Kaunihera | Council

Mēneti Wātea | Open Minutes

Minutes of an extraordinary meeting of Matamata-Piako District Council held in the Council Chambers, 35 Kenrick Street, TE AROHA on Wednesday 28 April 2021 at 9.00am.

Ngā Mema | Membership

Koromatua | Mayor
Ash Tanner, JP (Chair)

Koromatua Tautoko | Deputy Mayor
Neil Goodger

Kaunihera ā-Rohe | District Councillors
Donna Arnold
Caitlin Casey
Teena Cornes
Bruce Dewhurst
James Sainsbury
Russell Smith
Kevin Tappin
James Thomas
Sue Whiting
Adrienne Wilcock

Ngā whakapāha | Apologies

Cr Teena Cornes

Kaimahi i reira | Staff Present

Name	Title	Item No.
Don McLeod	Chief Executive Officer	
Stephanie Hutchins	Committee Secretary and Corporate Administration Officer	
Ellie Mackintosh	Legal Advisor	4.1, 4.2, C1
Susanne Kampshof	Asset Manager Strategy and Policy	4.1
Niall Baker	Corporate Strategy Team Leader	4.2
Jenni Cochrane	Communications Manager	4.2
Andrea Durie	Senior Communications Advisor	4.2, C1
Manaia Te Wiata	Business Support Group Manager	C1
Roger Lamberth	Property and Community Projects Manager	C1

I reira | In Attendance

	Time In	Time Out
Chloe Blommerde – *Stuff Reporter, Waikato Times*	9.00am	12.35pm
Linda O'Reilly – *Brookfields (Zoom)*	11.18am	12.00pm
Lisa Gardiner – *General Manager, Ngāti Hauā Iwi Trust*	11.09am	12.35pm
Bevan Goldsmith	11.09am	12.35pm

1 Whakatūwheratanga o te hui | Meeting Opening

Ash Tanner welcomed elected members, staff and public to the meeting and declared it open at 9.00am.

2 Ngā whakapāha | Apologies

Apology

COUNCIL RESOLUTION

That the apology from Cr T Cornes be accepted and leave of absence from the meeting be granted.

Moved by: **Cr D Arnold**
Seconded by: **Cr J Sainsbury**

KUA MANA | CARRIED

3 Pānui tāpiritanga take | Notification of Urgent Business

Section 46A(7) of the Local Government Official Information and Meetings Act 1987 (as amended) states:

"An item that is not on the agenda for a meeting may be dealt with at that meeting if-

(a) The local authority by resolution so decides; and

(b) The presiding member explains at the meeting, at a time when it is open to the public,-

(i) The reason why the item is not on the agenda; and

(ii) The reason why the discussion of the item cannot be delayed until a subsequent meeting."

Mayor A Tanner explained to elected members the reasons for the item was not included due to information received after the agenda was distributed nad health and safety regiulations require it to be addressed at this meeting.

Motion to consider Urgent Business

That **Item No. C1** be considered as a matter of urgency due to health and safety regulations.

Moved: Cr J Sainsbury
Seconded: Cr D Arnold

KUA MANA | CARRIED

Section 46A(7A) of the Local Government Official Information and Meetings Act 1987 (as amended) states:

"Where an item is not on the agenda for a meeting,-

(a) That item may be discussed at that meeting if-

(i) That item is a minor matter relating to the general business of the local authority; and

(ii) the presiding member explains at the beginning of the meeting, at a time when it is open to the public, that the item will be discussed at the meeting; but

(iii) no resolution, decision or recommendation may be made in respect of that item except to refer that item to a subsequent meeting of the local authority for further discussion."

4 Whākī pānga | Declaration of interest

Members are reminded of their obligation to declare any conflicts of interest they might have in respect of the items on this Agenda.

OFFICER REPORTS

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4 Pūrongo me whakatau | Decision Reports

Elstow School Speed Limit Resolution Revocation

CM No.: 2404469

Rāpopotonga Matua | Executive Summary

Consultation on the Land Transport Bylaw was open from 2 December 2020 to 15 January 2021. Council received 34 submissions. Council made the decision to adopt all the recommendations. After this decision Council received correspondence from Waka Kotahi NZ Transport Agency (Waka Kotahi) that the Elstow School variable school hours 60km/hr speed limit is unable to be allowed until new legislation comes into effect around October 2021, that will allow 60km/hr speed limits outside rural schools.

COUNCIL RESOLUTION

That:

1. **The information be received.**

2. **Council to revoke the following resolution made on 17 February 2021, *Council adopts the amendments to the speed limits as specified in the attached maps and Bylaw amendments for the following places; Tautiti Road, Bowler Road, Ngutumanga Road & Mellon Road Intersection – Rural Intersection speed zone,* and *Tautiti Road, Bowler Road, Ngutumanga Road & Mellon Road Intersection – School Speed zone***

3. **Council will make a submission to Waka Kotahi NZ Transport Agency about the proposed speed limit changes around the school zones.**

Moved by: **Cr D Arnold**
Seconded by: **Cr J Thomas**

KUA MANA | CARRIED

Horopaki | Background

Elstow School
On Wednesday 17 February Council adopted the following two recommendations in relation to Elstow School,

> ***Council adopts the amendments to the speed limits as specified in the attached maps and Bylaw amendments for the following places;***
>
> *a. **Tautiti Road, Bowler Road, Ngutumanga Road & Mellon Road Intersection – Rural Intersection speed zone***
>
> *b. **Tautiti Road, Bowler Road, Ngutumanga Road & Mellon Road Intersection – School Speed zone***
>
> ***The amendment… will come into effect on 3 May 2021***

In notifying Waka Kotahi of the resolutions, we were subsequently informed that there may have been a misunderstanding and that Matamata-Piako District Council were not allowed to proceed with the 60km/hr school zone and variable intersection speed change outside of Elstow School. The Rural intersection Activated Warning sign (RIAWS) is also in conflict with the variable school sign and the operation of both successfully is not possible.

Further to this, currently in a 100km/h speed zone, neither a variable school limits of 60km/h or RIAWS are approved by Waka Kotahi. Waka Kotahi have advised that Council must wait until legislative changes to a 60km/hr speed limit outside of rural schools comes in force before this change can be made and the proposed legislative change cannot be taken into consideration. Note that the legislation change should be out for consultation at the end of April until June which may even look to set regulation around school zones to become permanent instead of variable. When this legislation comes into force Council will be able to adopt the changes quickly without consultation, as Council is unable to have a bylaw that is inconsistent with legislation.

Ngā Take/Kōrerorо | Issues/Discussion

Council were made aware in the last report and on the day of the hearing that Waka Kotahi had expressed disagreement with some of our proposed changes to this Bylaw and that they could overturn our speed limit decisions. This is a situation where they have advised they would do so. Section 22AB of the Land Transport Act 1998 gives Council the power to make a Bylaw regarding various transport issues. Section 22AC of this Act gives the Minister power to amend, replace, or disallow bylaws due to inconsistencies with any enactment or being unreasonable or undesirable in so far as it relates to or may affect traffic. Section 2.10 of the Setting of Speed Limits Rule 2017 gives Waka Kotahi the power to investigate and direct a road controlling authority and to change or modify a speed limit.

Discussions with Waka Kotahi have continued but they are not able to approve the Variable School limit of 60km/h or the RIAWS speed of 60km/h.

In response we believe it is appropriate to rescind our decision rather than requiring Waka Kotahi to use their formal powers. Reasoning for this is that we believe it will help relations with Waka Kotahi and let them know that we respect their decision when they do decide to put their foot down on a matter. Staff believe it would be remiss to maintain a speedlimit in the bylaw that is not in accordance with the Setting of Speed Limits Rule 2017 the speeds are not enforceable by the police. There is a risk that it will cause community members to be upset that Council has not implemented their decision and that the bylaw does not match the reality and result in complaints to Council.

