

Te Pire Kaunihera Taiao ki Waitaha (Whakakanohitanga o Ngāi Tahu)

Pire ā-Rohe

E ai ki tā te Komiti Whiriwhiri Take Māori i pūrongo ai

Ngā kōrero

Tūtohutanga

Kua oti i te Komiti Whiriwhiri Take Māori te Pire Kaunihera Taiao ki Waitaha (Whakakanohitanga o Waitaha) te tiroiro, ā, e tūtohu ana te nuinga kia whakamanatia. Ka tūtohu tahi mātou katoa i ngā menemana.

Kupu whakataki

He pire ā-rohe tēnei e hāpaitia ana e te Kaunihera Taiao ki Waitaha, ā, nā Rino Tirikātene MP i whakauru ki te Whare. Ka whakarite anō kia whakakanohitia rawatia a Ngāi Tahu i te Kaunihera Taiao ki Waitaha. Ka marohi te pire i tētahi whakaritenga whakakanohitanga motuhake, e kopoua ai ētahi uri tokorua o Ngāi Tahu, kīhai i pōtitia, ki te ohu whakahaere o te Kaunihera Taiao ki Waitaha.

Kei roto i te pire ko ēnei āhuatanga:

- Ka whai mana Te Rūnanga o Ngāi Tahu (Te Rūnanga), hei rōpū whai mana ā-iwi mō te mana whenua, ki te kopou i tētahi, i ētahi tokorua rānei ki te Kaunihera Taiao o Waitaha hei tētahi wā o muri i te kōwhiringa pōti e tū nei i ia toru tau. Ka tīmata ki ngā kōwhiringa pōti ā-rohe 2022.
- Ko aua tūranga kopounga ka noho hei āpititanga ki te tatau nui rawa o ngā mema 14 ka pōtitia ki te Kaunihera Taiao ki Waitaha.
- He rite ngā mahi, ngā mana, ngā haepapa, ngā mōtika, ngā oati kapenga haepapa, me ngā herenga (tae atu ki te mana pōti) ki ā ngā mema o te Kaunihera Taiao ki Waitaha i pōtitia.
- Ka rite te moni utu i ngā mema i kopoua ki tā ngā mema i pōtitia, ahakoa ka eke taua utu ki tua o tētahi utu tōpū e whakautua ana ki ngā mema o te Kaunihera i pōtitia, he utu nā te Remuneration Authority i whakatau.

- Ka wātea tonu te Kaunihera Taiao ki Waitaha ki te whakarite rohe pōti Māori mā te hātepe e tū kē ana i raro i te Ture Pōti ā-Rohe 2001.

Ngā kōrero tūāpapa me te horopaki

Te wāhi ki te Kaunihera Taiao ki Waitaha

Ka hora te rohe o Waitaha mai i te raki o Kaikōura ki te awa o Waitaki, ā, mai i Horomaka ki Aoraki. He nui atu te rohe nei i te 44,500 kiromita pūrua, koinei te rohe nui katoa o Aotearoa.

Ko ētahi o ngā haepapa a te Kaunihera Taiao ki Waitaha ko ēnei:

- ko te whakamāmā i ngā pānga o te whakamahinga o te wai māori, te whenua, te hau, me ngā wai o uta
- ko te whakawhanake tauāki kaupapa here ā-rohe, me te tuku whakaaetanga
- ko te tiaki awa, te whakamāmā i te horonga oneone, me te whakamāmā waipuketanga
- ko ngā whakaritenga mō te whakahaerenga mate ohotata ā-rohe, me te whakamarumarutanga tūmatanui
- ko te whakamaheretanga o ngā huarahi ā-rohe me te whakakirimana i ngā ratonga kawē tāngata
- ko te urungitanga whanga, te haumarutanga i te whanga, te maringitanga hinu, me ētahi atu whakaparahanga moana.

Ko Ngāi Tahu hei mana whenua

Kei a Ngāi Tahu te rangatiratanga o runga i te 80 ōrau, nuku atu, o Te Waipounamu.

