

# **Bay of Plenty Regional Council (Maori Constituency Empowering) Bill**

Local Bill

As reported from the Justice and Electoral Committee

## **Commentary**

### **Recommendation**

The Justice and Electoral Committee has examined the Bay of Plenty Regional Council (Maori Constituency Empowering) Bill and recommends, by majority, that it be passed with the amendments shown.

The Bay of Plenty Regional Council (Maori Constituency Empowering) Bill is a local bill. In accordance with the requirements in Standing Order 289(1) we have determined that Standing Orders have been complied with. The bill does affect the rights and prerogatives of the Crown as the regulation-making power may involve the Crown in additional expenditure.

### **Introduction**

The majority (Labour / Alliance / Green) approaches to the issues concerning the bill are included in the commentary below, which is followed by a majority conclusion summarising those approaches. This is followed by a minority view from the National and ACT members.

### **The bill**

The Bay of Plenty Regional Council (Maori Constituency Empowering) Bill (the bill), a local bill in the name of Mita Ririnui, was referred to the Local Government and Environment Committee on

6 September 2000. By leave of the House, that decision was rescinded and the bill was referred to the Justice and Electoral Committee on 19 October 2000.

The purpose of the bill is to allow the Bay of Plenty Regional Council (the council) to establish a Maori electoral constituency for the election of councillors. The number of eligible voters enrolled on the Maori roll will be used to determine the proportionate number of Maori seats as compared to the number of general seats on the council.

Two thirds of the submissions we received support the bill. We heard submissions in Whakatane, Wellington and Auckland. The bill attracted strongly held views in support of and in opposition to it. We summarise those views below. There are also a number of technical issues relating to the bill that needed to be addressed, and transitional arrangements made for it to be implemented for the 2001 elections.

### **Background**

As well as the provision of Maori seats in parliamentary elections, there is a precedent for the establishment of Maori electoral constituencies in local government elections. This arose as a result of a Local Government Commission review of the Auckland Regional Authority in 1985. There was one Maori seat in the 1986 election, and two in 1988. The seats were disestablished as part of the 1989 reorganisation of local government and currently no local authority operates such a system. The Local Government Act 1974 (LGA) does not provide for non-geographic constituencies, that is representation based on other than physical localities. The LGA is currently being reviewed, including the issue of non-geographic representation. Most of us believe that all local authorities should have the ability to deal with the need to create Maori constituencies. Parliament will soon be considering a fundamental reform of local government law. We urge the Government to include this matter, and broader matters of Maori representation and participation in local government, in their consultation on that legislation, with a view to including proposals in a local government reform bill.

Regional councils were established in 1989, with responsibilities including biosecurity, catchment control, harbour administration and resource management. The enactment of the Resource Management Act 1991 (RMA) provided for tangata whenua participation in

resource management, including requirements on local authorities to consult Maori. The council established three Maori Regional Representation Committees to ensure communication between it and iwi.

When the question of separate Maori constituencies arose in 1996, the council strongly supported the concept of a Maori electoral constituency and set up a working party to progress this. The measure was proposed by the council in recognition of the large proportion (28 percent) of the region's voting population who are Maori and the fact that half the land in the region is owned by Maori. It seeks to address the limited level of representation tangata whenua have had on the council since its establishment.

In 1997 the council publicly notified the proposal to establish a Maori constituency, as required by section 716A of the LGA. Three quarters of the over 1,000 written submissions supported the proposal. An independent assessment of the proposal commissioned by the council and conducted by Retired Chief Judge Peter Trapski found:

- Maori clearly perceive they are under-represented on the council.
- Adoption of the proposal would deliver to Maori the same voting rights as others. Their electoral rights would be no greater than those afforded to any other voter in the region.
- The proposal is in conformity with the delivery of the democratic process in New Zealand, and in conformity with New Zealand's constitutional principles.

The Ministry of Justice has advised that the bill as introduced does not breach the New Zealand Bill of Rights Act 1990.

### **Views on the bill**

The bill is strongly supported by the 35 iwi of the region. The majority of submissions support the bill, although there is also strong opposition to providing separate representation for Maori in non-geographical constituencies. We note that the bill is not supported by four of the six district councils in the region. The four that oppose the bill are those wholly within the region.