Ngā Whiringa | Options

Council is not obligated to rescind their resolution but staff for the reasons outlined above recommend it. The funding of all of our signage, including electronic signage, and safety work is funded 51% from Waka Kotahi. The programme of works needs to be approved by Waka Kotahi in order to receive the funding.

By implementing a speed limits that are not in accordance with the Setting of Speed Limits Rule 2017 the speeds are not enforceable by the police.

Ngā take ā-ture, ā-Kaupapahere hoki | Legal and policy considerations

Under section 4 of the Land Transport Rule Setting of Speed Limits 2017 Authorities are entitled to set the speed limit of roads in their district that are not under the control of the New Zealand Transport Agency (NZTA).

4.4 of the Rule allows Councils to set permanent, holiday, or variable speed limits meeting the following criteria:

a) must take account of any submissions received during consultation under 2.5 and 2.6; and
b) May have regard to any other factor the road controlling authority considers relevant to achieving travel speeds that are safe and appropriate on a road; and
c) Must aim to achieve a mean operating speed less than 10% above the speed limit

Section 22AB of the Land Transport Act 1998 gives Council the power to make a Bylaw regarding various transport issues. Section 22AC of this Act gives the Minister power to amend, replace, or disallow bylaws due to inconsistencies with any enactment or being unreasonable or undesirable in so far as it relates to or may affect traffic. Section 2.10 of the Setting of Speed Limits Rule 2017 gives Waka Kotahi the power to investigate and direct a road controlling authority and to change or modify a speed limit.

If this amendment is considered an amendment of the bylaw then under S79 of the Local Government Act alongside Council's Significance and Engagement Policy consultation and a formal bylaw amendment is not required. Under the Act Council needs to take into consideration the significance of the matter, extent of different options, the benefits and costs, and the extent/detail of the information to be considered and with this amendment there are no alternative options available to Council. Council cannot maintain the speed limit without Waka Kotahi approval so it needs to be removed.

Ngā Pāpāhonga me ngā Wātaka | Communications and timeframes

Public notice of the changes made on 17 February 2021 have not yet been completed, it will be completed after this item has gone through, this means a retraction to the notice will not need to be completed if Council adopt the resolution today.

Decision letters sent on 09 March 2021 advised submitters to keep an out for further changes after the meeting

> *"Council has recently been advised that the speed limit for Elstow School during drop off and pick up times cannot be accepted by Waka Kotahi (NZ Transport Agency), as the legislation allowing 60km/hr speed limits outside of rural schools has not yet been adopted. In the near future Council will be looking considering whether to rescind their decision regarding this speed limit, please visit www.mpdc.govt.nz for Council agendas and minutes for an update on this and we will issue a notice if the above decision changes."*

Ngā Tāpiritanga | Attachments

There are no attachments for this report.

Ngā waitohu | Signatories

Author(s)	Ellie Mackintosh **Legal Advisor**	

Approved by	Susanne Kampshof **Asset Manager Strategy and Policy**	
	Niall Baker **Corporate Strategy Team Leader**	

	Don McLeod **Chief Executive Officer**	

Adjournment of Meeting

The meeting adjourned at 9.10am to consider items on the Corporate and Operations Committee agenda and reconvened at 11.21am.

Moved: Cr K Tappin
Seconded: Cr R Smith

KUA MANA | CARRIED

Consideration of Māori Ward/s

CM No.: 2407524

Rāpopotonga Matua | Executive Summary

This report seeks to inform Council on options for the establishment of a Māori Ward/s following recent changes to the Local Electoral Act 2001 (the Act) and to seek the Council's decision on whether or not to establish a Māori Ward. Council is asked to give consideration to the decision making provisions of the Local Government Act 2002 and decide if it wishes to undertake further consultation/engagement on this issue. The report is accompanied by the recommendation from Te Manawhenua Forum that Council establish a Māori Ward for 2022 elections, and that the Forum continue regardless of the decision on a Māori Ward.

Concerns had been expressed about the way Māori Wards were created under the legislation, as a Council's decision was subject to a binding public poll if demanded by 5% of electors. In February 2021 Local Government Minister, Hon. Nanaia Mahuta announced a law change saying *"Increasing Māori representation is essential to ensuring equity in representation and to provide a Māori voice in local decision making. It will also lead to greater Māori participation in the resource management process".* To achieve this, the Local Electoral (Māori Wards and Māori Constituencies) Amendment Act has been passed which makes the following change to the Act:

- repeals the provisions in the Act that relate to polls on the establishment of Māori Wards and constituencies;
- prohibits binding council-initiated polls on whether to establish Māori constituencies (while retaining the right for councils to initiate non-binding polls to gauge public sentiment), and;
- establishes a transition period ending on 21 May 2021 during which any local authority may, regardless of any previous decisions or previous poll outcomes, resolve to establish Māori constituencies for the 2022 local elections.

There is no obligation on councils to consider Māori wards or constituencies during the transition period. Council now has a fresh opportunity to consider establishing Māori Wards for the 2022 local elections. Any resolution to do this would need to be made by 21 May 2021. A decision made after this date would first be applicable to the local elections in 2025. A decision to establish Māori ward(s) remains in force for six years (two election cycles), and then continues in effect until a further resolution takes effect.

Based on the current number of general ward councillors staying the same at 11 councillors, and the population calculations set out in the legislation, one Māori ward Councillor could be provided for Matamata-Piako District at the 2022 elections, making the total number of councillors 12.

Establishing a Māori Ward for the 2022 elections will trigger a representation review process to be carried out by November this year. This is because a decision to create a Māori Ward can affect the general representation arrangements of how the Wards are set up across the district, and the number of Councillors in each Ward etc. If required, staff will report back to Council to set the 'initial representation proposal' for public consultation. However, it is important to note that the decision to establish Māori wards will not be open for submissions and it is not reversible through the representation review process. If Council opts to create a Māori Ward/s there is no right of appeal to the Local Government Commission on it.

Each Councillor must represent a similar number of people within each Ward. The current representation structure does not comply with this requirement, with Matamata and Te Aroha Wards falling outside the allowable range. If the current representation structure is maintained with

the addition of a Māori Ward, it will require referral to the Local Government Commission for a formal determination. The Commission may decide to uphold the Council decision or change it, and they may determine an arrangement that Council does not desire.

Under the current Ward system there is no distinction between the electors on either the General or Māori rolls.

If Māori Wards are to be established the following would apply:

a) The candidates standing for election would be able to choose whether they want to stand for the Māori Ward or the General Ward.
b) A candidate standing for the Māori Ward does not need to be on the Māori electoral roll (they can be on the general roll).
c) A candidate standing for the General Ward does not need to be on the general roll (they can be on the Māori roll).
d) Māori roll - only electors on the Māori electoral roll would be eligible to vote for the Māori Ward Councillors.
e) General roll - only electors on the general roll will be eligible to vote for the General Ward Councillors.

If Māori Wards are to be established anyone could stand for the Māori Ward, including non- Māori, provided they are a NZ citizen on the parliamentary roll somewhere in NZ. Both nominators must be on the Māori roll in the relevant Maori ward area. Likewise for the general wards, anyone can stand, including those on the Māori roll, but the two nominators must be on the general roll for that Ward area.

COUNCIL RESOLUTION

That:

OPTION 2 – No Consultation

1. **The information be received.**

2. **Council does not undertake consultation with the wider community and has given consideration to the views and preferences of persons likely to be affected by, or to have an interest in this issue.**

Cr R Smith, Cr S Whiting and Cr B Dewhurst voted against the motion.