I te Whiringa-ā-rangi 1997, ka whakaaetia e te Karauna me Ngāi Tahu tētahi whakataunga Tiriti o Waitangi e mānawatia ai te rangatiratanga me te mana o Ngāi Tahu i runga i ōna whenua, ā, ka whakatūturutia tōna hononga motuhake ki te taiao i ētahi wāhi huhua. Ka whakapāha te Karauna ki a Ngāi Tahu mō ngā “hara i whākina”, ā, pērā i te tuhinga iho i roto i tā te Karauna Whakapāha ki a Ngāi Tahu, ka tohua e te whakataunga nei he tīmatanga mō tētahi “ao hou o te mahi tahi”. E ea ai ōna herenga Tiriti, ka mihi te Karauna ki a Ngāi Tahu hei tangata whenua, e pupuri nei i te rangatiratanga hoki, o te takiwā o Ngāi Tahu Whānui.

He mea whakatū Te Rūnanga o Ngāi Tahu, te rūnanga ā-iwi, nā te Ture Te Rūnanga o Ngāi Tahu 1996. E noho haepapa ana Te Rūnanga mō te tiakanga o ngā pānga o ngā uri katoa o Ngāi Tahu.

Ngā māngai o Ngāi Tahu ki te Kaunihera Taiao ki Waitaha

Ka rīwhitia ngā kaikaunihera pōti o te Kaunihera Taiao ki Waitaha ki te Environment Canterbury (Temporary Commissioners and Improved Water Management) Act 2010 ki ētahi Kōmihana tokowhitu i kopoua e te Minita o te Kāwanatanga ā-Rohe me te Minita mō te Taiao. Kei roto i taua Ture tētahi herenga kia mōhio tahi, kia mātanga hoki ngā Kōmihana ki ngā tikanga Māori e pā ana ki te rohe o Waitaha.

I raro i te Environment Canterbury (Transitional Governance Arrangements) Act 2016, kua turakina, ka huri anō te Kaunihera Taiao ki Waitaha hei kaunihera e pōtitia katoatia ana i ngā kōwhiringa pōti ā-rohe 2019. I oti i te Ture te hātepe te whakata-koto kia tūtohutia ētahi māngai tokorua o Ngāi Tahu e Te Rūnanga o Ngāi Tahu, ka kopoua ai hei mema o te Kaunihera Taiao ki Waitaha mō te wā kāwanatanga ā-rohe 2016–19.

Ka whai te Kaunihera Taiao ki Waitaha kia mau tonu ngā whakaritenga kopounga mema i tōna huringa hei kaunihera e pōtitia katoatia ana mā tētahi pire ā-rohe, arā te Canterbury Regional Council (Ngāi Tahu Representation) Bill. Ka hinga te pire i tōna pānuitanga tuatahi i te 3 o Paengawhāwhā 2019.

I te wā kāwanatanga ā-rohe o nāianei, kāore he uri o Ngāi Tahu i kopoua ki te Kaunihera Taiao ki Waitaha. Tokorua ngā māngai o Ngāi Tahu, he mea kopou nā te Ngāi Tahu Papatipu Rūnanga Chairs o te Rohe o Waitaha, kua whai wāhi, kua tautoko hoki i te kaunihera ki te whakatau i āna kaupapa. Heoi anō, kāore rāua e whai mana ki te pōti i ngā huinga o te kaunihera katoa.

Te whakatāretanga ā-ture

Hei wāhanga o tā mātou whakaarohanga o te pire, kua oti i a mātou te tirotiro tōna hāngai ki ngā mātāpono o te whakaturetanga kouniga. Kāore ā mātou take e pā ana ki te hoahoanga o te pire hei whakaara ki mua i te aroaro o te Whare.

Ngā menemana e marohitia ana

Kei te pūrongo nei ngā menemana nunui i whakaarohia e mātou, me ērā e tūtohu ana mātou ki te pire i whakaurua rā. He panonitanga tuhinga te nuinga o ngā menemana kāore e whiriwhiria i raro nei, hei whakapiki i te kouniga me te tōtika o ngā pire, arā mā te āwhina kia māmā ake ai te pānui, kia mārama ake ai me te kore noa e tīni i tāna pānga ā-ture.

