it considers the name to be appropriate. This was included in the Council’s initial proposal which is currently being consulted on.
- 4.5 In April 2024, a letter was issued from the Minister of Local Government, Simeon Brown, outlining the coalition government’s proposed legislation changes regarding Māori wards.

- 4.6 The Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Bill was introduced and went through the Select Committee process. This Bill, amongst other minor electoral changes, reinstates the requirements for councils to hold binding polls to establish Māori wards. This Bill was passed on 30 July 2024 and came into effect on 31 July 2024.
- 4.7 In May 2024, 44 Mayors, eight Chairpersons and two members of the LGNZ Subcommittee of Māori elected members signed a letter opposing the government’s proposed changes requiring a binding poll for Māori wards.
- 4.8 On 29 May 2024, the Council also submitted to the Justice Select Committee opposing the reintroduction of binding polls being mandated for the creation of Māori wards. The Council submitted that the changes constitute decisions being taken away from local government and that they will have negative effects on encouraging Māori to participate in local government decision making.
- 4.9 Of the 45 councils that resolved to have a Māori ward without holding a poll:
- Thirty-one (31) did so last term and so have current Māori ward Councillors (group one councils); and
 - Thirteen (13) did so this term and so have not yet elected Māori ward Councillors (group two councils).
- 4.10 For Tasman District Council (a group two council) there are two options – either rescind or affirm the decision to establish a Māori ward.
- 4.11 The Council is required to formally resolve a decision on these options by 6 September 2024.

5. Analysis and Advice / Tātaritanga me ngā tohutohu

Guidance received from the Department of Internal Affairs (DIA)

- 5.1 The DIA has produced the following flow chart to guide councils through the decision-making process outlined by the Act.
- 5.2 It is noted that Tasman is a ‘group two’ council, meaning that it has resolved to establish a Māori ward from the 2025 elections, without holding a poll.



^ This option applies differently depending on when councils completed their last rep review:

- Any councils which undertook a rep review in the 2019-2022 term may use this option.
- Councils which last completed a rep review in the 2016-2019 term can only use this option if their representation arrangements can still meet the fair and effective representation requirements.

Decision to affirm a Māori ward for electoral purposes

5.3 The following outlines the impact of the Council affirming its previous decision to have a Māori ward for electoral purposes.

5.4 The Council’s current representation review process will continue and will contain a Māori ward. As part of the representation review process, the Council will need to resolve the name of the Māori ward.

- 5.5 The local government election in 2025 will contain a Māori ward and candidates who meet the eligibility criteria will be able to stand for election in that ward.
- 5.6 In conjunction with the local government election in 2025, a binding poll will be held. This poll will ask whether, from the 2028 election, the District should include a Māori ward.
- 5.7 The holding of this poll with the local government election will incur additional costs estimated to be \$60,000. Additional funds will need to be allocated to the election budget as part of the Annual Plan 2025/2026.
- 5.8 If more than 50% of the votes received support the retention of a Māori ward:
 - 5.8.1 the Council will retain the Māori ward for at least the 2028 and 2031 local elections; and
 - 5.8.2 the Council will be required to undertake its next representation review by 2030/31.
- 5.9 If more than 50% of the votes received do not support the retention of a Māori ward:
 - 5.9.1 the Council will retain a Māori ward for the 2025 triennium;
 - 5.9.2 barring any future law change, the Council will not have a Māori ward for the 2028 and 2031 local government elections; and
 - 5.9.3 the Council will be required to undertake a further representation review in 2027, for the 2028 local government election.
- 5.10 In the lead up to the 2025 local government election the Council will need to ensure that Council resources are not used to promote any particular position in relation to the poll.
- 5.11 The Council can legitimately help ensure that electors are informed about the poll and the issues to be determined. However, the Council must not advocate for a particular outcome.
- 5.12 It is noted that this does not prevent any individual elected member from having a position on the poll so long as they are clear that they are not speaking on behalf of the Council and are still able to keep an open mind in any subsequent decision making in relation to Māori wards.

Rescinding Council's previous decision

- 5.13 If the Council decides to rescind its previous decision to establish a Māori ward, then there will be no Māori ward for the 2025 local government election.
- 5.14 It must also resolve by 6 September 2024 how its representation arrangements for the 2025 election will be determined.
- 5.15 Under the Act the Council can either:
 - 5.15.1 continue with the existing representation arrangements, but only if the representation arrangements are compliant with the 'fair and effective representation' requirements under the Local Electoral Act 2001; or
 - 5.15.2 complete a shortened representation review in 2025.
- 5.16 If an exemption from compliance under section 19V(3) of the Local Electoral Act 2001 has previously been upheld on a determination by the Local Government Commission (LGC) under section 19V(6) relating to specific wards, that exception continues to apply.
- 5.17 Below is a table which sets out the wards that are currently in place, incorporating updated population estimates (as at June 2023) from Statistics NZ.