### **Support for the bill**

Those who support the bill consider having guaranteed tangata whenua representation will enable those who are elected to achieve a stronger mandate, as they will not be reliant on non-Maori support for election. We were told that capable Maori who have been elected to the general wards of the council do not get re-elected once they express views supporting initiatives beneficial to Maori in the region. In addition, current constituency boundaries fragment Maori votes by splitting tribal areas.

Submissions see separate representation on the council as a Treaty right. We were told Maori wish to sit at the council table rather than merely being advisers and being consulted. They consider that being able to exercise their kaitiaki role over the natural and physical resources of the region is in the long-term interests of the whole region.

Those who support the bill view it as providing for inclusiveness and removing the ‘tyranny of the majority’. They believe a Maori electoral constituency will encourage higher participation by Maori in voting. The provision of Maori electoral constituencies is seen as being consistent with Maori seats in parliamentary elections.

The council is seeking to recognise and acknowledge the mana of the iwi in its region. It has promoted this bill in response to what it perceives as the particular characteristics of the region. It does not see the bill as setting a wide precedent for the rest of New Zealand.

Single Transferable Voting (STV) is not considered to achieve the same result because while it can promote wider representation, it does not guarantee Maori members on council.

### **Opposition to the bill**

Those who oppose the bill consider that having separately elected Maori members will polarise consideration of Maori interests and will be divisive in the region. They do not consider that the bill will, in fact, achieve its objective. They see it as being separatist and promoting “apartheid”, and as being against the principle of one country, one people.

Submissions opposing the bill view it as anti-democratic and as going against the principle of one person, one vote. They consider that people should be elected on their own merit and not by special

privilege. Everyone should be treated equally. The bill is also seen as setting an unwelcome precedent for other local authorities.

These submissions consider the bill is unnecessary because there are other mechanisms by which Maori are consulted, such as the Maori standing committees and through the requirements of the RMA. Some see the bill as patronising to Maori on the grounds that they are capable of being elected without special treatment. They point to the fact that Maori have been elected onto councils in the region under the current system. Some submitters see the bill as in conflict with the Treaty of Waitangi.

Some submitters consider that STV might provide a better solution for representation of Maori, as it enables the better representation of diverse interests in the community without the creation of Maori constituencies.

### **Implementation of the bill**

Most of us support the bill on the basis that it provides a solution to address problems of representation for Maori in a local authority area. We see STV as complementing the provision of a separate Maori constituency, rather than being an alternative.

We propose modifications to the means of determining the number of Maori members, and include the ratepayer franchise, to make the bill's provisions consistent with the relevant primary legislation. We also add provisions covering transitional arrangements in order to implement the bill for this year's local authority elections. We omit and substitute all clauses, bar the title, for clarity, consistency with the wording of relevant legislation, and to cover issues the bill is silent on. These latter changes do not alter the purpose of the bill.

### **Determining the number of Maori members**

Clause 6 of the bill proposes that the number of electors on the Maori roll be used to determine the proportionate number of Maori members, as compared to the number of non-Maori or general members. This is not consistent with the LGA or the Electoral Act 1993, where the total population (including those under 18 and those not enrolled) is used to determine the number of members to be elected.

Accordingly, most of us recommend in new clause 13 that the Maori electoral population, as determined by Statistics New Zealand in

accordance with the formula in section 3(1) of the Electoral Act 1993, be used instead. This statistic takes account of the fact that the Maori population contains a greater ratio of those aged under 18 years (and therefore not eligible to vote) to over 18 years than the general population. It also takes account of those people who are not enrolled to vote. The Maori electoral population is calculated by applying the proportion of Maori electors who are registered as electors of Maori electoral districts to the census data for the number of Maori (adults and children).

### **Maori roll**

Clause 8 proposes that a “Maori residential electoral roll” be established. However, a separate roll is not required if the Maori roll of parliamentary electors is used to determine who the electors will be. Most of us recommend that this be used.

The Maori roll for the local authority elections could be drawn from the Maori roll for the General Election. We recognise that there may be electors who have enrolled on the Maori roll for the General Election without the intention to enrol on the Maori roll for the local authority election. We consider that the provision of an ‘opt in’ or ‘opt out’ clause could be addressed by means of a supplementary order paper. We also consider that the creation of a separate Maori electoral roll needs to be considered in the context of local body elections and be a matter for the review of local government legislation.

