

MARLBOROUGH DISTRICT COUNCIL
15 SEYMOUR STREET
PO BOX 443, BLENHEIM 7240
NEW ZEALAND

TELEPHONE (0064) 3 520 7400
FACSIMILE (0064) 3 520 7496
EMAIL mdc@marlborough.govt.nz
WEB www.marlborough.govt.nz



**MARLBOROUGH
DISTRICT COUNCIL**



Only Marlborough

18 May 2021

Record No: 21100345
File Ref: D050-001-02
Ask For: Mike Porter

Notice of an Extraordinary Council Meeting – Friday, 21 May 2021

Pursuant to clause 22, schedule 7 of the Local Government Act 2002, an Extraordinary Meeting of the Marlborough District Council will be held in the Marlborough Events Centre (formerly the Marlborough Convention Centre), 42A Alfred Street, Blenheim on **Friday, 21 May 2021 commencing at 9.00 am.**

BUSINESS

As per Order Paper attached.

**MARK WHEELER
CHIEF EXECUTIVE**



**Order Paper for an
EXTRAORDINARY COUNCIL MEETING
to be held in the Marlborough Events Centre, 42A Alfred Street, Blenheim
on FRIDAY, 21 MAY 2021 commencing at 9.00 am**

Open Meeting

1.	Karakia	Page	1
2.	Apologies	Page	1
3.	Declaration of Interests	Page	1
4.	Establishment of a Māori Ward for the 2022 Local Government Elections	Pages	2 - 8

Marlborough District Council

**Order Paper for an
EXTRAORDINARY COUNCIL MEETING
to be held in the Marlborough Events Centre, 42A Alfred Street, Blenheim
on FRIDAY, 21 MAY 2021 commencing at 9.00 am**

1. Karakia

Tēnā koutou, tēnā koutou, tēnā koutou katoa
E te Atua tō mātou Kai-hanga,
ka tiāho te maramatanga me te ora, i āu kupu kōrero,
ka tīmata āu mahi, ka mau te tika me te aroha;
meatia kia ū tonu ki a mātou
tōu aroha i roto i tēnei huihuinga.
Whakakī a matou whakaaro ā mātou mahi katoa,
e tōu Wairua Tapu.
Āmine.

(God our Creator,
when you speak there is light and life,
when you act there is justice and love;
grant that your love may be present in our meeting.
So that what we say and what we do may be filled with your Holy Spirit.
Amen.)

2. Apologies

3. Declaration of Interests

Members are reminded of the need to be vigilant to stand aside from decision making when a conflict arises between their role as a member and any private or other external interest they might have.

4. Establishment of a Māori Ward for the 2022 Local Government Elections

(also refer to Attachment 4.1)

(The Mayor)

D050-004-022-15

Purpose of report

1. To consider the establishment of a Māori Ward in Marlborough under the provisions of the Local Electoral (Māori Wards and Māori Constituencies) Amendment Act 2021 (the Māori Wards Act), which came into force on 02 March 2021.

Executive Summary

2. Under the provisions of the Māori Wards Act, Council is able to reconsider whether to establish a Māori Ward for the 2022 local government election, as long as any decision is made by 21 May 2021.
3. When this matter was last considered in 2020, Council chose not to establish a Māori ward. At that time there was little interest expressed by the community and the process required to introduce a Māori ward was difficult and in other areas divisive.

RECOMMENDATIONS

1. That Council establishes a Māori Ward in Marlborough for the 2022 local government election; and
2. notes that a Māori ward must exist as an “at large” position for Marlborough.
3. That the analysis and options for the 2021 Representation Review include the Māori Ward and looks at options for the balance of the electoral area.

Background

4. In 2020 Council was required to consider the two matters prior to the wider representation review due for completion in 2021:
 - agreeing an electoral system to be used for voting; and
 - whether or not to establish a Māori ward where the relevant local population ratio allowed for one.
5. On 1 February 2021, the Hon Nanaia Mahuta announced the introduction of the Local Electoral (Māori Wards and Māori Constituencies) Amendment Bill to Parliament. The Bill, which proposed provisions intended to address distinctions between the processes to establish Māori and general wards, received its first reading on 09 February, following which submissions were considered by Te Komiti Whiriwhiri Take Māori (the Māori Affairs Committee).
6. The establishment of Māori wards provides an opportunity for representation for Māori communities.
7. Under sections 19ZA to 19ZG of the Local Electoral Act as drafted in 2001, any decision to set up a Māori Ward would trigger a public ballot if demanded by at least five percent of electors. This requirement was not in place for the establishment of general wards, meaning that any ballot was often a debate on race.
8. The Māori Wards Act subsequently came into effect on 02 March 2021.
9. The passing of the provisions within the Māori Wards Act now allows councils that wish to make a decision regarding Māori wards for the 2022 local government election to do so, as long as any

resolution is made by 21 May 2021. Should a council wish to consider the matter but be unable to reach a decision by this date, the resolution would apply to the 2025 local government election at the earliest. The provisions do not require a council to consider the matter of Māori wards for 2022 but open up the opportunity to do so (which otherwise closed in November 2020 for the 2022 election).