Te noho roa ki te Kaunihera Taiao ki Waitaha

Ka whakarite te rārangi 6 kia āhei ai te whakawhānuitanga o te ohu whakahaere o te Kaunihera Taiao ki Waitaha mai i te 14 mema ki te 16 kē. Mā konei e pai ai te noho mai o ngā mema tokorua e kopoua e Te Rūnanga o Ngāi Tahu. Ka rite ngā taumahi, ngā mana, ngā haepapa, ngā tika, ngā oati kapenga haepapa, me ngā herenga (tae atu ki te mana pōti) ki ā ngā mema o te Kaunihera Taiao ki Waitaha i pōtitia.

I whakaaro mātou ki te muku i te rārangi 6(2) kia noho tonu ai te tokorahinga nunui o te Kaunihera Taiao ki Waitaha (me ngā mema i kopoua hoki) ki te 14. I whakatau mātou ki te whakaū tonu i te rārangi 6, engari e marohi ana mātou i ētahi menemana tuhinga e whakaaro ana mātou ka whakamārama i te pūtake o te rārangi. He pānga ā-ture iti tā tētahi o aua menemana. Ko tāna he whakamārama, arā ka taea e te Kaunihera ētahi mema tokorua i kopoua te whakatū i tua atu i ngā mema 14 i pōtitia, aha-koa te wāhanga 19E(2) o te Local Electoral Act 2001.

Te whakautu i ngā mema i kopoua

I roto i te pire i whakaurua rā, ka whakahau te rārangi 12 kia rite te utu a ngā mema o te Kaunihera Taiao ki Waitaha i kopoua e Ngāi Tahu (tae atu ki ngā utu haerenga, ngā utu tangata, me ētahi atu utu) ki ā ngā mema o te Kaunihera Taiao ki Waitaha i pōtitia. Ka parea atu ki waho i te tirohanga a te Remuneration Authority te utu ki ngā mema i kopoua, kia mate ai te Authority ki te whakawā i ngā whakautunga ki ngā mema i pōtitia, anō nei he 14 kē te tokorahi o ngā mema o te kaunihera.

I whakaaro mātou ki te muku i te rārangi 12 kia noho tonu ai ngā tūranga kaikaunihera i kopoua i raro i te tirohanga a te Remuneration Authority i te taha o ngā tūranga mema i pōtitia. Mā reira e kapi ai ngā mema 16 katoa o te Kaunihera Taiao ki Waitaha ki roto i te huinga utunga e whakawākia ana e te Remuneration Authority, i raro i tā te Authority kaupapa here o te wā nei.

I whakatau mātou me ū tonu te rārangi 12, ka tapaina anō ko te rārangi 10A. He rite te pānga ā-ture a te rārangi 10A ki tā te rārangi 12 o roto i te pire i whakaurua, kotahi noa iho te wehenga. Ko taua wehenga ko tētahi menemana ki te rārangi 10A(4), e rīwhitia ai te kōrero mō te “governance remuneration pool” ki te kōrero mō “any total amount payable to elected members of the Council”.

Kia oti noa te menemana nei, ka whakarite te rārangi 10A(4) nei kia herea te Kaunihera Taiao ki Waitaha ki te whakautu i ngā utu, ngā utu haerenga, ngā utu tangata me ētahi atu utu ki ngā mema i kopoua, ahakoa ka eke te tatau ki tua o tētahi utu tōpū i whakatauria e te Remuneration Authority ki ngā mema o te Kaunihera Taiao ki Waitaha i pōtitia rā.

Ka marohi mātou i te menemana nei i te mea he kaupapa here te huinga utu kāwanatanga nā te Remuneration Authority, ehara i te ariā ā-ture. Kāore e puta te huinga utu kāwanatanga i ētahi atu whakaturetanga katoa a Aotearoa, kāore hoki e whakamāramatia, e whakatauria i roto i te pire nei.

New Zealand National Party differing view

Under this bill, Canterbury voters would elect 14 councillors. Every elector gets a vote to elect these councillors. However, the bill sees Ngāi Tahu appoint two councillors, in addition to the 14 elected councillors, with no voting or other democratic input from the people of Canterbury.

This is not a Māori ward, allocated proportionately to the population. It is an appointment by an independent entity. Crown Law advice to the Government points out that this discriminates against non-Māori. This is a dramatic change to the way we elect local councils and democracy in New Zealand.