### **Transitional arrangements**

Transitional arrangements are needed to enact the bill in time for Maori electoral constituencies to be used in the Bay of Plenty for the local elections taking place on 13 October this year. The council has determined its membership and basis of election for the 2001 elections, as required by the LGA, and 12 members will be elected. The LGA limits the number of members on a regional council to 14. There is insufficient time to review this determination, and so we propose in new Part 1 (new clauses 5 to 8 of the bill) the following transitional arrangements for the 2001 council election:

- Two Maori electoral members to be separately elected, in addition to the 12 general members.

- Maori members will be elected 'at large', as there is insufficient time for any alternative boundary proposals to be considered.
- The existing Maori roll for parliamentary elections will be used.

### **Other changes**

New Part 2 of the bill deals with membership of the council for 2004.

New clauses 9, 10, 11 and 12 replace clause 6, and relate to the triennial review of the membership, as contained in the LGA.

New clause 14 replaces clause 7 and addresses who the electors for the Maori constituencies are, including for extraordinary vacancies.

New clauses 15 and 16 address voting rights at triennial elections and elections to fill extraordinary vacancies.

New Part 3 contains miscellaneous provisions.

New clause 17 provides information from the Chief Registrar of Electors for the purpose of identifying whether ratepayer electors are on the Maori or general roll.

New clauses 18 and 19 provide a transitional regulation-making power to facilitate the conduct of elections held before the 2004 triennial general election.

### **Majority conclusion**

The evidence of significant Maori non-engagement in local government is powerful and irrefutable. Maori comprise a disproportionately low proportion of elected councillors, of those who enrol and of those who vote in local body elections. Their needs are rarely at the forefront of local government concerns, and councils struggle to make the cultural leap necessary to take on board the urgent, sometimes passionate, concerns of Maori. Local bodies are far from alone in seeking and not finding solutions to such an endemic problem; yet their role as our local democracies, representing and aspiring to serve the needs of the whole community, gives them a unique position. The potential damage caused by the low level of Maori engagement is considerable; it is incumbent on all to seek and secure solutions.

Central government offers something of a role model, for local bodies to study. Such realities as equal opportunity employment policies, substantial involvement with Maori service delivery and daily interaction at all levels with the complexities of a bicultural nation all help to give the government machine a growing expertise and relevance in this area. Symbolic of and central to the story of this growing awareness within central government has been the voting system, guaranteeing inclusion of Maori at the highest level. The number of people on the Maori roll has outstripped those who are Maori on the general roll. The number of Maori seats has increased election by election. MMP has delivered a Parliament representative of its nation in ethnic, and specifically bicultural, terms. Through such moves, Maori have moved to a central place in our national-level political life. How can this outcome be achieved at the local level?

The Bay of Plenty Regional Council has taken a brave and highly commendable step in seeking legislation to guarantee Maori representation around their council table, to respond to this challenge. Their stand may come to be seen as historic. Their logic is driving and persuasive. The pattern of Maori being elected to their council is that they last one term before being voted out by the majority pakeha electorate in their ward, seemingly because they have spoken out on Maori concerns. The system has been unable to sustain long-term Maori involvement. The arrangements which they made to establish consultative committees were impressive, and will continue to play a role in future, but have not succeeded in substituting for permanent places at the table.

The introduction of STV should increase representation for minorities, but again does not deliver accountability by Maori to Maori. At the same time, with 28 percent of residents identifying as Maori, with a resurgent Maori renaissance in the region and with over half the land, and specifically, half the land available for development, being owned by Maori, the current under-representation is simply unsustainable and unacceptable. The principle of Maori self-governance underpins the articles of the Treaty and, in the view of many Maori submitters, representation on council in this manner would go some way to fulfilling a Treaty right.

The solution of creating Maori seats is drawn from the parliamentary model. The council proposed a ward system, and under the terms of the bill this can operate from the 2004 local body elections. Mindful



of the time pressures involved in creating wards for the 2001 elections, and keen to give the council a realistic choice about whether or not to hold an election under this system in 2001, the committee has created an interim arrangement which allows for the creation of two seats, to be elected at large.