10. Based on Council's previous decision in relation to a Māori ward the matter has now been brought back for re-consideration in light of the legislative amendments.
11. Iwi strongly support the establishment of a Māori ward, as do many others in the community. However, the contrasting position may be held equally strongly by others.

Discussion

12. The establishment of a Māori ward would directly contribute to the requirements on a local authority outlined in the Local Government Act 2002:

Section 4

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.

Section 14 (1)(d)

In performing its role, a local authority must act in accordance with the following principles: a local authority should provide opportunities for Māori to contribute to its decision-making processes.

Section 81(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*
- (c) provide relevant information to Māori for the purposes of paragraphs (a) and (b).*

13. The number of possible Māori vacancies that could be established by a council is based on the population ratio of those on the national Māori roll to those on the national general roll. For Marlborough the current ratio is 0.93, which is rounded up to 1 for electoral purposes. Therefore, one Māori councillor vacancy (and by implication, one Māori ward) would be able to be established.
14. There are a number of factors for Council to weigh up as it reconsiders the option to establish a Māori Ward.

Iwi partner perspectives

15. Council's iwi partners support the establishment of a Māori ward now that there are no polling requirements in the Local Electoral Act 2001.
16. Following the commencement of the amendment Bill, Council has had specific kōrero with iwi leadership seeking clarity on their current views on the establishment of a Māori ward. In early May iwi representatives sent a letter confirming that they would prefer a Māori ward to be established now (attached as **Attachment 4.1**).
17. The establishment of a Māori ward strengthens the partnership between local government and iwi, and does not limit further representation on other Council committees as an option. A Māori ward does not fulfil the wider aspects of the principles of the Treaty of Waitangi as required between Councils and iwi under the Local Government Act 2002.

Criteria for candidates and voters in a Māori Ward

18. If a Māori ward is established, only those who are on the national Māori electoral roll will be able to stand as a candidate. The next opportunity to be listed on this roll is not until 2024.

19. No one standing for an election needs to live in the area they are standing for, and this is the same for a Māori ward. This means that as long as a potential candidate is on the Māori electoral roll they could be nominated as a candidate for Marlborough whether they live here, or have any ties to the area or not.
20. Equally, only those on the Māori electoral roll in Marlborough will be able to vote for the candidates standing in a Māori ward.
21. Those on the Māori roll will not be able to vote for candidates standing in any general wards, so should a Māori ward be established in Marlborough this will need to be factored into the thinking on “fair and effective representation” that is required through a representation review.
22. The establishment of a Māori ward does not preclude the ability of those of Māori descent who are on the general roll standing for general vacancies.

Implementation of a vacancy if established

23. If a decision is made by Council before 21 May 2021 to establish a Māori ward this would create a vacancy for the 2022 election. If Council needed more time, and the decision was made after 21 May, the vacancy would apply but not until 2025.

Polls

24. The mandatory and binding community polls on Māori ward resolutions have been removed from the legislation with the passing of the new Act. This means that the decision and any future review of decisions sits solely with Council.
25. The new Act allows for non-binding polls to be undertaken, if a Council wishes to canvas the views of their community at any time, but there is no obligation to do so.

Representation Review

26. The decision on Māori representation through electoral process must be made before any other representation structures are reviewed. Where a council is not already required to complete a representation review in that year, establishing a Māori ward or wards will immediately trigger one.
27. Marlborough District Council is already required to complete a review this year so the establishment of a Māori ward would not add unexpected work into the year's programme.
28. If Council decides to establish a Māori ward, other representation consultation will be completed to support Council decision making, and in line with the statutory time frames for the representation review. An initial representation review proposal must be adopted by Council by 08 September 2021, following which public consultation must be undertaken in line with the requirements of the Local Electoral Act 2001.
29. While other matters in relation to wider representation cannot be formally addressed at this time, it is important to note that some topics within the review would require different emphasis than may otherwise be the case should a Māori ward be established.
30. For example, a Māori ward is part of a larger ward system. The system could be fully ward based, or a mixed system (where some candidates are voted for “at large” and some general candidates voted for by ward alongside the Māori ward).
31. Where wards exist, voters may only vote for candidates in their ward and any “at large” vacancies (the Mayor is always voted for “at large”).
32. Should Council resolve to establish a Māori ward, through the ensuing representation review the communities of interest in Marlborough and the statistical meshblocks will be considered as to how different ward options could be structured and sized to meet fair and effective representation requirements.