Ward	Population (Estimated resident population at 30 June 2023)	Number of Councillors	Population per Councillor	Difference from quota	% difference from quota
Golden Bay	5,820	2	2,910	-1,658	-36.30
Lakes-Murchison	4,170	1	4,170	-398	-8.72
Moutere-Waimea	15,850	3	5,283	715	15.65
Motueka Ward	13,550	3	4,517	-52	-1.13
Richmond	20,000	4	5,000	432	9.45
Total (General wards)	59,390	13	4,568		

- 5.18 The Golden Bay and Moutere-Waimea wards do not comply with the fair representation requirements under section 19V(2) of the Local Electoral Act. However they were exempted from compliance by the 2019 determination of the LGC under section 19V(3), in respect of:
- 5.18.1 Golden Bay Ward, as non-compliance is required for effective representation of isolated communities of interest within this ward; and
- 5.18.2 Moutere-Waimea Ward, as compliance would limit effective representation by dividing communities of interest between wards.
- 5.19 Under the provisions of the Amendment Act, previous exemptions given by the LGC continue to apply to those wards, so that the Council can continue with its current representation arrangements.
- 5.20 The LGC has provided a formal statement confirming the consistency of the pre-2020 arrangements with section 19V(2) of the Local Electoral Act 2001, taking into account the 2023 population estimates (per clause 35 of Schedule 1 of the Act). This statement is **Attachment 2¹**.
- 5.21 The Council would be required to undertake a representation review in 2027/28 for the 2028 elections.
- 5.22 Continuing with current electoral arrangements means that the Council's current representation review will cease. Much of the work on creating the initial proposal has already occurred but there will be a cost saving estimated at \$15,000-20,000 plus freeing up staff and elected member time.
- 5.23 Alternatively, the Council could choose to undertake a shortened representation review. The timing for the shortened representation review is:

¹ The total population figure in the LGC's statement is slightly different to that provided by Stats NZ. When setting representation and for any associated public notice, the LGC requires that compliance with the +/- 10% rule is based on the sum total of individual ward populations (rather than the estimated district total population provided by Stats NZ, which can often differ slightly due to rounding practices). This does not have a material difference on the figures.

- by 6 September 2024 - resolve how the representation arrangements for the 2025 election will be set;
- by 13 September 2024 – resolve an initial proposal;
- within seven days of the resolution and not later than 20 September 2024 - local authority gives public notice of initial proposal and invites submissions;
- submissions close not less than three weeks after public notice;
- if there are no submissions then the proposal becomes final (subject to confirmation by the LGC);
- within six weeks of the closing date for submissions - local authority considers submissions and may make a resolution to amend the proposal;
- within six weeks of the closing date for submissions - local authority gives public notice of its "final" proposal;
- not less than three weeks after public notice and no later than 13 December 2024 – appeals and objections close.

5.24 Once objections close, there will be a process with the LGC where it considers resolutions, submissions, appeals and objections and makes determination.

5.25 The truncated timing is likely to put pressure on staff to complete the tasks and effectively engage with the community. For this reason of the two options (should the Council vote to rescind), officers recommend continuing with our current representation arrangements.

5.26 The next representation review would be required to be held by 2030/2031.

6. Iwi Engagement / Whakawhitiwhiti ā-Hapori Māori

- 6.1 The Council is supportive of whānau, hapū and iwi and embraces the values within the Te Taihū Together Partnership Agreement and our obligations under the Local Government Act 2002 to facilitate participation by Māori in local authority decision making.
- 6.2 Iwi across Aotearoa have been critical of the legislative change which requires a binding poll for a Māori ward but does not require the same for the creation of other wards during a representation process.
- 6.3 While the decision is ultimately up to the Council, guidance and direction was sought from Te Taihū iwi Chairs. A paper was presented to the Mayors and Chairs forum on 19 June 2024, outlining the steps taken to date and the advantages/disadvantages of each option.
- 6.4 A quorum of iwi CEO's has expressed support for the Council continuing to have a Māori ward.
- 6.5 In further kōrero with iwi, some expressed concerns about the divisive nature of a binding poll. However ultimately the consensus was that a Māori ward, and therefore having to have a binding poll, was the preferred option.

7. Options / Kōwhiringa

7.1 Under the provisions of the Amendment Act there are only two options available for Tasman District Council as a group 2 council:

7.1.1 resolve by 6 September 2024 to rescind the decision to create a Māori ward; or

7.1.2 resolve by 6 September 2024 to affirm the decision to create a Māori ward by Council resolution.

7.2 If the decision is to rescind, the Council must resolve how its representation arrangements for the 2025 election will be determined. The options are:

7.2.1 revert to the previous (pre-2020) representation arrangements; or

7.2.2 undertake a shortened representation review.