We are aware of the deep and genuine fears which some hold of these arrangements. And yet from the extraordinary level of public and active support for this bill from the Maori of the Bay of Plenty, we are also aware of the potential which it holds. We were more convinced by the latter. There are numerous ways that democracy can be given effect. We believe that there is a need to develop forms of democracy that address the unique situation existing nationally and locally and which recognise the mana of the tangata whenua. We feel that this bill is one way of achieving this aim. We believe it to be vital that all local bodies have the option of entering into arrangements to secure Maori participation and have urged that the Government introduces in forthcoming local government legislation options on which all local bodies will have to decide at three-yearly intervals, as they also decide on what electoral system to use. The Bay of Plenty Regional Council has shown us a glimpse of how the future might be. They deserve the opportunity of showing us all how it works out in practice.

### **Minority view**

The National and ACT members are opposed to the principles of the bill. The basic premise of the bill is to set in place an electoral system based on ethnicity. In contrast, all local body elections are currently based on a single roll, where a person's ethnicity is immaterial to the exercise of their franchise. This reflects the fact that all voters have a common interest as citizens in an election. It reflects the fact that our franchise is based on equality of all voters and that each voter is treated the same.

The proponents of the bill base their case on two grounds—firstly that this will simply replicate the parliamentary system; and secondly, there are particular Maori interests in the Bay of Plenty that can only be acknowledged by separate Maori seats.

Both arguments are flawed. The first argument presupposes that if we were to redesign New Zealand's parliamentary system we would include a separate Maori electoral roll. In the 21st Century this would not happen. In fact the 1986 Royal Commission on the

electoral system recommended the abolition of the Maori seats, albeit coupled with a recommendation that the 5 percent threshold would not apply to Maori parties. The reason for this was that, in a Parliament elected on a proportional basis, all groups could be represented. The retention of the Maori seats has more to do with our constitutional history, rather than a contemporary need for separate representation. The Maori parliamentary seats are not a case for extending a separate franchise.

In any event the Government is promoting STV for local authorities. The proponents of STV argue that all groups can be properly represented under STV. Given that the majority has introduced STV through the Local Electoral Bill, they have destroyed their own rationale for a separate representation system for Maori.

The second argument is that there are special Maori interests in the Bay of Plenty and elsewhere to be taken into account and this can only be done by separate representation. In reality, Maori interests in local authorities are the same as for all New Zealanders. They are based on primarily protecting land interests. All landowners have the same interest in the development and protection of property rights. Moreover, Maori have equality of access before the Planning Tribunal and the Environment Court where these issues are also considered. In fact environmental legislation provides particular protection for Maori interests. Local authorities are already required to take these interests into account. They also receive particular protection in the Courts. All these matters are governed by statute, and enacting statutes is the pre-eminent domain of Parliament, not local authorities. The fact that Maori interests are specifically represented in Parliament rests in part on the requirement for particular laws relating to Maori land and the protection of culture. These imperatives do not exist at the local level.

Even the claim that Maori have not had proper representation on the council is contradicted by the facts. In the current council, two of the 12 members are Maori, and Maori have been typically represented on the council over many years. Creating two additional Maori seats on the council could actually lead to a reduction in Maori representation as general voters would consider that representation had already been achieved through the Maori seats.

The proposal would mean that general voters could be disconnected from an interest in Maori issues. There is also a real risk that the representatives of each group need no longer be concerned

electorally about appealing to, or avoiding giving offence to, the voters of the other group. If this occurred we would lose sight of the importance of communities embracing all the diverse interests and views within them.

The promoters of the bill now want an ad hoc, rushed solution for the 2001 local election. They have taken a completely arbitrary approach to establishing separate seats by simply nominating two Maori seats. For such a significant change to New Zealand's electoral system this is a fundamentally bad approach. Major electoral reform should not start with a local bill—such matters should be considered as they apply across the whole nation. The unseemly haste to introduce this system is likely to be divisive. The rushed introduction for the 2001 election will discredit the whole process of electoral reform. Such issues should be the subject of the widest possible debate. This has not happened. The bill should not proceed.

ACT read the submissions from the many Bay of Plenty people opposed to this bill as confirming the divisiveness of the measure. ACT considers that other members of the committee have completely underestimated the constitutional significance of these changes.

ACT believes the evidence to the committee showed this proposal to be contrary to the Treaty of Waitangi because this new franchise is not confined to mana whenua, and because it draws distinctions alien to the Article Three principle of one law for all.

