



**TŪWHARETOA**  
MĀORI TRUST BOARD

**Submission on:**  
***Local Government (Electoral Legislation and Māori Wards  
and Māori Constituencies) Amendment Bill***

**29 May 2024**

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## **INTRODUCTION**

- 1 This submission is made by the Tūwharetoa Māori Trust Board (**Trust Board**) on the Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Bill (the **Bill**).

## **WISH TO BE HEARD**

- 2 The Trust Board do not wish to be heard in support of this submission, but ask that the Select Committee carefully consider the statements made.

## **CONTACT**

- 3 Please direct all communications to the Trust Board in relation to this submission to Peter Shepherd, Natural Resources Manager at [peter@tuwharetoa.co.nz](mailto:peter@tuwharetoa.co.nz).

## **TŪWHARETOA WHAKAPAPA, TIKANGA AND WAI MĀORI**

Ko Tongariro te Maunga	Tongariro is the Sacred Mountain
Ko Taupō te Moana	Taupō is the Lake
Ko Tūwharetoa te Iwi	Tūwharetoa is the Tribe
Ko te Heuheu te Tangata	Te Heuheu is the Man

- 4 Ngāti Tūwharetoa hold mana whenua, kaitiakitanga and rangatiratanga over the Central North Island including the Lake Taupō Catchment and part of the Upper Waikato, Whanganui, Rangitikei and Rangitaiki Catchments.
- 5 Ngāti Tūwharetoa are the descendants of Ngatoroirangi, Tia and other tūpuna who have occupied the Taupō Region continuously since the arrival of the Te Arawa waka. Ngāti Tūwharetoa are linked by whakapapa to our lands and our taonga. This connection establishes our mana whenua, kaitiakitanga and rangatiratanga, including our right to establish and maintain a meaningful and sustainable relationship between whānau, hapū, marae and our taonga tuku iho.
- 6 As kaitiaki, Ngāti Tūwharetoa have an intrinsic duty to ensure the mauri and the physical and spiritual health of the environment (inclusive of our whenua and water resources) in our rohe is maintained, protected and enhanced.
- 7 For Ngāti Tūwharetoa, water comes from the sacred pool of our ancestor, Io. Tāne entrusted the guardianship of all the waterways to Tangaroa while Tāwhirimātea was assigned the guardianship over the atmospheric forms of water and the weather. These two guardians hold the mauri, the essential life forces, of these forms of water.
- 8 For Ngāti Tūwharetoa, our rohe of the Central North Island forms part of our ancestor Papatūānuku. The universe and atmosphere above and around us is Ranginui. The geographical pinnacle of Papatūānuku, within our rohe, is our maunga (mountains) including our esteemed ancestor, Tongariro. To the north of Tongariro lies our inland seas, Taupō-nui-a-Tia and Rotoaira. Our mauri flows from our maunga through our ancestral awa (surface and underground streams and rivers) to our moana and to the hinterlands via the Waikato, Whanganui and Rangitaiki. They link us directly with our neighbouring iwi.
- 9 Ngāti Tūwharetoa assert our intergenerational custodial and customary right of tino rangatiratanga over the taonga in our rohe. Our tribal taonga include ownership of the bed, water column and air space of Lake Taupō, its tributaries, and the Waikato River from the outlet of Lake Taupō to Te Toka a Tia. They also include Te Kāhui Maunga (Tongariro National Park),

the largest production forests in the North Island (Kaingaroa, Lake Taupō and Lake Rotoaira) and ownership of 51% of the whenua in the Taupō region.

### **TŪWHARETOA MĀORI TRUST BOARD**

- 10 The Trust Board was established pursuant to the Māori Land Amendment Act 1924 and Māori Land Claims Adjustment Act 1926. The Trust Board later became a Māori Trust Board under the Māori Trust Boards Act 1955.