7.3 The advantages and disadvantages of these options are outlined in the following table:

Option	Advantage	Disadvantage
1.	<p>Rescind the decision to create a Māori ward</p> <p>No binding poll at the 2025 local government election which will mean the cost of holding a poll is not incurred.</p> <p>The Council could reconsider the option to have a Māori ward sooner than it could if a poll was lost.</p> <p>The holding of the poll is likely to be a divisive issue at the 2025 election.</p> <p>The representation review could cease creating a cost saving for the Council.</p> <p>The Council can still appoint non-voting iwi members to the Council.</p>	<p>No Māori ward will be created.</p> <p>Risk of perception that the Council is not supportive of Māori participation in the Council.</p> <p>Reputational damage with local iwi who support the creation of a Māori ward.</p> <p>The Council will be required to either revert to its pre-2020 arrangements or initiate a shortened representation review process and complete it on a truncated timeframe.</p>

Option	Advantage	Disadvantage
2.	<p>Affirm the decision to create a Māori ward</p> <p>Democratic process followed.</p> <p>The Council will have a Māori ward for at least the 2025 triennium.</p> <p>Possibility of a Māori ward being supported by the wider public meaning the ward would remain for the 2028 and 2031 elections.</p> <p>A Māori ward would supplement the voting Iwi Representatives on the Council's standing Committees.</p> <p>A Māori ward would also improve the facilitation of Māori in decision making as required by the Local Government Act.</p>	<p>Additional cost of running a binding poll alongside the general election, estimated at \$60,000.</p> <p>Given the political climate, the outcome of a poll is not guaranteed and could be divisive.</p> <p>Risk of community voting against a Māori ward which would remove the Māori ward for the 2028 and 2031 elections.</p>

7.4 Option 2 is recommended.

8. Legal / Ngā ture

- 8.1 Several groups have expressed concerns about the passing of the Amendment Act and raised concerns about discrimination against Māori. These include:
- the members of the Labour Party and Green Party on the Justice Committee who submitted a differing view on whether the Bill should be enacted;
 - the Waitangi Tribunal in report WAI3365 which raised concerns about the passing of the Bill being a breach of Te Tiriti o Waitangi; and
 - the Human Rights Commission which in its submission labelled the Bill discriminatory.
- 8.2 The Attorney-General is required to provide a report on the consistency of the Bill with the New Zealand Bill of Rights Act. That report (LPA 010124) concluded that the Bill appears to be consistent with the rights and freedoms affirmed in the Bill of Rights Act 1990. However, it is worth noting that the report did find the following:
- “In practice, binding polls have proven a barrier to the establishment of Māori wards in local authorities”*
- 8.3 Despite these concerns being raised, the Bill has been legally passed by Parliament and therefore the Council is required to follow the process set out by legislation.
- 8.4 Failure to do so would expose the Council to the following risks:
- 8.4.1 statutory intervention by Ministers;
 - 8.4.2 Council decision-making being considered invalid and subject to challenge; and

8.4.3 reputational damage in the community.

8.5 The effect of the legislation is set out in the analysis section of this report.

9. Significance and Engagement / Hiranga me te Whakawhitiwhiti ā-Hapori Whānui

9.1 Given the feedback and attention that this topic has received around Aotearoa it is considered that this decision is of high significance.

9.2 Due to time constraints, the Council has not consulted generally on this decision. The Amendment Act is clear that in making this decision the Council is not required to undertake a special consultative procedure (SCP) process.

9.3 While the decision to establish a Māori ward is not within the scope of the current representation review, as of 29 August 2024, 57 individuals have mentioned Māori wards in their submissions on the initial proposal. Of these 57 submissions:

- 46 clearly support the retention of a Māori ward; and
- 11 are clearly opposed to having a Māori ward.

9.4 In addition, elected members have received 91 identical emails from individuals who oppose the Council voting to affirm its previous decision on a Māori ward.

9.5 It is noted that these numbers are not necessarily representative of the community and the submission period has not yet ended.

	Issue	Level of Significance	Explanation of Assessment
1.	Is there a high level of public interest, or is decision likely to be controversial?	High	General feedback has been either very positive or very negative, this is seen as a polarising topic.
2.	Are there impacts on the social, economic, environmental or cultural aspects of well-being of the community in the present or future?	High	Positive future impacts for the community from having a Māori ward in place.
3.	Is there a significant impact arising from duration of the effects from the decision?	Yes	Depending on the decision the impact may last two future election cycles.
4.	Does the decision relate to a strategic asset? (refer Significance and Engagement Policy for list of strategic assets)	N/A	
5.	Does the decision create a substantial change in the level of service provided by Council?	NA	
6.	Does the proposal, activity or decision substantially affect debt, rates or	Low	\$60,000 cost for binding poll.