Fostering election distinction based on race is contrary to the Convention on Elimination of all Forms of Racial Discrimination to which New Zealand is a party. That convention was wise, and intended to neutralise race as a factor in government. Future local authority politicians can appeal to voter instincts for focusing on differences rather than common concerns. The bill eliminates electoral incentives for councillors to be sensitive to positions that alarm or upset the race constituencies to which they do not belong.

## **Appendix**

### **Committee process**

The Bay of Plenty Regional Council (Maori Constituency Empowering) Bill was referred to the Justice and Electoral Committee on 19 October 2000. The closing date for submissions was 12 February 2001. We received and considered 221 submissions from interested groups and individuals. We heard 40 submissions, which included holding hearings in Wellington, Whakatane and Auckland. Hearing evidence took 11 hours and 48 minutes and consideration took six hours.

We received advice from the Department of Internal Affairs, the Local Government Commission and Statistics New Zealand. Wiremu Haunui provided interpretation services at Whakatane.

### **Committee membership**

Tim Barnett (Chairperson) (Labour)

Kevin Campbell (Alliance)

Stephen Franks (ACT)

Janet Mackey (Labour)

Nanaia Mahuta (Labour)

Dr Wayne Mapp (National)

Alec Neill (National)

Damien O'Connor (Labour)

Hon Clem Simich (National)

Nandor Tanczos (Green)

On 14 February 2001, Alec Neill replaced Hon Tony Ryall as a permanent member.

On 8 May 2001, Mita Ririnui replaced Damien O'Connor as a permanent member.

Mita Ririnui replaced Damien O'Connor for much of this item of business.

Hon Georgina te Heuheu replaced Alec Neill for much of this item of business.

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## Key to symbols used in reprinted bill

### As reported from a select committee

#### **Struck out (majority)**

**Subject to this Act,**

Text struck out by a majority

#### **New (majority)**

**Subject to this Act,**

Text inserted by a majority

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# Bay of Plenty Regional Council (Maori Constituency Empowering) Bill

Local Bill

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The Parliament of New Zealand enacts as follows:

### 1 Title

This Act is the Bay of Plenty Regional Council (Maori Constituency Empowering) Act **2000**.

**Struck out (majority)**

### 2 Commencement

This Act comes into force on the day on which it receives the Royal assent. 5

### 3 Interpretation

In this Act, unless the context otherwise requires,—  
**constituency** has the same meaning as in section 2(1) of the Local Government Act 1974 10

**Struck out (majority)**

	<b>Council</b> means the Bay of Plenty Regional Council	
	<b>Maori electoral district</b> means an electoral district determined under <b>section 6</b>	
	<b>meshblock</b> means statistical meshblock	
	<b>region</b> means the Bay of Plenty Region comprising the area delineated on SO Plan 58080 deposited under the Local Government Act 1974 and the Local Elections and Polls Act 1976.	5
<b>4</b>	<b>Act to be read with Local Government Act 1974 and Local Elections and Polls Acts 1976</b>	10
	This Act is to be read in conjunction with the Local Government Act 1974 and the Local Elections and Polls Act 1976.	
<b>5</b>	<b>Membership of Council</b>	
(1)	Despite anything in sections 101H to 101M of the Local Government Act 1974, the region must be divided into constituencies with membership in accordance with this section.	15
(2)	The constituencies of the region are—	
	(a) those general electoral districts being the constituencies specified in clause 11 of the Government (Bay of Plenty Region) Reorganisation Order 1989; and	20
	(b) 1 or more Maori electoral districts to be determined in accordance with <b>section 6</b> .	
(3)	Sections 101H to 101M of the Local Government Act 1974 apply in respect of the region with such modifications as may be necessary to give effect to this Act.	25
<b>6</b>	<b>Determination of Maori electoral districts</b>	
(1)	The Maori electoral districts must be determined no later than 31 August in the year immediately preceding the year in which the triennial general election is to be held.	
(2)	The number of Maori electoral districts must be ascertained by dividing the number of voters in the region enrolled on the Maori electoral roll for parliamentary purposes, by the total number of voters in the region enrolled on all electoral rolls	30