Moved by: **Deputy Mayor N Goodger**
Seconded by: **Mayor A Tanner**

KUA MANA | CARRIED

COUNCIL RESOLUTION

3. **a) Council makes a decision under Option 3, as set out below:**

OPTION 3 – Establish a Māori Ward(s)

4. **Council establish one or more Māori Ward(s) in the district for electoral purposes, under the Local Electoral Act 2001.**

5. **The total number of Māori Ward(s) Councillor(s), number of Māori Ward(s), boundaries and Ward name(s) be determined through a representation review process, this includes a full review of all Council representation structure (other than the Mayor) not only a Māori Ward(s).**

6. **Council note the resolution will take effect for the purposes of the next two triennial general elections (i.e. 2022 and 2025), and for any associated election, and continues in effect after that until a further resolution takes effect.**

7. **Advice on an appropriate name for the Māori Ward(s) be sought from Te Manawhenua Forum mo Matamata-Piako.**

8. **Council has given consideration sections 76, 77, 78, and 79 of the Local Government Act 2002 and in its judgment considers it has complied with the decision making provisions for the reasons supporting the creation of Māori Ward(s) as per the agenda and in response to the 'Considerations against further consultation' set out in the table on page 25-26 of the agenda.**

Cr R Smith abstained from voting.

Moved by: **Cr K Tappin**
Seconded by: **Cr C Casey**

KUA MANA | CARRIED

Horopaki | Background

The Act requires Council to review its representation arrangements every six years. Council conducted its last review in 2018. In preparation for this, Council considered Māori Wards on 8 November 2017 and passed the following resolution:

That:

1. *The information be received.*
2. *Council does not establish a Māori Ward in the Matamata-Piako District for the 2019 triennial general election.*
3. *Council does not establish a Māori Ward for the 2019 triennial election in view of:*
   - *The pending treaty settlements*
   - *The current review of the Te Manawhenua Forum Heads of Agreement*
   - *Development of Iwi participation agreements which are underway*

Under the Act, Councils decide their own representation arrangements, including whether to establish Māori and/or general wards and constituencies.

Under the previous legislation, Councils were required to publicly notify any decision to establish a Māori Ward and include information that a public poll can be demanded to overturn the council resolution. If a valid demand in writing signed by 5% of electors was received, then the council was required to hold a binding poll (the outcome of the binding poll lasts for two elections).

Polls have proven to be a significant barrier to Councils trying to establish Māori Wards. Since the previous legislation has been in place, 24 Councils have attempted to establish Māori wards or constituencies but only two have been successful – Waikato Regional Council and Wairoa District Council. (The Bay of Plenty Regional Council has Māori wards set up under special legislation).

In February 2021, Hon. Nanaia Mahuta, Minister of Local Government, sent Council a letter advising that a Bill will be introduced to Parliament to remove the binding poll option from the process for establishing Māori Wards and constituencies (including both council-initiated and elector-demanded polls). This will make it easier for councils to introduce Māori Wards. The Minister has directed that the legislative changes are to be done in two stages:

- Stage 1 - remove the ability for binding polls to be conducted on establishing Māori wards/constituencies (including polls on council resolutions made in this local government term); and
- Stage 2 - establish a new process for decisions on whether to establish Māori wards that is better aligned with the current process for establishing general wards and constituencies (these changes would be enacted in time to apply to the 2022-2025 local electoral term).

<u>Local Electoral (Māori Wards and Māori Constituencies) Amendment Act 2021</u>
In order to improve the democratic representation of Māori interests, ensure equity in representation and provide a Māori voice in local decision-making the Bill:

- repeals the provisions in the Local Electoral Act 2001 that relate to polls on the establishment of Māori wards and constituencies
- prohibits binding council-initiated polls on whether to establish Māori Wards or constituencies (while retaining the right for councils to initiate non-binding polls to gauge public sentiment) and
- Establishes a transition period ending on 21 May 2021, in which any Council may, regardless of any previous decisions or previous poll outcomes, resolve to establish Māori wards or constituencies for the 2022 local elections.

Ngā Take/Kōrerorero | Issues/Discussion

Te Manawhenua Forum recommendation

Council informally discussed the topic at a workshop and asked that the issue be referred to the Forum for consideration. At their meeting 2 March, the Forum passed the following Resolution:

That:
1. *The information be received.*
2. *The Forum recommend that Council establish a Māori Ward/s for the 2022 triennial election.*
3. *The Council supports the continuation of the Forum regardless of the decision of the Māori Ward.*

Forum members made the following general comments:

- Query on what happens to the Forum if a Māori Ward is setup. The Māori Ward Councillor could be appointed to sit on the Forum.
- Noted that the Māori Ward Councillor would be only one person rather than being representative of different iwi in the district. It was noted that candidates would not necessarily be affiliated to iwi.
- Having Māori at the decision making table should be supported as well as the continuation of the Forum.
- Provides for greater representation on Council; reflects the Treaty of Waitangi and the issue of equity in terms of a Māori voice. These are two very critical things to progress on behalf of mana whenua.
- Recommendation in support of Māori Wards should not affect current representation and the current number of Councillors should not be reduced.

All members present at the meeting supported the resolution; there were no votes recorded against.

Number of Māori Ward members

The number of Māori members to be elected to the Council depends on a mathematical formula based on the Māori and general electoral populations of the district, related to the total number of councillors.

The Act is prescriptive in that Councillor make-up is based purely on population; there is no room in the legislation for providing ward representation for Māori that reflects the reality of the numerous individual iwi in the district.

Māori wards and constituencies are subject to the same population ratio rules as general wards and constituencies. This ensures that all representation at the council is fair.

This formula is set out in the Act. For Matamata-Piako District, the effect of applying this formula is:

Number of Māori Councillors	1	2
Total Number of Councillors	6-13	14-30

Note: Under the Act, Councils can have between 6 and 30 Councillors.

Therefore, for a Council comprising 11 Councillors, as current, the total number of Māori Ward Councillor/s would be one, based on rounding the formula figure of 1.25 to the nearest whole number. Similarly, for 14 Councillors, the number would be 1.59, rounded to the nearest whole number, being two. If Council decide to create a Māori ward or wards then the total number of Councillors will also need to be reviewed through the representation review.

Some potential representation scenarios are attached.

For Matamata-Piako District, the likely scenarios for a Māori ward system would be:

a) One ward comprising electors on the Māori roll covering the whole of the district, electing one or two Councillors. Whether one or two Councillors are elected depends on the total number of Councillors, as shown in the table above, or

b) Two wards comprising electors on the Māori roll covering different parts of the district, each Māori ward electing one Councillor each or a single Ward electing both Councillors. This option would only be possible if the Council is to comprise 14 or more Councillors in total.

If a Māori Ward/s is created, Māori on the Māori roll will have guaranteed representation proportional to the percentage of the electoral population they make up. Based on the number of Councillors staying the same at 11 Councillors, one Māori ward can be proposed for Matamata-Piako District.

If Māori were to be entitled to only one Councillor, a Māori Ward would then need to cover the whole district. Under the current system, any Councillor elected to represent a Māori Ward would need to be representative of all Māori as a distinct community of interest rather than represent the interests of a particular iwi only. It is open to the Council to consider that such an arrangement would or would not provide effective representation.

If a Māori ward or wards were established, the remaining Councillors would be elected by either a single ward for general electors or a number of wards (as currently the case) or by some other arrangement (e.g. a mix of at large and wards).

Matamata-Piako Populations
The number of Māori Ward Councillors the District could have is calculated using the General Electoral Population and Māori Electoral Population.

As at 2020 the total population for Matamata-Piako District was 36,330. Of that number, the General Electoral Population is 32,200 and the Māori electoral population 4,130. The Local Government Commission has this information on their website. These are based on the Statistics NZ 2018 census figures.

The census usually resident population count is split into two segments:

- The Māori electoral population (MEP) – a proportion of the electoral Māori descent census usually resident population count. This is based on the percentage of Māori descent electors who choose the Māori electoral roll.
- The general electoral population (GEP) – the electoral non-Māori descent census usually resident population count, and a proportion of the Māori descent census count who choose the general electoral roll.