The idea of equal suffrage—equal voting rights, regardless of gender, class, and ethnicity—has been a pillar of our democracy for decades. All New Zealanders should have an equal say in who governs them; an equal say in appointing the people that make the decisions that affect their lives.

Equally fundamental to our system is the ability to remove elected representatives at the next election; that is the bedrock of accountability in our democracy. But it would

not apply under this bill, because the representatives of Ngāi Tahu could not be made accountable for decision-making input in this way.

While less fundamental, we also note for the record that National shares the concerns raised by the Chair of the Remuneration Authority about the funding mechanism, along with concerns raised about increasing the maximum cap for regional councils from 14 to 16. This raises a “floodgates” issue, whereby other councils considering this arrangement may question whether they should continue within the current member cap mechanism.

Returning to those key principles of equal voting rights and accountability at the ballot box, National notes that these are fundamental to our democracy and are precious. This bill’s violation of these fundamental democratic principles is why National opposes the majority report and cannot support the bill.

If fundamental changes to local councils are to occur, such as this bill proposes, then the Government should make the case, and New Zealanders should be consulted on and be given the opportunity to approve or disapprove such fundamental changes.

Tāpiritanga

Hātepe komiti

I tukuna te Pire Kaunihera Taiao ki Waitaha (Whakakanohitanga o Ngāi Tahu) ki te komiti i te 8 o Hakihea 2021. I whiwhi mātou ki tētahi whakamārama tōmua mai i Te Tari Taiwhenua i te 9 o Huitanguru 2022.

Ko te rā katinga mō ngā tāpaetanga kōrero mō te pire ko te 2 o Huitanguru 2022. 1,651 ngā tāpaetanga i whiwhi, i whakaarohia hoki mai i ngā rōpū whai pānga me ngā tāngata takitahi. I rongo kōrero taunaki mātou mai i ngā kaitāpae e 28.

I whiwhi kupu tohutohu mātou mō te pire mai i Te Tari Taiwhenua. Nā Te Tari o te Manahautū i hōmai kupu tohutohu mō te kounga ā-ture o te pire. Nā Te Tari Tohutohu Pāremata i āwhina ki te tuhituhi i te pire.

Ngā mema o te komiti

Tāmati Coffey (Heamana)

Paul Eagle

Shanan Halbert

Harete Hipango

Joseph Mooney

Teanau Tuiono

Rawiri Waititi

Arena Williams

Canterbury Regional Council (Ngāi Tahu Representation) Bill

Local Bill

As reported from the Māori Affairs Committee

Commentary

Recommendation

The Māori Affairs Committee has examined the Canterbury Regional Council (Ngāi Tahu Representation) Bill and recommends by majority that it be passed. We recommend all amendments unanimously.

Introduction

This is a local bill promoted by the Canterbury Regional Council, and introduced to the House by Rino Tirikatene MP. It would reinstate direct Ngāi Tahu representation on the Canterbury Regional Council (known as Environment Canterbury). The bill proposes a bespoke representation arrangement, with the appointment of two non-elected Ngāi Tahu members to Environment Canterbury's governing body.

The bill has the following features:

- Te Rūnanga o Ngāi Tahu (Te Rūnanga), as the iwi authority for mana whenua, would be able to appoint up to two members to Environment Canterbury at any time after each triennial election, beginning with the 2022 local elections.
- The appointed positions would be in addition to Environment Canterbury's maximum number of elected members, which is 14.
- The appointed members would have the same functions, powers, responsibilities, rights, indemnities, and duties (including voting rights) as elected members of Environment Canterbury.
- The appointed members would be remunerated at the same rate as elected members, even if this exceeded any total amount payable to elected members of the Council set by the Remuneration Authority.

- Environment Canterbury would continue to be able to establish Māori constituencies through the existing process under the Local Electoral Act 2001.

Background and context

Environment Canterbury's role

The Canterbury region extends from north of Kaikōura to the Waitaki River, and from Horomaka—Banks Peninsula to Aoraki—Mount Cook. At over 44,500 square kilometres, the region is New Zealand's largest.