**Struck out (majority)**

- for parliamentary purposes, and multiplying the quotient by the number of members of the Council.
- (3) Where the number of Maori electoral districts calculated according to **subsection (2)** includes a fraction, the fraction must be disregarded unless it exceeds a half. If the fraction exceeds a half, the number of Maori electoral districts must be the next whole number above the number that includes the fraction. 5
- (4) The boundaries of each Maori electoral district, if more than 1, must be determined having regard to— 10
- (i) the need for the number of voters in each such district to be similar; and
  - (ii) the boundaries of any existing Maori electoral districts; and
  - (iii) communities of interest and tribal affinities.
- 7 Qualification for Maori residential electoral roll** 15
- Every person who is enrolled on the Maori Electoral roll for parliamentary purposes under sections 45 and 76 to 79 of the Electoral Act 1993 must be enrolled as an elector of the Maori constituency in which the address at which that person is registered as a parliamentary elector is situated. 20
- 8 Maori residential electoral roll**
- (1) The Maori residential electoral roll must comprise the names and addresses, arranged in alphabetical order of their surnames, of every person who, as at 14 July of the year in which a triennial general election of members of the Council is to be held, is qualified as an elector of the local authority under **section 6**. 25
- (2) For the purposes of compiling the Maori residential electoral roll, the principal administrative officer must— 30
- (a) obtain from the Registrar of Electors, under section 113 of the Electoral Act 1993, a computer-compiled list or computer tape containing the information specified in that section in respect of electors appearing to reside within the Region; and
  - (b) use that list or tape to compile the Maori residential electoral roll. 35



**Struck out (majority)**

- (3) The Maori residential electoral role must also contain the following information:
- (a) the occupations and postal addresses of electors; and
  - (b) the statistical meshblock areas of the residences of electors; and
  - (c) such other information as has been supplied by the Chief Registrar under section 113 of the Electoral Act 1993 in respect of electors.

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**New (majority)****2 Commencement**

- (1) **Part 2** of this Act comes into force on **14 October 2001**.
- (2) The rest of this Act comes into force on the day after the date on which it receives the Royal assent.

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**3 Interpretation**

In this Act, unless the context otherwise requires,—

**census** has the same meaning as in section 3(1) of the Electoral Act 1993

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**constituency** has the same meaning as in section 2(1) of the Local Government Act 1974

**Council** means the Bay of Plenty Regional Council

**general constituency**, in relation to the region, means every constituency of the region that is not a Māori constituency

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**general electoral population** has the same meaning as in section 3(1) of the Electoral Act 1993

**Māori constituency** means the Māori constituency established by **section 5** or a Māori constituency created in accordance with **Part 2**

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**Māori electoral district** has the same meaning as in section 3(1) of the Electoral Act 1993

**Māori electoral population** has the same meaning as in section 3(1) of the Electoral Act 1993

30

**New (majority)**

**region** means the Bay of Plenty Region comprising the area delineated on SO Plan 58080 deposited under the Local Government Act 1974.

- 4 Act to be read with Local Government Act 1974 and  
Local Elections and Polls Act 1976** 5
- (1) This Act and any regulations made under this Act are to be read in conjunction with the Local Government Act 1974 and the Local Elections and Polls Act 1976, and those Acts and any regulations made under those Acts apply accordingly and with any necessary modifications. 10
- (2) However, if there is any inconsistency between the provisions of this Act or any regulations made under this Act and any provisions in either of those Acts or any regulations made under those Acts, this Act prevails.
- (3) This section is subject to **section 18**. 15

**Part 1**

**Members of Council between 2001 and 2004**

- 5 Māori constituency**
- For the purposes of the election of the Council at the triennial general election on 13 October 2001 and any subsequent election to fill an extraordinary vacancy in the membership of that Council held before the 2004 triennial general election,— 20
- (a) the region consists of—
- (i) the constituencies created for the purposes of that triennial general election under sections 101H to 101M of the Local Government Act 1974; and 25
- (ii) 1 Māori constituency, the boundaries of which are the same as those of the region:
- (b) the number of members to be elected by electors of the general constituencies referred to in **paragraph (a)(i)** is 12; 30
- (c) the number of members to be elected by electors of the Māori constituency is 2.