The Māori electoral population figure is worked out using a calculation specified in the Electoral Act 1993.

The General Electoral Population or Māori Electoral Population is not the same as the number of people enrolled to vote in the district (i.e. electors).

Candidate and voter eligibility for Māori Wards
To be eligible to stand for election, a candidate must be:

- A New Zealand citizen (by birth or citizenship ceremony); and
- enrolled as a Parliamentary elector (anywhere in New Zealand); and
- Nominated by two electors whose names appear on the electoral roll within the respective area that a candidate is standing for. As such, candidates in Māori Wards do not have to be of Māori descent.
- Candidates cannot stand for General and Māori Wards at the same time.

This is explained further below:

Under section 25 of the Act any person enrolled as a parliamentary elector (a New Zealand citizen of 18 years or older) may be a candidate for any election held under the Act. Candidates for Māori Wards can be non-Māori and/or not on the Māori roll. Similarly, a person on the Māori roll can run for election in a General Ward.

A candidate does not have to be a resident of the relevant ward in order to be a candidate for its representation. The candidate profile statements (distributed to voters as a booklet) must state whether or not the candidate's principal place of residence, is in the local government area for which the candidate seeks election (for example, either "My principal place of residence is in the Morrinsville Ward" or "My principal place of residence is not in the Morrinsville Ward"). This would also apply to the Māori Ward. The requirements for candidate profile statement mean voters can consider a candidates residency when they cast their votes.

Section 26 of the Act provides that in order for a candidate to stand in an election they must be nominated by two or more electors of the ward in which the candidate is to stand. That means nominations for candidates standing in a Māori Ward must be made by electors on the Māori roll, which is the same as for General Ward whereby nominators must be on the General Electoral roll for the electoral area they are nominating a candidate for. A Māori Ward candidate does not need to be affiliated with an iwi within the Matamata-Piako District or indeed be a Māori elector at all.

Only electors of a Māori Ward may vote for candidates standing for election to a Māori Ward. The other Councillors will be elected from General Wards by electors on the General electoral roll. No one can vote in both a General and a Māori constituency. This relates to the underlying principle of 'One voter, one vote'.

Assuming the status quo arrangements (with the addition of Māori Ward/s) continue for the 2022 elections, and elections occur for the Waikato District Health Board this time around with the pending Health reforms etc., the following table explains who votes in which Matamata-Piako elections:

Those on the Māori roll would be eligible to vote for the following candidates:	**Those on the General roll would be eligible to vote for the following candidates:**
• Matamata-Piako District Council Mayor • Matamata-Piako District Council Māori Ward/s (if established)	• Matamata-Piako District Council Mayor • Matamata-Piako District Council General Wards (Matamata, Morrinsville,

Those on the Māori roll would be eligible to vote for the following candidates:	**Those on the General roll would be eligible to vote for the following candidates:**
• Ngā Tae ki Uta Māori Constituency for Waikato Regional Council • Waikato District Health Board	Te Aroha) (assuming no change to the current Ward structure) • Waihou General Constituency for Waikato Regional Council • Waikato District Health Board

Māori Ward voting
The number of people enrolled on the Māori roll gives an understanding of how many people could potentially vote for a Māori Ward candidate/s. Electoral roll enrolments are managed by the Electoral Commission. The number of enrolments in the district will frequently change due to people moving in/out of the area, those turning 18 etc., but it does give an indication.

The Enrolment statistics for the Matamata-Piako District as at 31 March 2021 from the Electoral Commission are as follows:

Wards	**Electoral rolls**	**Enrolments**
Morrinsville Ward	General Roll	8,482
	Māori Roll	672
Matamata Ward	General Roll	9,196
	Māori Roll	838
Te Aroha Ward	General Roll	5,546
	Māori Roll	371
Estimated eligible population		**23,224 General roll** **1,881 Māori roll**

A consideration is whether the district electors will be fairly represented by their votes being of approximately equal weight. This will ultimately depend on the final representation structure that is set.

Representation review
If Council resolved to have Māori Wards, the detailed representation arrangements (of the boundaries and the number of members, Ward name etc.) would then be worked through as part of the Representation review process. If Council resolves not to establish Māori wards, the next Representation review will be due in 2024 for the 2025 election.

A decision on establishing a Māori ward must be completed before Council can begin to review its representation arrangements. It is the first step that feeds into the Representation Review which the Council is required to undertake every six years.

A formal Representation Review process involves consideration of 'fair and effective representation' for the communities of interest in the district including the number of councillors to be elected as well as the names and boundaries of the Wards that will elect them.

Council last undertook its representation review in 2018. The review is not due again until 2024, but would be required to be reviewed this year if a Māori Ward is created for the 2022 elections.

Each Councillor must represent a similar number of people within each Ward (called the +/-10% fair representation rule). The +/-10% fair representation rule applies between Māori wards (if there is more than one) but not between Māori and general wards.

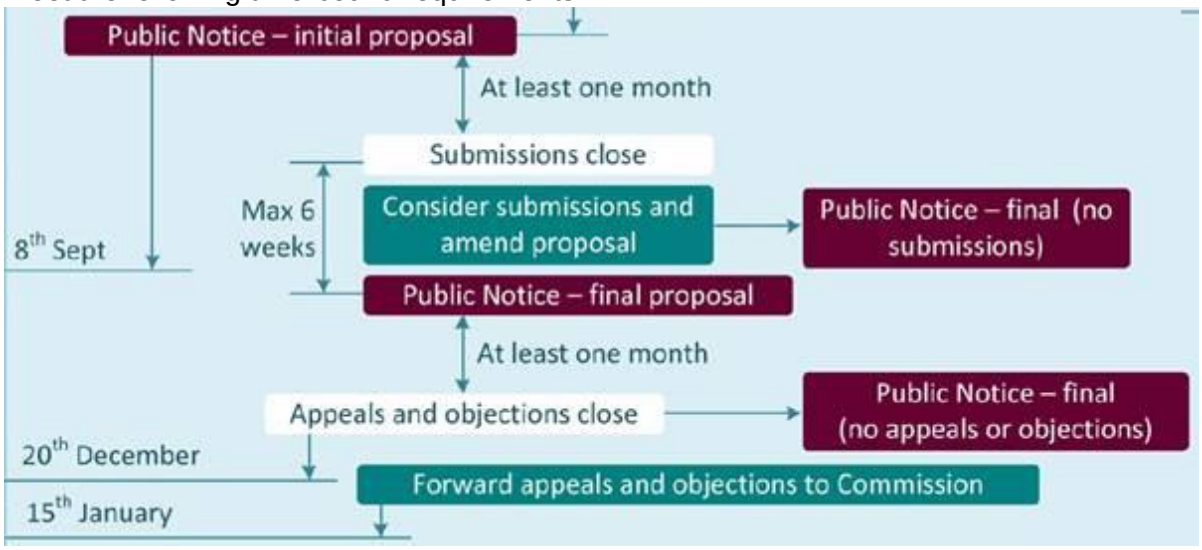
The current representation structure does not comply with this requirement, with Matamata and Te Aroha Wards falling outside the allowable +/ - 10% range (refer attached tables). If the current representation structure is maintained with the addition of a Māori Ward, it will require referral to the Local Government Commission for a formal determination.

The Commission may decide to uphold the Council final proposal or change it, and they may determine an arrangement that Council does not desire. It is noted that depending on the overall representation arrangement selected, a Māori Ward could bring about a more balanced representation structure across the general Wards (improving compliance with the +/ - 10% rule).

If Council was to resolve to establish one or two Māori Wards for the 2022 elections a Representation Review would need to be initiated by July/August 2021 in order to enable public notification of an initial proposal no later than 8 September 2021, within the maximum 14 days of Council's resolution.