	Issue	Level of Significance	Explanation of Assessment
	Council finances in any one year or more of the LTP?		
7.	Does the decision involve the sale of a substantial proportion or controlling interest in a CCO or CCTO?	N/A	
8.	Does the proposal or decision involve entry into a private sector partnership or contract to carry out the deliver on any Council group of activities?	N/A	
9.	Does the proposal or decision involve Council exiting from or entering into a group of activities?	N/A	

10. Communication / Whakawhitiwhiti Kōrero

10.1 The Council will publicise the outcome of this decision and what it means for both the ongoing representation review and the 2025 local government election.

11. Financial or Budgetary Implications / Ngā Ritenga ā-Pūtea

11.1 If the decision is to affirm the Council's previous decision there will be additional costs to the Council to hold a poll at the 2025 election. Initial indications are that the cost of holding a poll in conjunction with the 2025 election is approximately \$60,000. This additional cost will need to be budgeted for in the Annual Plan 2025/2026.

12. Risks / Ngā Tūraru

12.1 If the Council decides to affirm its previous decision the risks are:

12.1.1 there will be a binding poll, this could be divisive for our community; and

12.1.2 if the poll is unsuccessful the Council will not have a Māori ward for the 2028 and 2031 elections.

12.2 If the Council rescinds its decision the risks are:

12.2.1 reputational risk as the decision to rescind could be perceived as the Council not supporting whānau, hapū and iwi; and

12.2.2 there could be less participation by Māori in decision-making.

13. Alignment with Policy and Strategic Plans / Te Hangai ki ngā aupapa Here me ngā Mahere Rautaki Tūraru

13.1 In June 2024, Tasman District Council completed its Long Term Plan 2024-2034 (LTP) which includes a statement on fostering Māori participation in Council decision-making through ngā iwi o te Taihu and Council partnership "The Council is committed to growing and strengthening our working relationship and level of engagement with iwi/Māori" (page

236). The recommendation to re-affirm the Māori ward confirms this statement within the LTP.

13.2 This recommendation to re-affirm the Māori ward aligns with the strategic framework for the Council which places iwi relationships at the forefront of everything that the Council does. In December 2023 the three councils and eight iwi of Te Taihū signed a Partnership Agreement which outlines how they will work together. The decision to re-affirm Māori wards supports the values within this Partnership Agreement:

13.2.1 Kotahitanga – We navigate and paddle together in unison

13.2.2 Honotanga – We recognise each other’s autonomy and mandate

13.2.3 Tauritanga – We work together to achieve equity in outcomes

13.2.4 Kaupapa Mau Tonu – We are in for the long-term, for our mokopuna

13.2.5 Tau utu-utu – We foster reciprocity and mutual benefit.

14. Conclusion / Kupu Whakatepe

14.1 The decision on whether to affirm or rescind the Council’s previous decision to have a Māori ward is a contentious issue within the community. The limited feedback received by the Council is clear that there is no universal consensus on the issue.

14.2 Given all the steps taken by the Council and the support from local iwi, the officer recommendation is that the Council affirm its previous Māori ward decision.





15. Next Steps and Timeline / Ngā Mahi Whai Ake

15.1 The decision of the Council and its implications will be made public as soon as possible.

15.2 If the decision of the Council is to affirm its decision to establish a Māori ward, the representation review currently in progress will continue under the applicable statutory timeframe.

15.3 If the decision of the Council is to rescind its decision to establish a Māori ward, and to continue with its current representation arrangements for the 2025 election, the Council will publicly notify its decision to continue with its current representation arrangements and send a copy of the notice to relevant authorities.

16. Attachments / Tuhinga tāpiri

1.  	Attachment one - RCN23-09-7 - MĀORI WARD DETERMINATION REPORT	16
2.  	Attachment Two - Local Government Commission’s statement of consistency for Tasman District Council	26

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7.7 MĀORI WARD DETERMINATION**Decision Required**

Report To:	Tasman District Council
Meeting Date:	21 September 2023
Report Author:	Jenna Neame, Kaihautū
Report Authorisers:	Jennie McFarlane, Legal & Democracy Services Manager; Janine Dowding, Chief Executive Officer
Report Number:	RCN23-09-7

1. Purpose of the Report / Te Take mō te Pūrongo

The purpose of this report is to consider the establishment of a Māori Ward in Tasman District, prior to the Council undertaking a review of its representation arrangements in 2024.

2. Summary / Te Tuhinga Whakarāpoto

- 2.1 Over the last few years many councils have created a Māori ward for the purpose of increasing Māori representation and involvement in decision making. This has been facilitated in part by legislative changes which have removed some of the barriers for the creation of a Māori ward.
- 2.2 The Tasman District Council is required to undertake a review of representation arrangements in 2024. If a council has resolved to establish a Māori ward, a review of representation arrangements is required next as consideration is then given to arrangements such as the number of councillors and the number, name and boundaries of wards.
- 2.3 The Council has engaged with the Te Taihu Iwi Trusts who are supportive of the creation of a Māori ward.
- 2.4 Staff consider that the creation of a Māori ward assists the Council in meeting its legislative requirements and would benefit both Māori and the wider community.