Environment Canterbury's responsibilities include:

- managing the effects of using freshwater, land, air, and coastal waters
- developing regional policy statements and issuing consents
- managing rivers, mitigating soil erosion, and flood control
- regional emergency management and civil defence preparedness
- regional land transport planning and contracting passenger services
- harbour navigation and safety, oil spills, and other marine pollution.

Ngāi Tahu as mana whenua

Ngāi Tahu holds the rangatiratanga (tribal authority) for over 80 percent of Te Wai-pounamu—the South Island.

In November 1997, the Crown and Ngāi Tahu agreed a Treaty of Waitangi settlement which acknowledged the rangatiratanga and mana of Ngāi Tahu over their land, and affirmed their special association with the natural environment in a number of areas. The Crown apologised to Ngāi Tahu for “acknowledged injustices”, and, as recorded in the Crown Apology to Ngāi Tahu, the settlement marked the beginning for a “new age of co-operation”. Fulfilling its Treaty obligations, the Crown recognised Ngāi Tahu as the tangata whenua of, and as holding rangatiratanga within, the takiwā (territory) of Ngāi Tahu Whānui.

Te Rūnanga o Ngāi Tahu, the iwi authority, was established by the Te Runanga o Ngai Tahu Act 1996. Te Rūnanga is responsible for protecting the interests of all Ngāi Tahu members.

Ngāi Tahu representatives on Environment Canterbury

The Environment Canterbury (Temporary Commissioners and Improved Water Management) Act 2010 replaced Environment Canterbury's elected councillors with seven commissioners appointed by the Minister of Local Government and the Minister for the Environment. This Act included a requirement for the Commissioners to collectively have knowledge of, and expertise in relation to, tikanga Māori as it applies in the Canterbury region.

Under the Environment Canterbury (Transitional Governance Arrangements) Act 2016, now repealed, Environment Canterbury returned to a fully elected council at the 2019 local elections. The Act had set out a process for two Ngāi Tahu representatives

to be recommended by Te Rūnanga o Ngāi Tahu and appointed as members of Environment Canterbury for the 2016–2019 local government term.

Environment Canterbury sought to continue the appointed member arrangements when it returned to a fully elected council through a local bill, the Canterbury Regional Council (Ngāi Tahu Representation) Bill. The bill was defeated at its first reading on 3 April 2019.

During the current local government term, no Ngāi Tahu appointed members have sat on Environment Canterbury. Two Ngāi Tahu representatives, appointed by the Ngāi Tahu Papatipu Rūnanga Chairs of the Canterbury Region, have been participating and assisting with council decision-making. However, they are not able to vote at full council meetings.

Legislative scrutiny

As part of our consideration of the bill, we have examined its consistency with principles of legislative quality. We have no issues regarding the legislation's design to bring to the attention of the House.

Proposed amendments

This commentary covers the main amendments we considered, and those we recommend to the bill as introduced. The amendments not discussed below are largely drafting changes, to improve the quality and accuracy of the legislation by helping it to read more easily and clearly without changing its legal effect.

Extended membership of Environment Canterbury

Clause 6 would enable the membership of Environment Canterbury's governing body to be increased from 14 members to 16 members. This would accommodate the two members appointed by Te Rūnanga o Ngāi Tahu. These members would have the same functions, powers, responsibilities, rights, indemnities, and duties (including voting rights) as elected members of Environment Canterbury.

We considered deleting clause 6(2) so that the maximum membership of Environment Canterbury (including the appointed members) would remain at 14. We chose to retain clause 6, but propose some drafting amendments which we believe clarify the intent of the clause. One of these amendments has a minor legal effect. It clarifies that the Council may include two appointed members in addition to the 14 elected members despite section 19E(2) of the Local Electoral Act 2001.

Remuneration of appointed members

In the bill as introduced, clause 12 would require the appointed Ngāi Tahu members of Environment Canterbury to be paid (including allowances, expenses, and fees) on the same basis as elected members of Environment Canterbury. It would also exclude the remuneration of appointed members from the Remuneration Authority's oversight, so that the Authority would be required to make remuneration determinations,

for the elected members only, as if Environment Canterbury was a 14-member council.