#### **1992 and 2007 Deeds**

- 11 By deeds with the Crown dated 28 August 1992 and 10 September 2007 the Trust Board is the legal owner of the bed, water column and air space of Lake Taupō, the Waihora, Waihāhā, Whanganui, Whareroa, Kuratau, Poutu, Waimarino, Tauranga-Taupō, Tongariro, Waipēhi, Waiotaka, Hinemaiaia and Waitahanui Rivers (**Taupō Waters**), and the Waikato River to Te Toka a Tia, inclusive of the Huka Falls.
- 12 The Trust Board's relationship to Taupō Waters is unique. The Trust Board holds legal title as trustee and acts as kaitiaki for Taupō Waters. These fiduciary responsibilities over Taupō Waters to present and future generations underpin all our activities and aspirations.

### **POSITION**

- 13 The Trust Board is strongly opposed to the Bill, which:
- a. Reinstates the requirement for binding referendums on Māori wards and Māori constituencies. This undoes the changes made by the Local Electoral (Māori Wards and Māori Constituencies) Amendment Act 2021.
  - b. Requires councils who established Māori wards or Māori constituencies since 2021 without a referendum, to reverse their decision or hold a binding referendum at the 2025 elections on whether to continue with the Māori ward. The results of these referendums will be binding on councils.
  - c. Reinstates the requirement for 5 per cent of voters to initiate a referendum on proposals for a Māori ward.
  - d. Removes the requirement for councils to consider Māori wards every six years during representation reviews if they have not yet established Māori wards.
  - e. Amends the postal voting timeframe for local elections.
- 14 The Bill represents an irresponsible exercise of power. It is a retrograde and racist step: **no other type of ward or constituency (including rural wards) requires a poll**. The proposal appears intended to reignite divisive debates at the expense of Māori, and has arisen from politicised misrepresentation of the effect and implication of Māori Wards and Māori constituencies.
- 15 Māori wards and Māori constituencies provide for fair and proportionate representation for Māori communities, and a diversity of opinions contributing to local decision-making, where the local government electoral system otherwise permits a majority to veto proportionate representation through a binding poll for minority groups such as Māori.<sup>1</sup> Reinstating binding polls is irresponsible in this context.
- 16 The Trust Board, other Ngāti Tūwharetoa trusts and incorporations, and our Ngāti Tūwharetoa whānau living within our rohe, make significant contributions to our rohe. Fostering robust

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<sup>1</sup> See, for example, the analysis provided in the submission on the Bill by Taupō District Council, which the Trust Board supports.

relationships between Ngāti Tūwharetoa and local government supports the achievement of outcomes that benefit the broader community and environment far beyond what local government can achieve independently.

- 17 The proposed changes are contrary to the principles of partnership and participation enshrined in Te Tiriti o Waitangi.

#### **The Trust Board’s experience with the Taupō District Council Māori Ward**

- 18 The Taupō District Council, which is within the rohe of Ngāti Tūwharetoa, introduced a Māori ward for the 2022 local election to increase and enhance Māori representation and participation in local government decision-making processes. This was pursuant to:

- a. a **November 2020 resolution to establish Māori wards**, prior to the Local Electoral (Māori Wards and Māori Constituencies) Amendment Act 2021 (that is to be repealed) coming into force; and
- b. a further **September 2021 resolution confirming its Māori wards proposal**, following the receipt and consideration of submissions.

- 19 The Taupō District Council Māori ward, Te Papamārearea, is appropriate because Māori in the Taupō District are 30% of the population of around 42,000. Around 19% of the voting population are on the Māori electoral roll. Ngāti Tūwharetoa are also significant landowners and ratepayers in the district:

- a. An estimated 44,448 people affiliate to Ngāti Tūwharetoa<sup>2</sup>, of which 24,502 are registered with the Trust Board. Many have shares in landholdings within the district.
- b. The collective landholdings of Ngāti Tūwharetoa are estimated at 400,000 hectares. This equates to approximately 3.5 to 4% of the total of the North Island. While these landholdings are not wholly within the Taupō District boundaries, the Taupō District is estimated to be 697,000 hectares.

- 20 The Trust Board was supportive of the Taupō District Council Māori ward because it ensured 2 Māori representatives out of 12 at the decision-making table (2/12 is 17% representation), to represent the 19% of registered voters on the Māori electoral role. This is simply a proportionate level of representation.