**New (majority)**

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|----------|---|----|
| <b>6</b> | <b>Electors of Māori constituency</b>   |    |
|          | The electors of the Māori constituency established by <b>section 5</b> are,—  |    |
|          | (a) in the case of the triennial general election on 13 October 2001, the residential electors and ratepayer electors entitled to vote at the election of the Council who are registered as an elector of a Māori electoral district:                               | 5  |
|          | (b) in the case of any election to fill an extraordinary vacancy in the membership of that Council that is held before the 2004 triennial general election, those persons who, as at the day before polling day at the election to fill the extraordinary vacancy,— | 10 |
|          | (i) would be entitled to vote as a residential elector or ratepayer elector at any general election of the Council, were it to be held on that polling day; and   | 15 |
|          | (ii) are registered as an elector of a Māori electoral district.  |    |
| <b>7</b> | <b>Voting rights at 2001 election</b>   |    |
| (1)      | A person who, under <b>section 6</b> , is an elector of the Māori constituency of the Council at the triennial general election on 13 October 2001 is—  | 20 |
|          | (a) entitled to vote at the election of members of that constituency; but   |    |
|          | (b) not entitled to vote at the election of members of any general constituency.  | 25 |
| (2)      | No other person is entitled to vote at the election of members of the Māori constituency of the Council at the triennial general election on 13 October 2001.   |    |
| <b>8</b> | <b>Voting rights at election to fill extraordinary vacancy before 2004 general election</b>   | 30 |
| (1)      | A person who, under <b>section 6</b> , is an elector of the Māori constituency of the Council at any election to fill an extraordinary vacancy that is held before the 2004 triennial general election, is entitled to vote at that election.                       | 35 |

**New (majority)**

- (2) No other person is entitled to vote at any election to fill an extraordinary vacancy in the Māori constituency of the Council that is held before the triennial general election in 2004.

**Part 2**

**Membership of Council at 2004 general election  
and subsequently** 5

- 9 Review of membership and basis of election of Council**  
For the purposes of carrying out the duties imposed by section 101H(2) of the Local Government Act 1974, in the year 2003 and in any subsequent year when those duties are required to be undertaken, the Council must first determine— 10
- (a) the proposed number of members of the Council; and
  - (b) the proposed number of members of the Council to be elected by the electors of 1 or more Māori constituencies; and 15
  - (c) the proposed number of members of the Council to be elected by electors of general constituencies.

- 10 Calculation of number of Māori and general constituency members**
- (1) The number of members to be elected by the electors of 1 or more Māori constituencies of the Council (**Māori constituency members**) is to be determined in accordance with the following formula: 20

$$nmm = \frac{mepr}{mepr + gepr} \times nm \quad 25$$

where—

nmm is the number of Māori constituency members  
mepr is the Māori electoral population of the region  
gepr is the general electoral population of the region 30  
nm is the proposed number of members of the Council.

- (2) If the number of the Māori constituency members calculated under **subsection (1)** includes a fraction, the fraction must be disregarded unless it exceeds a half. If the fraction exceeds a half, the number of Māori constituency members must be the 35

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	next whole number above the number that includes the fraction.	
(3)	The number of members to be elected by the electors of the general constituencies is to be determined by subtracting from the proposed number of members of the Council the number of Māori constituency members, as calculated under <b>subclauses (1) and (2)</b> .	5
<b>11</b>	<b>Relationship with other provisions</b>	
(1)	In exercising its powers and duties under sections 101H to 101M of the Local Government Act 1974, the Council or, as the case may require, the Local Government Commission must ensure that any proposal, revised proposal, or determination made under any of those sections is consistent with the result of the calculations required by <b>section 10</b> .	10
(2)	If it is proposed to alter the proposed number of members of the Council at any time after that number is first determined in accordance with <b>section 9</b> and section 101H(2) of the Local Government Act 1974, the Council or, as the case may require, the Local Government Commission must again make the determinations required by <b>section 9(a) and (b)</b> , in accordance with the method of calculation specified in <b>section 10</b> .	15 20
(3)	<b>Subsection (2)</b> does not limit <b>subsection (1)</b> .	
<b>12</b>	<b>Supplementary provisions regarding constituencies and boundaries</b>	
	In determining the number of constituencies and boundaries of Māori constituencies, the Council and, if appropriate, the Local Government Commission must, in addition to satisfying the requirements in section 101L(1) of the Local Government Act 1974, have regard to—	25
(a)	the need for the ratio of members to population in each Māori constituency to be similar (if more than 1 Māori constituency for the region is proposed); and	30
(b)	the boundaries of any existing Māori electoral district; and	
(c)	communities of interest and tribal affiliations.	35