We considered deleting clause 12 so that the appointed councillor positions would be under the Remuneration Authority's oversight, together with the elected member positions. That would mean that under the Remuneration Authority's current policy, the remuneration pool determined by the Authority for Environment Canterbury would cover all 16 members.

We chose to retain clause 12, renumbered as clause 10A. Clause 10A has the same legal effect as clause 12 in the bill as introduced, with one exception. The exception is an amendment to clause 10A(4), which replaces the reference to the "governance remuneration pool" with a reference to "any total amount payable to elected members of the Council".

As amended, clause 10A(4) provides that Environment Canterbury must pay remuneration, allowances, expenses, and fees to appointed members even if doing so exceeds any total amount payable to elected members of Environment Canterbury as determined by the Remuneration Authority.

We have proposed this amendment because the governance remuneration pool is a Remuneration Authority policy, rather than a legal concept. The governance remuneration pool is neither referred to anywhere else in New Zealand legislation, nor defined in this bill.

New Zealand National Party differing view

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While less fundamental, we also note for the record that National shares the concerns raised by the Chair of the Remuneration Authority about the funding mechanism, along with concerns raised about increasing the maximum cap for regional councils from 14 to 16. This raises a "floodgates" issue, whereby other councils considering

this arrangement may question whether they should continue within the current member cap mechanism.

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Appendix

Committee process

The Canterbury Regional Council (Ngāi Tahu Representation) Bill was referred to the committee on 8 December 2021. We received an initial briefing from the Department of Internal Affairs on 9 February 2022.

The closing date for submissions on the bill was 2 February 2022. We received and considered 1,651 submissions from interested groups and individuals. We heard oral evidence from 28 submitters.

We received advice on the bill from the Department of Internal Affairs. The Office of the Clerk provided advice on the bill's legislative quality. The Parliamentary Counsel Office assisted with legal drafting.

Committee membership

Tāmami Coffey (Chairperson)

Paul Eagle

Shanan Halbert

Harete Hipango

Joseph Mooney

Teanau Tuiono

Rawiri Waititi

Arena Williams

Canterbury Regional Council (Ngāi Tahu
Representation) Bill

Key to symbols used in reprinted bill

As reported from a select committee

text inserted unanimously

~~text deleted unanimously~~

Rino Tirikatene

Canterbury Regional Council (Ngāi Tahu Representation) Bill

Local Bill

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TRoNT may appoint 2 members to Council

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The Parliament of New Zealand enacts as follows:

- 1 Title**
- This Act is the Canterbury Regional Council (Ngāi Tahu Representation) Act **2021**.
- 2 Commencement** 5
- This Act comes into force on the day after the date on which it receives the Royal assent.

Part 1
Preliminary provisions

- 3 Purpose** 10
- The purpose of this Act is to enable TRoNT to appoint up to 2 members of the Council in accordance with this Act, and make related ~~consequential provisions~~ changes.
- 4 Interpretation**
- (1) In this Act, unless the context otherwise requires,— 15
- 2022 election** means the triennial general election of members of local authorities, required by section 10 of the Local Electoral Act 2001, to be held on the second Saturday in October 2022
- appointed member** means a member of the Council who is appointed to office under **section 7** 20
- Council** means the regional council named in Part 1 of Schedule 2 of the Local Government Act 2002 (~~Part 1 of Schedule 2~~) as the Canterbury Regional Council
- elected member** means a member of the Council who is elected to office under the Local Electoral Act 2001 25

member, in relation to the Council, means—

- (a) an elected member; or
- (b) an appointed member

TRoNT means Te Rūnanga o Ngāi Tahu established by section 6 of the ~~Te Rūnanga o Ngāi Tahu Act 1996~~ Te Runanga o Ngai Tahu Act 1996.

- (2) A term or an expression that is defined in the Local Government Act 2002 or the Local Electoral Act 2001 and used but not defined in this Act has the same meaning as in the Local Government Act 2002 or the Local Electoral Act 2001, as the case requires.

5 Relationship between this Act and other legislation applicable to local authorities

~~The Local Government Act 2002, the Local Electoral Act 2001, and any other enactment applicable to a local authority following enactments~~ apply to the Council, except to the extent that those enactments are inconsistent with, or modified by, this Act:

- (a) the Local Government Act 2002:
- (b) the Local Electoral Act 2001:
- (c) any other enactment applicable to a local authority.