- 21 The Trust Board played an active role in supporting the Māori ward.

- 22 The Trust Board endorses the submission of Taupō District Council opposing the Bill.

- 23 The irony of the Government’s decision to prioritise its political agenda over the clearly expressed desires and actions of Taupō District Council, is not lost on the Trust Board, given the Government’s approach in respect of water services where it “recognises the importance of local decision making and flexibility for communities and councils to determine how their water services will be delivered in future.”<sup>3</sup>

#### **IMPACT ON TAUPŌ DISTRICT COUNCIL MĀORI WARD**

- 24 The Bill will require Taupō District Council to reverse its decision or hold a referendum at the 2025 elections on whether to continue with the Māori ward. The results of this referendum will be binding on councils and will take effect for the local government term beginning October

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<sup>2</sup> Data derived and presented on Te Whata Iwi Data platform which utilises Stats NZ data

<sup>3</sup> 14 December 2023 press release of Minister Simeon Brown, ‘Government to repeal Three Waters legislation’: <https://www.beehive.govt.nz/release/government-repeal-three-waters-legislation>

2028. Likewise in the event that Taupō District Council reversed its decision, Māori wards will be dissolved as at the 2025 election.

- 25 Referendums (also referred to as binding polls) are a retrograde tool:
- a. They disproportionately target mechanisms designed to improve Māori representation in local government, reinforcing existing inequalities.
  - b. Māori, as a minority are more likely to have their interests overruled in referendums, perpetuating systemic disadvantage and exclusion from decision-making processes.
  - c. They can become platforms for the expression of racist attitudes, with campaigns often stirring up anti-Māori sentiment and misinformation, leading to the wider acceptance of racism and racially divisive rhetoric.

#### WAITANGI TRIBUNAL REPORT

- 26 In the Māori Wards and Constituencies Urgent Inquiry Report (Wai 3365) on this very Bill, the Tribunal found breaches of the Treaty principles of partnership (which includes the duties of active protection and to act reasonably and in good faith) equity, mutual benefit, and options.

- 27 The Tribunal found that:

In deciding to reinstate the poll provisions and require select wards to be dissolved or subject to a binding poll, the Crown has prioritised commitments made in the coalition agreement over its obligations to Māori under the Treaty. There has been no discussion or consultation with Treaty partners as to the proposed changes, and Treaty obligations have been treated as if they were optional. The Government does not have a unilateral right to set aside Treaty obligations. In addition, the failure to consult Māori is a clear breach of the Treaty principle of partnership. **We consider that this decision-making process is particularly egregious when it concerns measures that were introduced to remove previous discriminatory barriers to Māori political representation and to uphold the Treaty partnership at a local level.**

[Emphasis added]

- 28 Of binding polls, it found:

We consider that the poll provisions are inequitable and discriminatory and a barrier for Māori representation in local government. Reinstating them will make establishing, or reestablishing, Māori wards or constituencies insurmountable. The proposed legislation is also likely to raise human rights issues under The New Zealand Bill of Rights Act 1990.

- 29 As to the policy process, the Tribunal found that:

- a. the Government has failed to make a reasonable and informed decision, in breach of the duty to act in good faith.
- b. The policy process has been rushed to fit Ministerial timeframes with inadequate consideration of Māori views in official advice.
- c. The Crown has breached the Treaty principle of partnership by prioritising coalition agreement commitments and completely failing to consult with its Treaty partner or any other stakeholders.

- 30 The Tribunal has recommended that the Crown stop the amendment process to allow proper consultation between the Treaty partners with a view to agreeing how Māori can exercise the guarantee of tino rangatiratanga in article 2 to determine their own dedicated representation in local government.

## CONCLUSION

- 31 The Trust Board:
  - a. **endorses** the recommendation of the Tribunal to stop the amendment process to allow proper consultation between Treaty partners; and
  - b. **seeks** that the Select Committee inform the relevant Cabinet Minister, and propose in its report to the House, that this draft Bill should not become law.