3. Recommendation/s / Ngā Tūtohunga

That the Tasman District Council

- 1. receives the Māori Ward Determination report, RCN23-09-7; and**
- 2. notes that the Council has engaged with the Te Taihu Iwi Trusts who support the establishment of a Māori ward in Tasman District; and**
- 3. acknowledges that the Council has sufficient information from affected groups to make this decision in accordance with the Council's Significance and Engagement Policy; and**

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MĀORI WARD DETERMINATION

4. resolves to establish one Māori ward for Tasman District for electoral purposes pursuant to section 19Z of the Local Electoral Act 2021; and
5. approves staff engaging with the Te Taihu Iwi Trusts on the name of the Māori ward in Tasman District which will form part of Council's initial proposal for its representation arrangements for consultation in 2024.

4. Background / Horopaki

Current representation and consideration of Māori in decision making

- 4.1 It is noted at the outset that the content of this report is not intended to minimise the valuable contributions that elected members have made to the engagement and involvement of Māori within the community. Rather it is intended to build on their efforts and experience to assist with better outcomes for Māori and the community as a whole.

What is a Māori Ward?

- 4.2 Māori wards provide a way for Māori in our communities to contribute to decision-making and have representation at the Council. People elected on to Māori wards represent Māori communities for fair and effective community representation. The establishment of Māori wards are one step towards councils honouring the principles of partnership committed to in Te Tiriti o Waitangi because they guarantee that Māori will be represented at the Council.
- 4.3 Where a Māori ward has been established, electors enrolled on the Māori electoral roll vote for candidates standing for the Māori wards (as well as for the Mayor). Similarly, electors enrolled on the general electoral roll will vote for candidates standing for general wards (and for the Mayor).
- 4.4 The successful Māori ward candidates will become councillors on the Council. Councillors have a responsibility to act in the best interests of the district as a whole, like all other councillors. One of the ways in which Māori ward councillors will achieve this is to bring forward Māori views and aspirations for consideration around the Council table.
- 4.5 To be eligible to stand for a Māori ward, a candidate must be a New Zealand citizen and their name must be on the Parliamentary Electoral Roll anywhere in New Zealand. They do not need to reside in the area that they are standing for. They will need to be nominated by two electors whose names appear on the Māori electoral roll within the area of election for which the candidate is standing.
- 4.6 Equally, if a candidate is on the Māori electoral roll they can stand in a general ward and will need to be nominated by two electors whose names appear on the general electoral roll within the area of election for which they are standing.
- 4.7 Councils can determine whether they have a Māori ward or not.

September 2023

MĀORI WARD DETERMINATION

Changes to the Local Electoral Act

- 4.8 Prior to 2021, the Local Electoral Act 2001, which enables the establishment of Māori wards, presented obstacles to achieve Māori representation on the Council. The Act required any Council that resolved to establish a Māori ward to give public notice of the right to demand a poll. The poll must be undertaken if five percent of the number of electors enrolled as eligible to vote demanded the poll. The result of the poll was binding.
- 4.9 This requirement was not in place for the establishment of general wards, meaning that any ballot was often a debate on race.
- 4.10 In 2021, the Local Electoral Act 2001 was amended and the references to mandatory and binding polls were removed. This means the decision to establish a Māori ward sits solely with the Council.
- 4.11 It is noted that the Local Government Electoral Legislation Act was given Royal assent on 30 August 2023 and makes further changes to the legislative environment around the consideration of Māori wards. The changes that relate to Māori representation in local government come into force on 12 October 2025.

National Context

- 4.12 Following the changes to the Act in 2021, several councils took the opportunity to establish Māori Wards prior to the 2022 elections. This included Nelson City and Marlborough District.
- 4.13 Māori wards have become more common across New Zealand. **Attachment 1** shows the distribution of Māori wards across territorial and regional authorities.

Local Context

- 4.14 In 2021, Tasman District Council considered whether it should consider establishing a Māori ward. It was not progressed as it would have triggered an out-of-cycle review of representation arrangements which it was not resourced for at the time. The Council indicated it would consider it prior to the 2025 election ahead of the scheduled 2024 review of representation arrangements.
- 4.15 At this time, the Chairs of the Te Taihu Iwi Trusts wrote to the three Te Taihu Mayors expressing their desire to see Māori wards put in place across all three councils, see **Attachment 2**.
- 4.16 Nelson and Marlborough went on to establish Māori wards, it was an advantage to them that they were due to undertake their representation reviews.
- 4.17 The Iwi Trusts have since expressed their disappointment that the same was not done by Tasman.

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5. Analysis and Advice / Tātarianga me ngā tohutohu

Calculating Number of Māori Ward Members

- 5.1 Schedule 1A of the Local Electoral Act 2001 sets out the formula to calculate the number of Māori wards members. If the number is greater than one the Council will have the option of establishing more than one Māori ward.

$$nmm = mepd \div (mepd + gepd) \times nm$$

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).

