



Te Wai Māori

TE WAI MĀORI TRUST'S SUBMISSION ON THE LOCAL GOVERNMENT (ELECTORAL LEGISLATION AND MĀORI WARDS AND MĀORI CONSTITUENCIES) AMENDMENT BILL



Te Wai Māori Trust Submission on the Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Bill

Introduction

1. This document provides Te Wai Māori Trust's (Te Wai Māori/the Trust) response to the Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Bill (LGA Bill).
2. Te Wai Māori works on behalf of 58 mandated iwi organisations (MIOs), who represent all iwi throughout Aotearoa. Notwithstanding that, this document is not intended to usurp or detract from any responses made independently by iwi or hapū or any other pathways iwi and hapū may pursue to affirm their rights.
3. The submission covers:
 - (a) the background to Te Wai Māori;
 - (b) our position [**strongly opposed**];
 - (c) a statement of key matters of concern; and
 - (d) a recommendation to withdraw the LGA Bill.
4. In providing this feedback we are not expressing support for the LGA Bill or the policy intent behind it.
5. We do not wish to make an oral submission.

Te Wai Māori Trust

6. Te Wai Māori Trust is an independent Māori Trust established under the Māori Fisheries Act 2004 to advance Māori interests in freshwater fisheries. The Trust is a product of the Deed of Settlement under the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 and is an entity of the Te Ohu Kaimoana Group.

7. Te Wai Māori engages and liaises with a range of sectors and government agencies seeking to ensure that iwi and hapū are empowered to engage in government processes and resource management decision-making.

Our Position

8. Te Wai Māori is **strongly opposed** to the LGA Bill.
9. On 23 May 2024, the LGA Bill passed its first reading in Parliament and has now been referred to Select Committee. Submissions close on 29 May 2024.
10. This Government, including lobby groups like Hobson's Pledge, have consistently opposed the changes to Māori wards made by the previous government. Reverting the Māori ward rules to restore the referendum mechanism – including for councils that have already established them – was part of the coalition agreements last year.
11. The LGA Bill proposes to repeal the amendments made to the Local Electoral Act 2001 by the Local Electoral (Māori Wards and Māori Constituencies) Amendment Act 2021 (the 2021 Amendment Act). The 2021 Amendment Act removed the previous requirement that binding local polls be held following a council's decision to establish a Māori ward or Māori constituency.
12. The Government intends to reinstate the need for binding polls on Māori wards and require councils that have established a Māori ward or constituency without one since 2021 to hold a poll. The LGA Bill would restore the old rules, meaning that if any council wanted to establish a Māori ward in future and a petition that had been signed by 5% of people was presented, a binding referendum would have to be held.
13. Additionally, the LGA Bill requires that all the councils that created Māori wards from 2021 onward, must hold a poll on whether to keep them at the 2025 local elections, with the results of the poll to be binding and come into force in 2028. They could instead choose to disestablish the wards without a poll.

Statement of Concern

Te Tiriti o Waitangi

14. Māori wards and constituencies are crucial mechanisms for ensuring Māori representation in local government. They provide a platform for Māori voices to be heard and Māori interests to be safeguarded within the decision-making processes that affect our communities.
15. The 2021 Amendment Act went some way to fulfilling the Crown's obligations to Māori, including providing proportionate representation and the inclusion of unique and diverse perspectives on behalf of a diverse community. The 2021 Amendment Act significantly increased Māori representation in local Government and the LGA Bill will undo this with far-reaching implications.
16. The proposed change to the structure and function of Māori wards and constituencies through the LGA Bill breaches the Government's Treaty obligations. This was reflected in the Waitangi Tribunal's initial report into the Urgent Inquiry in respect of Māori Wards issued on 17 May 2024. The Tribunal found that by repealing the 2021 Amendment Act the Crown:
 - (a) was breaching the Treaty principle of partnership by prioritising the coalition agreement commitments and completely failing to consult with its Treaty partner or any other stakeholders
 - (b) had failed to adequately inform itself of its Treaty obligations
 - (c) had failed to conduct adequate Treaty analysis during the policy development process in breach of its duties to act reasonably and in good faith
 - (d) had inadequately defined the policy problem as restoring the right of the public to make decisions about Māori wards and constituencies, when no other type of ward or constituency requires a poll, in breach of the principle of equity
 - (e) had failed to actively protect Māori rights and interests by ignoring the desires and actions of Māori for dedicated local representation, and
 - (f) has breached the principles of mutual benefit and options.