Given the current Long Term Plan process it is suggested the process be undertaken roughly from July/August - November 2021. If Council opts to create a Māori Ward for the 2022 elections, staff will develop a more detailed timeline and communications plan to work through this.

Submissions, hearings and appeal periods following public notice of Council's initial proposal must meet the following time-bound requirements:



It is important to note that the decision to establish Māori wards is not reversible through the representation review process. This is because:

- Clause 2(3)(b) of the Act states that it takes effect for 2 elections, after which it can be reversed.
- The decision is taken prior to the representation review commencing, not as part of it
- The process in Schedule 1A of the Act does not include a mechanism for it to be reversed.
- The Local Government Commission does not have jurisdiction to consider whether or not a Māori Ward should be created. (I.e. they could not overturn or change a decision by Council to create a Māori Ward).

This means a Council resolution to establish a Māori Ward for the 2022 elections will be locked in and not open to challenge / submissions. The Council makes the decision on Māori Wards and there is no right of appeal to the Local Government Commission on Māori Wards. A resolution to create a Māori Ward would set this in place for the next two triennial election cycles, before it could be changed.

The representation review would seek public feedback on the detailed arrangements such as the Ward boundaries and names and the total number of elected councillors (including the number of Māori Wards) etc., however public submissions, or any appeals & objections to the Commission will not be able to reverse a decision to create a Māori Ward/s.

The representation review would need to be focused in this way to only seek public views on how the other Councillors are to be elected, and the total number of Councillors, Ward boundaries etc. rather than whether or not a Māori Ward/s should be created (as that decision would have already been made).

Previous Matamata-Piako consultation feedback:

2012 survey
In 2012 pre consultation survey was undertaken with 71 respondents. Key results were:

Issue	Yes	No	Not specified	Total
Is our current structure effective?	41 **(58%)**	15 **(21%)**	15 **(21%)**	71
Should a Maori Ward be established?	11 **(16%)**	50 **(70%)**	10 **(14%)**	71

Feedback was predominantly strongly against introduction of a Māori ward. Written comments were provided by respondents. Given the small sample of the district that the 71 submissions represent, care must be taken interpreting the feedback as reflecting of the views of the community as a whole but it may provide an indication of where the views of the community might lie generally.

2017 Survey
In 2017 a community survey on local representation was undertaken with 423 total respondents. Key results were:

Question	Yes	No	Not applicable	Yes and No
Do you think our current representation system fairly reflects our community?	337 **(80%)**	69 **(16%)**	16 **(4%)**	1 **(1%)**
If no, Please tell us how you think people in our community should be represented?	Urban and Rural wards **(32, 34%)** No wards at all (Councillors elected at large like Mayor) **(26, 28%)** Maori Ward **(15, 16%)** A mix of wards and Councillors elected at large **(12, 13%)** Other **(9, 9%)**			

Decisions by other Councils
Introducing a Māori Ward under the previous legislation was not straight forward based on the experience of other Councils. 24 Councils have attempted to establish Māori wards or

Constituencies, with most of them having polls and the Council decisions overturned with only two Councils having been successful.

Councils with Māori Wards / constituencies are BOP Regional Council (introduced 2001 by specific legislation), Wairoa District Council (result of poll in 2016 50% for, 42.5% against), Waikato Regional Council (introduced 2013 by Council resolution – no poll received in response to council resolution).

Apart from Wairoa District Council and Waikato Regional Council all previous polls undertaken in New Zealand resulted in a 'no' vote and no Māori wards were established
(See table below for recent examples).

Council	Result
Western Bay of Plenty District Council 2018	22% for, 78% against
Whakatāne District Council 2018	44% for, 55% against
Palmerston North City Council 2018	31% for, 69% against
Kaikoura District Council	2018 20% for, 80% against
Waikato District Council 2015	20% for, 80% against
Far North District Council 2015	32% for, 68% against
New Plymouth District Council 2015	17% for, 83% against
Hauraki District Council 2013	19% for, 81% against

As discussed earlier the poll provisions have now been removed from the legislation.

Voter turnout / elected member ethnicity
There is limited information available of voter turnout by ethnicity. There is evidence from a report done by Auckland Council from the 2019 local election that showed there was an 11 percentage point difference in voter turnout between electors who indicated Māori descent and those who did not (25% compared with 36%). Such figures do need to take into account numbers of candidates etc.

Of the three Councils that currently have Māori Wards or Constituencies in place the Māori voter turnout was as follows:

- Wairoa District Council introduced a Māori Ward at the 2019 elections. The voter returns for the Māori wards in Wairoa District was 45% and 55.9% for the General Ward, although it is understood that Māori stood and were successful in the general ward as well.
- The two Māori Constituencies for Waikato Regional Council had candidates elected unopposed in 2019. Their previous election in 2016 shows an average of 43.48% total returns for the general constituencies and average return of 23.65% for the Māori constituencies.
- At the 2019 elections the two out of the three Māori constituencies for Bay of Plenty Regional Council had contested elections. The overall turnout for these were 29.9% and 41.7% compared to 50.9% and 39.8% for the two General Constituencies that had contested elections.

The turnout from the three Councils who currently have Māori Wards / Constituencies shows the turnout among Māori voters is usually less than the general Wards / Constituencies. There is little information available about why people choose to vote or not. There can also be other factors involved for example in 2016 Matamata-Piako did not have contested elections in two of the three wards and the mayoralty was uncontested as well so the voter turnout was very low.

For Matamata-Piako District in the 2018 census, the "Māori ethnic group" was 16.7% and those of "Māori descent" was 20.2% of the population. Those who identify as Māori made-up 16.5% of the total NZ population in the 2018 census.

Across NZ Councils, Māori elected representation is estimated at 13.5% from Local Government New Zealand's (LGNZ) post-election survey of elected members. This survey covers all those elected to local government, with a response rate of 50%. In 2019 approximately 54% of the respondents who identified as Māori were first time members and 60% of those who identified as Māori were women. Increasing Māori representation has been a feature of local authority elections since 2004 with the 2019 cohort having the highest proportion of Māori members since records began at 13.5%.

Potential opportunities of a Māori Ward

Developing more effective partnerships with Māori are an aspiration expressed by Council. Increasingly there are both statutory and non-statutory drivers for improved and more formalised iwi direct engagement in Council processes. Natural resource management is a focus for iwi and legislation has increasingly required Council to work closer with iwi in response. Simultaneously various iwi groups have been moving through Treaty settlement processes which are providing greater capability, influence and economic strength to Māori within the district and beyond. In tandem these developments have increased the expectation on Council to co-govern and co-manage the district resources.

Māori representation is premised on Māori being a distinct 'community of interest' who are afforded particular guarantees under the Treaty of Waitangi. Involvement in decision-making is currently provided for in range of ways and whether it is necessary to extend this to dedicated Māori Ward representation is a question for Council to determine in giving effect to its obligations under section 14 of the LGA (refer below).

The principal advantage for establishing a Māori ward or wards is to provide a direct Māori voice on the Council - an opportunity to enhance understanding and decision making directly at the Council table. This voting right would reflect the respect and mana of partnership at the table as intended by the Treaty of Waitangi and would allow the Māori perspective on any topic to be represented as it would be reflected directly in the vote.

This voting right would mean one of 13 votes on Council (assuming a Māori Ward Councillor adds to the current arrangement of 11 Councillors plus Mayor).

People of New Zealand Māori descent and who are enrolled to vote can choose which electoral roll they want to be on – the General roll or the Māori roll. Electors who said they were of New Zealand Māori descent when they enrolled to vote will get a Māori Electoral Option pack in the mail every 5 years — after every census. The period for changing rolls runs for 4 months. The last option was held in 2018. For those already enrolled, the next opportunity to change rolls will be in 2024. Only Māori enrolling for the first time or re-enrolling after having previously been removed from the roll are able to choose to enrol on the Māori Roll in the interim. Which electoral roll to choose is a personal choice for those eligible to be on the Māori roll.