- 5.2 The definitions for “general electoral population” and “Māori electoral population” are defined in the 2001 Act by reference to their definitions in section 3 of the Electoral Act 1993 and are included below for information.

General electoral population – means total ordinarily resident population as shown in the last periodical census of population and dwellings with the exception of the Māori electoral population.

Māori electoral population – means a figure representing both the persons registered as electors of the Māori electoral districts and a proportion of the persons of New Zealand Māori descent who are not registered as electors of any electoral district and a proportion of the persons of New Zealand Māori descent under the age of 18 years, which figure shall be fixed—

(a) by ascertaining a proportion determined by dividing—

(i) the total number of persons registered as at the close of the last day of the period specified in the last notice published under section 77(2) as electors of Māori electoral districts, and persons on the dormant rolls for Māori electoral districts; by

(ii) the total number of persons of New Zealand Māori descent registered as at the close of the day referred to in subparagraph (i) as electors of either General electoral districts or Māori electoral districts, and persons on the dormant rolls for Māori electoral districts and General electoral districts; and

(b) by applying the proportion ascertained under paragraph (a) to the total number of ordinarily resident persons of New Zealand Māori descent as determined by the last periodical census.

- 5.3 The Māori electoral population, and the general electoral population, are calculated by Statistics New Zealand and must be provided on request to a local authority by the Government Statistician.

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- 5.4 For Tasman District, the **mepd** was 2,560, the **gepd** was 56,100, and the **nm** was 13 as at 30 June 2022.
- 5.5 Applying the formula using the Statistics New Zealand 2022 figures, the number of Māori ward members is 0.567. As set out in the Act, because the fraction is greater than half, the number of Māori ward members for Tasman District would be one. This therefore determines that the Council can only consider establishment of one Māori ward with one member.
- 5.6 As long as Tasman District has 12 or more Councillors (**nm**) it will achieve the criteria for a Māori ward with one member.
- 5.7 Based on the 2022 statistics, it is unlikely that the **mepd** will change significantly enough to allow any more than one member. The only discretion the Council has is to whether it determines that there will be one Māori ward with one member, or no Māori ward.

Iwi Representatives on Committees and Council

- 5.8 In February 2023, the Council approved the creation of vacancies on its Council and standing committees for iwi representatives. There is a non-voting vacancy on the Council, and one voting vacancy on each standing committee. Recruitment is currently underway for these.
- 5.9 These positions will be reviewed along with the Council governance structure at the beginning of each triennium. There is potential to maintain these representatives alongside a Māori ward councillor. This would recognise that simply having a Māori ward is a step towards the Council embracing the principles of Te Tiriti o Waitangi. A potential option is to replace the non-voting Council representative with the Māori ward councillor and retain the standing committee representatives. This will be a consideration for the next triennium.

Impact on Representation Review

- 5.10 If a council determines to establish Māori wards, it must undertake a representation review. Otherwise, a representation review is only required once every six years.
- 5.11 The decision on Māori representation must be made before 23 November this year before any other representation arrangements are reviewed.
- 5.12 The Council is due to undertake its next representation review in 2024 meaning the establishment of a Māori ward would not add unexpected work to the Council's programme.
- 5.13 It is tempting to suggest how the establishment of a Māori ward might be incorporated into the existing representation arrangements for Tasman District. Staff have purposely limited discussion on this topic as the review of the district's representation arrangements is a separate stand-alone process governed by the Act. Any advice provided now would border on speculation. Staff can only advise that there is potential for a Māori Ward to be added without the specific need to reduce the current number of councillors, it could be an addition.
- 5.14 Other representation topics will be brought to the Council as part of the review once appropriate research and analysis has been completed.

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5.15 The decision to establish a Māori ward is a standalone decision from the review of representation arrangements. The Council should take comfort that the Act is designed to ensure fair representation when the review is conducted.

6. Options / Kōwhiringa

6.1 The options are outlined in the following table:

Option		Advantage	Disadvantage
1.	Establish a Māori ward for electoral purposes	Step towards the Council embracing the principles of Te Tiriti o Waitangi by providing for greater involvement in decision making by Māori.	
2.	Choose not to establish a Māori ward electoral purposes	None identified.	Reputational and relationship damage with Iwi who support the creation of a Māori ward in Tasman.

6.2 Option 1 is recommended.

7. Legal / Ngā ture

7.1 The Local Government Act 2002 contains a specific requirement for councils to maintain and improve opportunities for Māori to contribute to decision making. Sections 4 and 81 are of particular significance and are set out in full below:

S 4 Treaty of Waitangi

In order to recognise and respect the Crown's responsibility to take appropriate account of the principles of the Treaty of Waitangi and to maintain and improve opportunities for Māori to contribute to local government decision-making processes, Parts 2 and 6 provide principles and requirements for local authorities that are intended to facilitate participation by Māori in local authority decision-making processes.