33. The Local Government Commission is also already considering a variety of scenarios and options for those localities which currently have “at large” systems and are considering Māori wards, as it is this part of representation discussions which can be most complex.
34. A variety of other scenarios will be developed for consideration as Council may prefer to achieve a more balanced approach.

Options

35. Refer to the following table:

<p>Option 1: Establish a Māori ward for the 2022 local government election</p>
<p><i>Advantages</i></p> <ul style="list-style-type: none"> • Directly contributes to the requirements on a local authority outlined in the Local Government Act 2002: <p><i>Section 4</i> <i>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.</i></p> <p><i>Section 14 (1)(d)</i> <i>In performing its role, a local authority must act in accordance with the following principles: a local authority should provide opportunities for Māori to contribute to its decision-making processes.</i></p> <p><i>Section 81(1)</i> <i>A local authority must—</i> <i>(a) establish and maintain processes to provide opportunities for Māori to contribute to the decision-making processes of the local authority; and</i> <i>(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</i> <i>(c) provide relevant information to Māori for the purposes of paragraphs (a) and (b).</i></p> <ul style="list-style-type: none"> • Honours the preference of iwi partners • Provides for the inclusion of a Māori voice and perspectives into Council decision-making • Aligns with the existing representation review requirements for 2021
<p><i>Risks and Disadvantages</i></p> <ul style="list-style-type: none"> • Will directly affect the current ward based system. The structure of any new system would be considered through the ensuing representation review.

Option 2:

Choose not to establish a Māori ward for the 2022 local government election.

NB Deferring the decision in relation to establishing a Māori ward beyond past 21 May 2021 would have the same effect.

Advantages

- Council could have time to seek wider community feedback in relation to the decision.

Risks and Disadvantages

- Does not honour the preference of iwi partners
- Does not uphold the intent of the The Māori Wards Act
- Does not provide for the inclusion of a Māori voice and perspectives into Council decision-making.
- Would require that a further representation review is undertaken prior to the 2025 election

Conclusion

36. The Māori Wards Act provides councils with the opportunity to review their current decisions in relation to Māori wards for the 2022 local government election.
37. The establishment of a Māori ward at this time would be consistent with Iwi preferences, and align with the timing of a representation review that the Council must already complete.
38. Establishing a Māori ward would mean the subsequent review of the wards, within the Marlborough electoral region as part of the representation review.

Next steps

39. Regardless of whether Council resolves to establish a Māori ward for the 2022 local government election, the representation review must still be completed in line with statutory requirements.
40. However if a Māori ward is established, it is likely that the focus of the review would change; ward representation ratios would need to be reconsidered.
41. Council has appointed a consultation Committee which will take options out to the Marlborough community to shape the initial proposal. The initial proposal must be resolved by 08 September 2021, following which it is consulted on with the public for at least a month in line with the expectations of the Local Electoral Act 2001.

Attachment

Attachment 4.1 – Te Tauihu Iwi Chairs Forum – Support for Māori Wards

Page 7

Author	Dean Heiford, Manager Economic, Community & Support Services
Authoriser	Mark Wheeler, Chief Executive

TE TAU IHU IWI CHAIRS FORUM

C/- Te Tau Ihu Secretariat
Level 3, Rangitāne House,
PO Box 883, Blenheim
secretariat@twam.maori.nz

7 May 2021

Marlborough District Council
15 Seymour Street
BLenheim 7201

By email to: mayor@marlborough.govt.nz
mark.wheeler@marlborough.govt.nz

Nelson City Council
110 Trafalgar Street
NELSON 7010

By email to: mayor@ncc.govt.nz
pat.dougherty@ncc.govt.nz

Tasman District Council
189 Queen Street
RICHMOND 7050

By email to: tim.king@tasman.govt.nz
janine.dowding@tasman.govt.nz

Tēnā koutou e ngā rangatira

SUPPORT FOR MĀORI WARDS

As the Mayors of the three Councils of Te Tauihu o Te Waka a Māui, we are writing to express our explicit desire to see Māori wards put in place across all three Councils.

Now that changes to the Local Electoral Act have allowed for Māori wards to be established in the same way that general wards are, we ask you to ensure that Māori wards are delivered by your respective Council.

Whilst the Māori ward system does not deliver a true partnership as envisaged by Te Tiriti, nor deals with racism experienced by our communities, it is a start and an advancement on the status quo. We are therefore strong advocates for such to be implemented sooner rather than later.

We welcome working with Councils to provide guidance as to how Māori wards could be set up within each of your Councils and to provide support in ensuring such is achieved within your current governance arrangements.

We look forward to hearing from you.

Ngāti Apa ki te Rā Tō

Ngāti Koata

Ngāti Kuia

Ngāti Rārua

Ngāti Tama

Ngāti Toarangatira

Rangitāne o Wairau

Te Ātiawa o Te Waka-a-Māui