5A Transitional, savings, and related provisions

The transitional, savings, and related provisions (if any) set out in **Schedule 1** have effect according to their terms.

Part 2

TRoNT may appoint 2 members to Council

Subpart 1—Membership and appointment

Membership of Council

6 ~~Extended membership~~

- (1) ~~From the 2022 election, in addition to the elected members, the Council may include 2 members appointed under this Act.~~
- (2) ~~Despite sections 19D and 19E(2) of the Local Electoral Act 2001 the maximum number of members of the Council is 16.~~
- (3) ~~A reference in any enactment, other than in sections 19D and 19E of the Local Electoral Act 2001, to a member or an elected member of a local authority or a regional council must, in relation to the Council be read as including a reference to an appointed member (including, for example, treating a reference to an elected member's election as a reference to an appointed member's appointment).~~

- (4) Without limiting **subsection (3)**, all members of the Council have the same functions, powers, responsibilities, rights, indemnities, and duties irrespective of whether they are elected or appointed.

6 **Extended membership**

Application of this section

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- (1) This section applies from the day after the date on which the official results of the 2022 election of the Council are declared.
- (2) **Subsection (4)** applies despite section 19E(2) of the Local Electoral Act 2001.
- (3) **Subsection (5)** applies despite section 19D of the Local Electoral Act 2001.

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Membership of Council

- (4) The Council may include, in addition to the elected members, 2 members appointed under this Act.
- (5) The maximum number of members of the Council is 16.
- (6) A reference in any enactment, other than in sections 19D and 19E of the Local Electoral Act 2001, to a member or an elected member of a local authority or a regional council must, in relation to the Council, be read as including a reference to an appointed member.

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Example

An enactment refers to an elected member's election.

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In relation to the Council, this reference must be read as including a reference to an appointed member's appointment.

- (7) Without limiting **subsection (6)**, all members of the Council have the same functions, powers, responsibilities, rights, indemnities, and duties irrespective of whether they are elected or appointed.

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Appointment of members to Council

7 **Appointment of members by TRoNT**

- (1) After the day on which the official result of the 2022 election is declared under section 86 of the Local Electoral Act 2001 in relation to the Council, and after each subsequent triennial general election, TRoNT may appoint up to 2 members of the Council.

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- (1) TRoNT may appoint up to 2 members of the Council—

- (a) from the day after the date on which the official result of the 2022 election is declared under section 86 of the Local Electoral Act 2001 in relation to the Council; and
- (b) after each subsequent triennial general election.

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- (2) Despite section 117 of the Local Electoral Act 2001, whenever a vacancy arises in the case of an appointed member, TRoNT may appoint a member to fill that vacancy.
 - (3) Every member appointed under this section must be qualified to be elected as an elected member at the date of appointment. 5
 - (4) A member who has previously been appointed under this section may be reappointed under this section.
- 8 Notice and commencement of appointment**
- (1) ~~Every appointment under **section 7** must be notified to the chief executive of the Council in writing signed by the appointed member and chief executive of TRoNT, and the appointment takes effect on and from the date that notice is received~~ 10
 - (2) ~~The chief executive of the Council must give public notice of every appointment as soon as practicable after the notification under **subsection (1)** is made.~~ 15
- 8 Notice and commencement of appointment**
- (1) The chief executive of TRoNT must notify every appointment made under **section 7** to the chief executive of the Council.
 - (2) A notification under **subsection (1)** must be—
 - (a) in writing; and 20
 - (b) signed by the chief executive of TRoNT and the appointed member.
 - (3) An appointment takes effect on the date on which the chief executive of the Council receives notification of the appointment under **subsection (1)**.
 - (4) The chief executive of the Council must give public notice of an appointment as soon as practicable after receiving notification under **subsection (1)**. 25
- 9 Vacation of office by appointed members**
- (1) Unless vacating office sooner, appointed members cease to hold office at the same time as elected members vacate office under section 116(1)(a) of the Local Electoral Act 2001; ~~but are eligible for reappointment if qualified.~~
 - (2) Appointed members vacate office or are suspended in the same manner as applies to elected members under the Local Government Act 2002 (see clauses 1 to 5 of Part 4 of Schedule 7, but subclause 5(2) does not apply). 30
 - (2A) For the purposes of **subsection (2)**, clause 5(2) of Schedule 7 of the Local Government Act 2002 does not apply.
 - (3) ~~Section 12 of the Interpretation Act 1999~~ Section 45 of the Legislation Act 2019 does not apply in respect of appointed members. 35