The number of, and boundaries for Māori and general electorates for Parliament is set using results from the Māori roll option and the census.

Potential challenges of a Māori Ward

It has the potential to become a divisive issue. The consideration of Māori wards in New Zealand has historically resulted in opposed views and it is unlikely there will be a unified public view on this matter in Matamata-Piako District.

There are various arrangements, both formal and informal, for Māori to contribute to Council decision-making processes. Having a Māori ward on Council is one of many options to strengthen Māori involvement in Council decision making and the Council-Iwi relationship. It may be that the Council considers there is no need for dedicated representation.

Council appointing voting members to committees and potentially advisory members to Council may be alternative arrangements that could be explored further. For example, an Iwi/Māori representative could be appointed to Councils Corporate and Operations Committee. These members would undertake the same preparatory duties as Councillors and contribute to discussions with their expertise and knowledge.

A Te Manawhenua Forum member has recently been appointed to the Audit & Risk Committee and the Solid Waste Working Party.

Affording voting rights on Committees to Iwi/Māori Representative/s would move participation in decision making from passive to active as provided for in Treaty of Waitangi and as expressed in the LGA (refer to Legal/Policy section below).

Clause 31 of Schedule 7 of the LGA provides that a council can appoint non-elected members to a committee if the council believes that person has the skills, attributes or knowledge to assist the work of the committee. Non-elected members cannot be voting members on the Council however (but can be appointed to a Committee).

Iwi may prefer liaising directly with the council. Arguably Māori wards are more about addressing matters of ethnic representation, and may not necessarily empower Iwi relationships. Te Mana Whenua Forum itself is an avenue where mana whenua issues can be discussed.

Under the legislation, Council's ward structure and Councillor make-up is based purely on population; there is no room in the legislation for providing ward representation for Māori that reflects the reality of the numerous individual iwi in the district. The Matamata-Piako District has a number of Iwi/hapu groups and the ability of a single Māori Ward Councillor to represent their views may be challenging. It may be that a Māori Ward Councillor would provide a Māori perspective into Council discussions rather than direct representation of individual iwi views.

Council may wish to give consideration to the role of the Forum if a Māori Ward is created, for example how would the Māori Ward Councillor interact and receive advice from the Forum?

There is no requirement for an elected Māori Councillor to be affiliated to any local Iwi/hapu. Nor does the mechanism limit representation to mana whenua, or Māori who have whakapapa or ancestral links to the district. Candidates would need to be on the Electoral Roll (General or Māori) to be eligible to stand for election.

As discussed earlier, there is no requirement for any Councillors (whether Māori Ward Councillors or general Ward Councillors) to live in the district or ward but they must be nominated by two people enrolled in the relevant area in order to stand for election.

A Māori Ward Councillor would be elected in the same way as the general Ward Councillors are every three years, and they would have the same role. Essentially, Māori direct the same vote that all other electors have, towards those candidates standing in a Māori ward and (presumably) promoting the issues of concern for those Māori voters.

If one or two Māori wards are established, Māori electors will only get to vote for one or two candidates, compared to the General electors who currently get to vote for 3 or 4 candidates. Affected electors may take this into consideration when deciding which electoral roll they wish to enrol.

Options for Council

Option 1 – Establish a Māori ward or wards for the 2022 election

The Council has the option to establish a Māori ward for the 2022 election (by making such a decision by 21 May 2021).

Establishment of a Māori Ward would trigger a full representation review in 2021. The representation review was last completed in 2018 and without a Māori Ward and is not due until 2024 (prior to the 2025 election).

This option recognises the Council's obligations under the Local Government Act 2002 to increase participation of Māori in decision-making and to recognise the diversity of its communities.

It is also consistent with the Local Electoral Act requirements to consider the principle of fair and effective representation for individuals and communities.

Option 2 – Council defers consideration of establishing Māori ward or wards and revisit the issue for the 2025 election

This is the current arrangement as Māori wards were last reviewed for the 2019 election and need to be reviewed every six years, Council has the option to establish a Māori ward for the 2025 election.

In this option the Council would resolve whether or not to establish a Māori ward before 23 November 2023. Establishment of a Māori Ward would then form part of Council's representation review which must be completed prior to the 2025 election, and could have implications for the overall number of Councillors etc. Council is due to carry out a representation review in 2024 if not done prior.

The effect of this option would be to postpone the potential introduction of a Māori Ward until the 2025 election. It would enable further discussion and consideration on this matter, as the Council would not need to make a decision on this until November 2023.

This option may also give time for any further legislative change to come into effect (as signaled by the Minister in the attached letter), but there is no guarantee that any changes will be made in time to take effect for the 2025 election.

Legal and policy considerations

Local Government Act 2002

The matter comes within scope of the Council's lawful powers, including satisfying the purpose statement of Section 10 of the Local Government Act 2002 (LGA). That section of the Act states that the purpose of local government is (a) to enable democratic local decision-making and action

by, and on behalf of, communities; and (b) to promote the social, economic, environmental, and cultural well-being of communities in the present and for the future.

Under the LGA Council is required to:

- facilitate participation by Māori in local authority decision making (Sec 4)
- act in accordance with the following principles:…(d) a local authority should provide opportunities for Māori to contribute to its decision-making processes (sec 14(1))
- establish and maintain processes to provide opportunities for Māori to contribute to the decision-making processes of the local authority; and consider ways in which it may foster the development of Māori capacity to contribute to the decision-making processes of the local authority; and provide relevant information to Māori for the purposes of these (sec 81)

The RMA also contains specific provisions that enable Māori to participate in decision-making such as:

- provide for iwi authorities' input in processing resource consents and formulating plans
- work with iwi authorities to ensure Māori participation in resource management decisions and processes of managing the use, development, and protection of natural and physical resources.

Under the LEA Council is required to:

- consider whether it wishes to propose Māori Wards as part of its representation arrangement through its representation review (sec 19Z) prior to carrying out a representation review at least once every six years (sec 19H (2))
- carry out a representation review if the district is required to be divided into 1 or more Māori wards at the next election (Clause 1 (1) of Schedule 1A). The statutory processes for the establishment of Māori wards are set out in the LEA.

The process for establishing Māori representation for territorial authorities is set out in the Act - in particular Schedule 1A and sections 19Z-19ZH. Section 4(1)(a) of the Act requires in its principles that there is fair and effective representation for individuals and communities. The Local Electoral (Māori wards and Māori constituencies) Amendment Act 2021 provides a transition period for Māori Wards to be put in place for the 2022 elections, if Councils wish to do so.

LGA decision making requirements

The LGA 2002 sets out various decision-making requirements, as set out below. The conclusions to this are for Council itself to make.