S 81 Contributions to decision-making processes by Māori

(1) A local authority must—

(a) establish and maintain processes to provide opportunities for Māori to contribute to the decision-making processes of the local authority; and

(b) consider ways in which it may foster the development of Māori capacity to contribute to the decision-making processes of the local authority; and

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(c) *provide relevant information to Māori for the purposes of paragraphs (a) and (b).*

- 7.2 The Local Electoral Act 2001 governs the establishment of Māori wards. The Council may determine to divide the district into one or more Māori wards for electoral purposes. This determination must be made by 23 November 2023. The Council will then be required to determine its initial representation arrangements between 1 March and 31 August 2024. The process to do this is through the planned review of representation arrangements.
- 7.3 On 26 July 2022, the Government announced the introduction of the Local Government Electoral Legislation Bill. This Bill completes the Government's reforms to Māori ward and constituency processes, following the passage of the Local Electoral (Māori Wards and Māori Constituencies) Amendment Act in February 2021. This Bill was passed and received Royal Assent on 30 August 2023 and the parts related to Māori representation in local government come into force on 12 October 2025.
- 7.4 The Act amends other legislation to better align and sequence the decisions councils must make regarding specific Māori representation and the establishment of wards or constituencies for the representation of individuals and communities. It also makes a number of other changes to the legislative landscape relating to the holding of local government elections.
- 7.5 Once in force, the law requires that all decisions related to representation will be made as part of the review of representation arrangements. Decisions must be made in two steps. The first step is for the council to consider specific Māori representation. Next, the council must make detailed decisions about the implementation of representation arrangements.
- 7.6 Community engagement and consultation are required in each step of decision-making. Councils that implemented specific Māori representation for their previous two elections may move directly to the second step when they subsequently review their representation.
- 7.7 The law will require consideration of Māori representation as part of every representation review, so on a six-year cycle. The Council's consideration of the creation of a Māori ward now assists with the Council meeting the requirements of the new legislation.

8. Iwi Engagement / Whakawhitiwhiti ā-Hapori Māori

This decision is directly relevant to Iwi/Māori who live in or connect to the Tasman District. The Council has sought feedback from the Chairs of the eight Te Taihu Iwi Trusts, as representatives of those who whakapapa to their Trusts. The Iwi Chairs have written to the Council expressing that they wholeheartedly support a Māori ward for Tasman see **Attachment 3**.

- 8.2 Staff also recognise that there are mātāwaka, people from other Iwi Trusts who whakapapa to other areas in Aotearoa/New Zealand, living here in Tasman. The Te Taihu Iwi Trusts don't specifically represent those people in terms of Iwi structures and whakapapa, however on matters such as this the Trusts typically take a pan-Māori view that is in the interest of all Māori.

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The overarching principle in the Council's Significance and Engagement policy is that it will engage with the communities affected by a matter with high significance to a greater extent than it will for a matter of less significance.

9.2 The decision to create a Māori ward is of particular significance to Māori as only those on the Māori electoral roll can vote for candidates standing in that ward. With this in mind, the Council has engaged with the Chairs of the Te Taihu Iwi Trusts in a manner consistent with our Significance and Engagement Policy.

	Issue	Level of Significance	Explanation of Assessment
1.	Is there a high level of public interest, or is decision likely to be controversial?	High for Māori	The decision on who should represent Māori should be made by Māori and as such the Council has engaged with Iwi Trusts as appropriate.
2.	Are there impacts on the social, economic, environmental or cultural aspects of well-being of the community in the present or future?	Yes	Positive impacts by encouraging greater representation and decision making by groups that have historically been disenfranchised.
3.	Is there a significant impact arising from duration of the effects from the decision?	Medium	The decision can be reviewed after two election cycles (every six years as part of representation reviews).
4.	Does the decision relate to a strategic asset? (refer Significance and Engagement Policy for list of strategic assets)	NA	
5.	Does the decision create a substantial change in the level of service provided by Council?	NA	
6.	Does the proposal, activity or decision substantially affect debt, rates or Council finances in any one year or more of the LTP?	NA	
7.	Does the decision involve the sale of a substantial proportion or controlling interest in a CCO or CCTO?	NA	

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	Issue	Level of Significance	Explanation of Assessment
8.	Does the proposal or decision involve entry into a private sector partnership or contract to carry out the deliver on any Council group of activities?	NA	
9.	Does the proposal or decision involve Council exiting from or entering into a group of activities?	NA	
10.	Does the proposal require particular consideration of the obligations of Te Mana O Te Wai (TMOTW) relating to freshwater and Affordable Waters services?	NA	

10. Communication / Whakawhitiwhiti Kōrero

- 10.1 As outlined above the Council has engaged with the Te Taiuhu Iwi Trusts who are supportive of this decision.
- 10.2 There will be additional engagement with Iwi and the wider community as part of the process for the review of representation arrangements.