*Lack of appointed members***10 Lack of appointed members***Council may operate irrespective of **section 7** appointment*

- (1) Meetings of the Council (including the first meeting called under the Local Government Act 2002 (~~in accordance with~~ clause 21 of Schedule 7)) may be called irrespective of whether ~~or not~~ TRoNT has made any appointment under **section 7**. 5
- (2) The Council must perform its functions and duties, and may exercise its powers, irrespective of whether ~~or not~~ TRoNT has made any appointment under **section 7**. 10

Unfilled appointment not vacancy for certain purposes

- (3) An unfilled appointment is not a vacancy for the purposes of the following clauses of Schedule 7 of the Local Government Act 2002:
- (a) clause 22(1)(b)(ii) (which relates to a requisition for an extraordinary meeting of a local authority): 15
- (b) clause 23(3)(a) (which relates to the quorum at a meeting of a local authority).
- (4) For the purposes of **subsection (3)**, an unfilled appointment exists if—
- (a) TRoNT makes—
- (i) only 1 appointment under **section 7**; or 20
- (ii) no appointment under **section 7**; or
- (b) a vacancy arises in the case of an appointed member.

Subpart 2—Remuneration of appointed members**10A Remuneration of appointed members***Remuneration Authority* 25

- (1) **Subsection (2)** applies—
- (a) if the Remuneration Authority is determining the remuneration, allowances, expenses, and fees of members of the Council pursuant to the Remuneration Authority Act 1977 and Part 1 of Schedule 7 of the Local Government Act 2002; and 30
- (b) despite **section 6** of this Act.
- (2) The Remuneration Authority must not have regard to whether any members have been appointed under **section 7** of this Act.

Council

- (3) The Council must pay remuneration, allowances, expenses, and fees to any member appointed under **section 7** as other members are remunerated according to their responsibilities. 35

- (4) The Council must make the payments required under **subsection (3)** even if doing so exceeds any total amount payable to elected members of the Council determined by the Remuneration Authority.

Subpart 3—Provisions relating to Local Electoral Act 2001

- 11 Representation reviews** 5
- ~~In making any determination under section 19I of the Local Electoral Act 2001, the Council must disregard the right of TRoNT to appoint members under **section 7**.~~
- 11 Reviews of representation arrangements for elections**
- (1) This section applies if the Council is making a determination under section 19I of the Local Electoral Act 2001 (which requires a regional council to review its representation arrangements). 10
- (2) The Council must disregard the right of TRoNT to appoint members under **section 7** of this Act.
- 12 Remuneration of appointed members** 15
- (1) ~~Despite **section 6**, in determining the remuneration, allowances, expenses, and fees of members of the Council pursuant to the Remuneration Authority Act 1977 and Part 1 of Schedule 7 of the Local Government Act 2002, the Remuneration Authority must not have regard to whether or not any members have been appointed under **section 7**.~~ 20
- (2) ~~The Council must pay remuneration, allowances, expenses, and fees to any member appointed under **section 7** to the same extent as other members are remunerated according to their responsibilities; and must make those payments even if doing so exceeds any governance remuneration pool or other maximum prescribed by the Remuneration Authority.~~ 25
- 13 Council may establish Māori constituencies**
- ~~Nothing in this Act prevents the Council from passing a resolution under section 19Z(2) of the Local Electoral Act 2001 (which relates to a resolution to create one or more Māori constituencies).~~

Schedule 1
Transitional, savings, and related provisions

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Part 1
Provisions relating to this Act as enacted

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There are no transitional, savings, or related provisions relating to this Act as enacted.

Legislative history

10 November 2021
8 December 2021
2 June 2022

Introduction (Bill 91–1)
First reading and referral to Māori Affairs Committee
Reported from Māori Affairs Committee (Bill 91–2)