17. Combined, these Treaty breaches operate to cause significant prejudice to Māori.

The Bill is divisive

18. The LGA Bill is divisive, it perpetuates discrimination and racism and will have an impact on the Māori communities across the country. The LGA Bill brings back binding polls on establishing Māori wards and constituencies, previously removed to prevent minority vetoes. This change risks discriminatory motivated opposition and suppressing Māori representation.
19. District councils who have appointed Māori wards did so to improve Māori representation and participation in local government decision-making processes. These councils have largely found that iwi/hapū aspirations and insights have strengthened the quality of decision-making across the board, including informing genuine stewardship of natural resources and taonga from a Te Ao Māori perspective.
20. The proposed changes threaten to reduce existing Māori representation and marginalise Māori voices, contrary to the principles of partnership and participation enshrined in Te Tiriti o Waitangi.
21. Referendums disproportionately target mechanisms designed to improve Māori representation in local government, reinforcing existing inequalities. Māori interests are more likely to be overruled in referendums, perpetuating systemic disadvantage and exclusion from decision-making processes.
22. Referendums can also become platforms for the expression of racist attitudes, with campaigns often stirring up anti-Māori sentiment and misinformation, leading to an increase in hate crimes and wider acceptance of racism.

Administrative and Financial burdens

23. The reintroduction of polls will come at the direct expense of ratepayers. Communities are already struggling with a cost of living crisis. Binding polls will add significant administrative and financial burdens to local government, diverting resources away from other essential services and core work.
24. In addition there are far more important and pressing local government issues at the

moment, like water, and water and wastewater infrastructure.

Undermines the ability of local communities to make decisions

25. The LGA Bill will undermine local government decision-making on existing Māori Wards.
26. Local government has established Māori wards without the need for binding polls. The LGA Bill undermines these decisions, imposing unnecessary and costly polls and disregarding local democratic processes.

The LGA Bill is Unconstitutional

27. Te Tiriti o Waitangi is New Zealand's founding constitutional document. The Crown has an obligation to make decisions in a way that is consistent with it.
28. No equivalent referendums are required for other types of electoral arrangements or wards, highlighting a discriminatory standard applied specifically to Māori representation. The LGA Bill is inconsistent, as other local government changes – like establishing rural wards for people in remote areas to have guaranteed representation, or establishing general wards does not require a referendum to create them. When a decision is made by council it shouldn't be subject to referenda when no other ward or constituency decision needs to go to referenda.

The Bill is undemocratic

29. Māori have been historically underrepresented in local government. Democracy should ensure fair and equitable representation for all communities, and establishing Māori wards helped to address this imbalance, ensuring Treaty partner representation and that Māori voices were heard in local decision-making processes.
30. The reinstatement of referendums on Māori wards undermines this principle by subjecting Māori representation to the tyranny of the majority. The integrity and inclusivity of local government is directly compromised.
31. Subjecting the rights of an indigenous minority to popular vote also violates the principles of human rights and equality, as recognised in international declarations such as the United Nations Declaration on the Rights of Indigenous Peoples.

Timeframes and process

32. Process timeframes for the LGA Bill are far too short. Te Wai Māori has fundamental concerns about the way in which the LGA Bill has been developed at breakneck speed, devoid of appropriate consultation and engagement with iwi and hapū, and with inadequate opportunity for public scrutiny.
33. The submission period ends on Wednesday 29 May, meaning only **four working days** have been given to submit on the Bill. Most submission periods are open for at least six weeks.
34. The timeframes for iwi and hapū to comment on the LGA Bill is entirely unreasonable and impractical. There is insufficient time to allow for input that would support decision-makers to get to grips with what these changes mean.
35. Effective consultation requires engagement that is timely, inclusive, and responsive to the needs and perspectives of those affected. The rushed nature of this legislation and the inadequate opportunities for input demonstrate a disregard for these principles and undermine the legitimacy of the process.
36. Te Wai Māori urge the Government to reconsider this approach and engage in meaningful dialogue with Māori to co-design solutions in a way that is compliant with Te Tiriti o Waitangi and respects the aspirations of iwi and hapū.

Recommendations

37. Te Wai Māori recommends that the LGA Bill is withdrawn to allow proper consultation between the Treaty partners with a view to agreeing how Māori can exercise their tino rangatiratanga to determine dedicated representation at a local level. We draw your attention to the existing provisions in the Local Electoral Act 2001 for representation reviews that would better enable councils to seek public views on all wards and constituencies at the same time, including Māori wards or constituencies.

If you would like to discuss this submission please contact Vanessa Tipoki, Principal Advisor Te Wai Māori Trust – Vanessa.Tipoiki@waimaori.maori.nz