11. Financial or Budgetary Implications / Ngā Ritenga ā-Pūtea

- 11.1 This decision has no cost implications. The results of the review of representation arrangements may have an impact on costs but this is an unknown at this stage. As the district grows, this impacts on representation arrangements.

12. Risks / Ngā Tūraru

- 12.1 It is possible that the wider community may seek to challenge this decision on the basis of lack of consultation but there is no requirement for consultation under the Local Electoral Act 2001. Staff consider that appropriate engagement has been undertaken with the affected communities in accordance with the Council's Significance and Engagement Policy.
- 12.2 It is also noted that several other councils have followed this process in the establishment of their Māori wards.

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13. Alignment with Policy and Strategic Plans / Te Hangai ki ngā aupapa Here me ngā Mahere Rautaki Tūraru

The Council's statement on Fostering Māori Participation in Council Decision-Making through Ngā Iwi/Council Partnership listed the following as an action it intends to take within the 10 years following the adoption of the Long Term Plan 2021-2031:

“Identifying and implementing new representation opportunities for Iwi/Māori on the Council, including potential establishment of a Māori Ward for the 2025 local election and representation on Council subcommittees and joint-committees.”

14. Conclusion / Kupu Whakatepe

14.1 The Council can resolve to establish a Māori ward for electoral purposes with a maximum of one Māori ward Councillor before 23 November 2023.

14.2 Staff recommend the establishment of a Māori ward as it will be another step towards the Council embracing the principles of Te Tiriti o Waitangi by providing for greater involvement in decision making by Māori.

15. Next Steps and Timeline / Ngā Mahi Whai Ake

15.1 If the Council decides to establish a Māori ward for the 2025 election, the Council will notify the Iwi Chairs of its decision.

15.2 Any further representation considerations will be included in the upcoming review representation of representation arrangements.

16. Attachments / Tuhinga tāpiri

1. Location of Māori Wards as at 2022 Local Elections
2. Initial Letter from Te Tauihu Iwi Chairs
3. 2023 Letter of Support from Iwi Chairs



**STATEMENT ON CONSISTENCY OF TASMAN DISTRICT COUNCIL'S
PRE-2020 REPRESENTATION ARRANGEMENTS WITH SECTION 19V(2)
OF THE LOCAL ELECTORAL ACT 2001**

Clause 35(2)(c)(iii) of Schedule 1 of the Local Electoral Act 2001 requires the Local Government Commission to provide to Group 2 local authorities, as listed in clause 10 of Schedule 1, a statement on the consistency of their existing representation arrangements with section 19V(2) taking into account the 2023 population estimates.

The existing representation arrangements for Tasman District, were determined in the representation review conducted prior to the 2019 elections. They were as follows:

Ward	Population	Members	Population-member ratio	Difference from quota	% Difference from quota
Golden Bay	5,320	2	2,660	-1,277	-32.43
Lakes-Murchison	3,660	1	3,660	-277	-7.03
Moutere-Waimea	13,500	3	4,500	563	14.30
Motueka	12,300	3	4,100	163	4.14
Richmond	16,400	4	4,100	163	4.14
Total	51,180	13	3,937		

Population statistics are sourced from the 2017 population estimates (2013 base) provided by Stats NZ.

The Golden Bay Ward and the Moutere-Waimea Ward did not comply with section 19V(2) ('the +/-10% rule). The Commission upheld the Council's decision that both wards not be compliant under section 19V(6). All other arrangements were compliant with section 19V(2).

Application of 2023 population estimates to those arrangements results in the following:

Ward	Population	Members	Population-member ratio	Difference from quota	% Difference from quota
Golden Bay	5,820	2	2,910	-1,658	-36.30
Lakes-Murchison	4,170	1	4,170	-398	-8.72
Moutere-Waimea	15,850	3	5,283	715	15.65
Motueka	13,550	3	4,517	-52	-1.13
Richmond	20,000	4	5,000	432	9.45
Total	59,390	13	4,568		

Population statistics are sourced from the 2023 population estimates (2018 base) provided by Stats NZ

When 2023 population estimates are applied, Golden Bay Ward and the Moutere-Waimea Ward remain non-compliant. No wards become newly non-compliant.

Clause 35(3) of Schedule 1 of the Local Electoral Act 2001 states that, if an exception from compliance under section 19V(3) has previously been upheld on a determination by the Local Government Commission under section 19V(6) relating to specific wards, constituencies, or subdivisions in the local authority's pre-2020 representation arrangements, that exception continues to apply.

The Commission's 2019 determination upheld an exception to the +/-10% rule in respect of the Golden Bay Ward and the Moutere-Waimea Ward. In accordance with clause 35(3) of Schedule 1, these exceptions continue to apply. As a result, if the Council rescinds its decision to establish a Māori ward, it can continue its existing representation arrangements in accordance with clause 35(1) of Schedule 1.

Penny Langley
Chief Executive Officer
Local Government Commission

27 August 2024