Legislation - summary	Commentary

Legislation - summary	Commentary
76 Decision-making Every decision made by a local authority must be made in accordance with such of the provisions of sections 77, 78, 80, 81, and 82 as are applicable. (2) Subsection (1) is subject, in relation to compliance with sections 77 and 78, to the judgments made by the local authority under section 79. (3) A local authority— (a) must ensure that, subject to subsection (2), its decision-making processes promote compliance with subsection (1); and (b) in the case of a significant decision, must ensure, before the decision is made, that subsection (1) has been appropriately observed	Council must follow the decision making requirements in considering this matter. The Significance of the decision can be considered with reference to the Significance and Engagement Policy.
77 Requirements in relation to decisions (1) A local authority must, in the course of the decision-making process,— (a) seek to identify all reasonably practicable options for the achievement of the objective of a decision; and (b) assess the options in terms of their advantages and disadvantages; and (c) if any of the options identified under paragraph (a) involves a significant decision in relation to land or a body of water, take into account the relationship of Māori and their culture and traditions with their ancestral land, water, sites, waahi tapu, valued flora and fauna, and other taonga. (2) This section is subject to section 79.	Section 77 says Council must in the course of the decision-making process seek to identify all reasonably practicable options; and assess the options in terms of their advantages and disadvantages. The reasonably practicable options are canvassed in this report. Council has options around community consultation and to establish a Māori Ward for the 2022 election. The report also sets out the opportunities and challenges a Māori Ward could bring about. This is not a matter involving a significant decision in relation to land or a body of water.
78 Community views in relation to decisions (1) A local authority must, in the course of its decision-making process in relation to a matter, give consideration to the views and preferences of persons likely to be affected by, or to have an interest in, the matter. (2) [Repealed] (3) A local authority is not required by this section alone to undertake any consultation	While the section 78 LGA requirement to give consideration to the views of affected and interested persons certainly applies in relation to Council's decision on this issue, that section states specifically that a *"local authority is not required by this section alone to undertake any consultation process or procedure".* Those likely to be affected by a decision would include Māori electors, as this impacts

Legislation - summary	Commentary
process or procedure. (4) This section is subject to section 79	on how they are represented. It is considered the persons most affected are Māori, and the Council has opportunity to consider their views by the inputs of the Te Manawhenua Forum and others as detailed in this report. Those whom have an 'interest' in the issue could include the community more generally. Experience from other areas indicates this issue is of high community interest. Council should give consideration to whether the wider community is likely to be interested in or affected by this matter, and thus requiring consideration of views as per section 78. Across NZ there have been a number of media stories on this issue and reports on council engagement on this topic – many with the community as a whole. There is national interest in this topic and the consideration of Māori wards in other parts of New Zealand has resulted in polarised community views. There are likely to be strong community views in the district.
79 Compliance with procedures in relation to decisions (1) It is the responsibility of a local authority to make, in its discretion, judgments— (a) about how to achieve compliance with sections 77 and 78 that is largely in proportion to the significance of the matters affected by the decision as determined in accordance with the policy under section 76AA; and (b) about, in particular,— (i) the extent to which different options are to be identified and assessed; and (ii) the degree to which benefits and costs are to be quantified; and (iii) the extent and detail of the information to be considered; and (iv) the extent and nature of any written record to be kept of the manner in which it has complied with those	Council's responsibility to make judgements about how to comply with sections 77 and 78 of the LGA in proportion to the significance of the decision being made. By working through the provisions of section 79 the Council can decide how to comply with section 78 in a manner *"in proportion to the significance of the matters affected by the decision"*, and that it must do so in accordance with its Significance and Engagement Policy. As discussed under the Significance and Engagement Policy heading, it is the author's view this issue has a degree of significance. Council is asked to give consideration to the level of Significance. In terms of options for Maori electoral representation, it is essentially a binary option as this is all that can be considered under the LEA.

Legislation - summary	Commentary
sections. (2) In making judgments under subsection (1), a local authority must have regard to the significance of all relevant matters and, in addition, to— (a) the principles set out in section 14; and (b) the extent of the local authority's resources; and (c) the extent to which the nature of a decision, or the circumstances in which a decision is taken, allow the local authority scope and opportunity to consider a range of options or the views and preferences of other persons.	Benefits of having a Maori Ward or not having one is cannot be numerically quantified as it is ultimately about relationships and providing a voice for Maori on Council. The financial costs are limited however the non-financial costs and benefits are a stronger consideration. This report, along with the resolution passed will provide a written record of compliance with the decision making requirements via the meeting minutes. Council's time and resources are constrained as there is only a month remaining if a Maori Ward is to be set in place for the 2022 election. Council does not have a broad scope to consider a range of options. In simple terms, Council can either create a Maori Ward or not for the 2022 election. Council should conduct its business in an open and transparent manner under s14.

In considering the above requirements, a consideration for Council is whether the engagement with Te Mana whenua Forum is sufficient or wider community consultation is warranted.

Some considerations for considering whether further consultation warranted may be:

Considerations in favour of further consultation	Considerations against further consultation

Considerations in favour of further consultation	Considerations against further consultation
• The issue is likely to be of high community interest and there may be a public expectation for consultation on an important electoral issue. • Under s14 LGA Council should conduct its business in an open, transparent, and democratically accountable manner – consultation can be an expression of this principle. • Although the persons most affected are Maori, there will likely be strong interest from the wider community, and this is a consideration under s78 (Council to consider the views of those who are interested in the issue). • The community will not be able to change the decision once made through the representation review. • A Maori Ward would be in place for at least two triennial election cycles so other than now (prior to Council decision) there would be no further opportunity for public input on the matter for some time. • While only electors on the Māori roll can vote for the Māori ward candidates, the outcome of the Maori Ward decision may in due course affect wider representation. • The timeframe available would allow for a reasonable form of consultation of occur. Consultation material and a communications plan has been prepared and attached to this report. • The legislative change has removed binding polls but still allows for Council to undertake non-binding polls and consultation. • Council has undertaken some iwi consultation but has not canvassed views of the wider community, who may be interested in the matter. • Council already holds some information on community views – (see above for consultation results from 2012 and 2017) however these was captured some time ago and are a small sample. Council may consider more up to date views of the	• A decision to establish a Māori ward/s has no impact on the rights or interests of those on the general electoral roll and it directly affects Māori. • A decision to establish a Māori ward/s in itself has no impact on the representation structure or how many Councillors represent the community. This will be determined through a separate (subsequent) process. • That the persons most affected are Maori, and the Council has had the opportunity to consider their views by the inputs of Te Mana Whenua Forum and iwi leaders as described throughout this report. • A decision to establish a Māori ward/s will trigger a representation review that involves public consultation. • The fact that the decision would trigger a representation review and allow the current non-compliant representation to be addressed to some extent. • Only electors on the Māori roll can vote for the Māori ward candidates. • Council has already consulted with the Te Mana Whenua Forum, who are nominated representatives of iwi groups. Iwi leaders have also presented directly to Council in a workshop held on 21 April. • The position of Te Mana Whenua Forum has changed since the last time this was reviewed and they now support the introduction of a Maori Ward. • Council already holds some information on community views – (see above for consultation results from 2012 and 2017). Council could assume that the majority position expressed at that time (being not in favour) is unchanged. • The timeframe to make any decision to establish Māori ward/s for the next election (by 21 May) has implications for the type of consultation / engagement Council would be able to

Considerations in favour of further consultation	Considerations against further consultation
community are needed to properly inform a decision. • While a decision would trigger a representation review and allow the current non-compliant representation to be addressed to some extent that would depend on the outcome of that process. • Iwi have been informed that Council may wish to undertake consultation. • Iwi have indicated a willingness to support any consultation activity by promoting it within their own channels. In this way Council and iwi relations could be strengthened. • The Long-Term Plan submission period has concluded and the hearings on 12/13 May will not impact on any consultation. • Consultation may show provide mixed views, but this is not unusual for topical issues in local government. Council would then consider the community feedback alongside all of the other considerations.	implement. In the time available it could be challenging to widely and thoroughly canvass the matter with the public and for them to provide feedback. • Opportunity – there is a limited one-off opportunity to put a Māori ward/s in place for the next election, and Council has the opportunity to make a decision before 21 May. • The relevance of the principles behind the legislative change, and the current political climate for reform in this area. • The policy considerations regarding Maori contribution to decision-making, as set out in this report and the appropriateness or otherwise proceeding with any of the options outlined. • Council's resources over next month are currently focused on the Long-Term Plan process and the upcoming hearings. • There is a potential to damage iwi relationships by undertaking wider consultation on an issue that has significant meaning and symbolism to iwi. Iwi have expressed clear support for Māori ward/s. • Consultation could create division with the Matamata-Piako community.

The Government's decision to remove the binding-poll option has now provided an opportunity for the Council to canvass the community for its views and preferences on the establishment of Māori wards prior to 21 May 2021.

Māori are the party most affected by a decision whether or not to establish a Māori ward. Council has consulted with Te Mana Whenua Forum as previously discussed. Council also met with iwi leaders at a workshop held on 21 April 2021. The overall feedback from that discussion was that if Council wanted to establish Māori wards iwi would support the Council's decision.

The view of iwi expressed at the recent workshop was that for Māori and Council to work in partnership and for Māori to have representation, a mix of mechanisms are required including

continuation of Te Mana Whenua Forum. Māori wards were seen as only one part of this package of mechanisms where partnerships could be strengthened.

The discussions to date with Iwi and Māori to date on this issue have fostered positive relationships and led to an understanding of their views and preferences however Council may see value in wider public engagement to inform its decision making. It is recommended that Council give consideration canvasing wider community views ahead of the 21 May 2021 due date.

If Council decide further consultation is warranted, it is noted that the majority's preference will be just one factor among many to be considered regarding the establishment of Māori wards on or before 21 May (including conversations with the District's iwi leaders and Te Mana Whenua Forum representatives).

Council can mitigate the possibility of a successful challenge to any decision to proceed with the creation of a Maori ward without further consultation, by carefully addressing the matters set out in section 79 LGA. Ultimately the safest course of action would be to undertake some meaningful form of consultation, to the extent that it is possible to do so in the time available.

Risks
There are likely to be polarised community views on the establishment of Māori wards which are expected to result in robust discussion in the community and local media.

Council will face a legal risk if proceeds without consideration of the decision-making provisions of the LGA. There is also a risk if Council proceeds without wider consultation before making a decision. Equally if consultation was to occur it would need to be genuine and take into account the principles of consultation.

Any resolution that provides for Māori electoral representation on Council without consulting the wider public risks an adverse public reaction. This could be mitigated to some extent through public education.

Significance and Engagement Policy
In considering the options, Council must have regard to its Significance and Engagement Policy. The Policy states:

We will take into account the following matters when assessing the degree of significance of proposals and decisions, and the appropriate level of engagement:

- *there is a legal requirement to engage with the community*
- *the level of financial consequences of the proposal or decision*
- *whether the proposal or decision will affect a large portion of the community*
- *the likely impact on present and future interests of the community*
- *recognising Māori cultural values and their relationship to land and water through whakapapa*
- *whether the proposal affects the level of service of a Significant Activity*
- *whether community interest is high*
- *whether the likely consequences are controversial and will have a likely impact on the reputation of Council*
- *whether community views are already known, including the community's preferences about the form of engagement*
- *the form of engagement used in the past for similar proposals and decisions*

If a proposal or decision is affected by a number of the above considerations, it is more likely to have a higher degree of significance.

In general, the more significant an issue, the greater the need for community engagement.

The Policy states that we are required to use prescribed consultative processes when specified by law. For all other issues requiring a decision, the Policy sets out that we will determine the appropriate level of engagement on a case by case basis.

The issue of Māori representation is potentially of high public interest and any decision on this will likely result in a mixed reaction in the community. This also relates to the recognition of Maori cultural values, through their involvement in the democratic process. It affects how the Māori community are politically represented.

There is a low level of impact on Levels of Service in the Long-Term Plan, rates/debt, and this does not involve a strategic asset listed in the Policy. Overall, staff would suggest this issue is significant.

Section 80 of the LGA states that if a decision of Council will be significantly inconsistent with with any adopted policy required by the LGA (such as the Significance & Engagement Policy) the Council must, when making the decision clearly identify—

- the inconsistency; and
- the reasons for the inconsistency; and
- any intention of the local authority to amend the policy or plan to accommodate the decision.

Communications and timeframes

The Te Manawhenua Forum has been consulted and has made a recommendation to Council.

A communications plan and consultation material has been prepared to seek views on the issue before Council makes a decision if this is agreed as the way forward.

Council may wish to do some proactive community education/information to help the community understand the reasons for creating a Māori Ward, if that is decided on.

Contribution to Community Outcomes and consistency with Council Vision

Theme: Vibrant Cultural values.

Community Outcomes:

We value and encourage strong relationships with Iwi and other cultures, recognising waahi tapu and taonga/significant and treasured sites and whakapapa/ ancestral heritage.

Tangata Whenua with Manawhenua status (those with authority over the land under Maaori lore) have meaningful involvement in decision making.

Financial Cost and Funding Source

Representation Review

If Council resolves to establish one or two Māori Wards (for the 2022 local elections) the Council is required to undertake a Representation Review in order to establish its new Representation Arrangements.

The costs associated with carrying out a Representation Review are largely for staff time and public consultation, currently budgeted in 2024.

Elected member remuneration
The Remuneration Authority is the independent body responsible for setting Elected Member remuneration. From the 2019 local government elections, each Council is allocated a Governance Pool (Pool). This is the total remuneration pool for all elected members excluding the Mayor. Individual councils are responsible for allocating its Pool to its elected members, and the Pool must be fully allocated.

The governance pool has no relationship to the number of councillors. If a council wishes to change the number of councillors and the Local Government Commission agrees if necessary, the size of the governance pool will not change, it will just have to be shared amongst more or fewer councillors.

Election
There would be an increased election costs (to cover additional voting paper combinations in each ward, vote counting, increased number of candidates etc.). An estimate from Council's election service provider, Electionz.Com is around an additional $4,000 - 5,000 plus GST for a Māori Ward.

Additional Councillor
There would also be increased governance costs if there is an additional Māori Ward Councillor/s after next year's election for example training and IT equipment.

Ngā Tāpiritanga | Attachments

A. Government Press release, 1 Feb 2021
B. Government Fact Sheet to support announcement - Beehive Website
C. Māori wards and constituencies Q&As from Local Government Commission
D. Draft Coms Plan
E. Maori wards - Draft consultation content

Ngā waitohu | Signatories

Author(s)	Niall Baker **Corporate Strategy Team Leader**	

Approved by	Don McLeod **Chief Executive Officer**	

The meeting adjourned for lunch at 12.31pm and reconvened at 12.58pm.

9 Mōtini hei aukati i te iwi whānui | Procedural motion to exclude the public

12.59pm The public were excluded.

Resolutions in relation to the confidential items are recorded in the confidential section of these minutes and are not public available.

Moved by: Cr D Arnold

Seconded by: Deputy Mayor N Goodger

KUA MANA | CARRIED

That the public be excluded from the following part(s) of the proceedings of this meeting.

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution follows.

This resolution is made in reliance on section 48(1)(a) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by section 6 or section 7 of that Act which would be prejudiced by the holding of the whole or relevant part of the proceedings of the meeting in public, as follows:

C2 Swim Zone Matamata - Indoor Swimming Pool Roof

Reason for passing this resolution in relation to each matter	Particular interest(s) protected (where applicable)	Ground(s) under section 48(1) for the passing of this resolution
The public conduct of the part of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under section 7.	s7(2)(c)(ii) - The withholding of the information is necessary to protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information would be likely to damage the public interest. . s7(2)(i) - The withholding of the information is necessary to enable the local authority to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations). .	s48(1)(a) The public conduct of the part of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under section 7.

The text of these resolutions is made available to the public who are present at the meeting and form part of the minutes of the meeting.

10 Procedural motion to include the public

1.32pm The public were included.

Moved by: Cr R Smith

Seconded by: Cr A Wilcock

KUA MANA | CARRIED

1.32pm The Chairperson thanked elected members for their attendance and attention to business and declared the meeting closed.

CONFIRMED AS A TRUE AND CORRECT RECORD OF THE EXTRAORDINARY MEETING OF KAUNIHERA | COUNCIL HELD ON 28 APRIL 2021.

KO TE RĀ | DATE: .....

TIAMANA | CHAIRPERSON: .....
Mayor Ash Tanner, JP