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**13 Population figures**

- (1) The Government Statistician must, at the request of the Council or, if appropriate, the Local Government Commission, supply the Council or the Commission with a certificate—
- (a) specifying the Māori electoral population for the region; and 5
  - (b) the general electoral population of the region.
- (2) The numbers included in the certificate must be derived from information contained in the most recent report of the Government Statistician to the Surveyor-General and to the other members of the Representation Commission made under section 35(6) of the Electoral Act 1993. 10
- (3) A certificate issued under **subsection (1)** is conclusive evidence of the information contained in that certificate.

**14 Electors of Māori constituencies** 15

- (1) The electors of any Māori constituency created in accordance with this Part are, in the case of any triennial general election,—
- (a) those residential electors of the region entitled to vote at the election of the Council who— 20
    - (i) are registered as a parliamentary elector at an address within the constituency; and
    - (ii) are registered as an elector of a Māori electoral district; and
  - (b) those ratepayer electors of the region entitled to vote at the election of the Council— 25
    - (i) whose entitlement as an elector arises in respect of property in the constituency; and
    - (ii) who are registered as an elector of a Māori electoral roll. 30
- (2) The electors of any Māori constituency created in accordance with this Part are, in the case of an election to fill an extraordinary vacancy,—
- (a) those residential electors of the region who, on the day before polling day at the election,— 35
    - (i) are registered as a parliamentary elector at an address within the constituency; and

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|-----------|--|----|
| (ii)      | are registered as an elector of a Māori electoral district; and  |    |
| (b)       | those persons who, on the day before polling day at the election, are ratepayer electors of the region—  |    |
| (i)       | whose entitlement as electors arises in respect of property in the constituency; and   | 5  |
| (ii)      | who are registered as an elector of a Māori electoral district.  |    |
| <br>      |  |    |
| <b>15</b> | <b>Voting rights at triennial election</b>   |    |
| (1)       | A person who, under <b>section 14</b> , is an elector of a Māori constituency of the Council at a triennial general election is—   | 10 |
| (a)       | entitled to vote at the election of the member or members of that constituency at the triennial general election; but  |    |
| (b)       | not entitled to vote at the election of the member or members of any other constituency of the Council.  | 15 |
| (2)       | No other person is entitled to vote at the election of members of that Māori constituency of the Council at a triennial general election.  |    |
| <br>      |  |    |
| <b>16</b> | <b>Voting rights at election to fill extraordinary vacancy</b>   | 20 |
| (1)       | A person who, under <b>section 14</b> , is an elector of any Māori constituency of the Council at any election to fill an extraordinary vacancy, is entitled to vote at that election. |    |
| (2)       | No other person is entitled to vote at any election to fill an extraordinary vacancy in that Māori constituency.   | 25 |

**Part 3**  
**Miscellaneous**

- |           |  |    |
|-----------|--|----|
| <b>17</b> | <b>Supply of information by Chief Registrar of Electors to Council</b>   |    |
| (1)       | A person nominated by the Council or the principal administrative officer of any constituent territorial authority within the region may request the Chief Registrar of Electors to inform the requester if any person who is qualified as a ratepayer | 30 |

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elector of the region is registered as an elector of a Māori electoral district.

- (2) If the Chief Registrar of Electors receives a request under **subsection (1)**, the Chief Registrar must provide the information requested, if the requester has supplied adequate identifying information. 5

**18 Transitional regulations**

For the purpose of facilitating the conduct of the election of the Council at the triennial general election on 13 October 2001 and any subsequent election to fill an extraordinary vacancy in the membership of that Council before the 2004 triennial general election, the Governor-General may by Order in Council make regulations— 10

- (a) prescribing provisions concerning the conduct of those elections that may be in addition to the provisions of this Act: 15
- (b) providing that, subject to such conditions as may be specified in the regulations, during a specified transitional period,—
- (i) specified terms have the meanings given to them by the regulations: 20
- (ii) specified provisions of the Local Government Act 1974, the Local Elections and Polls Act 1976, or any regulations made under either of those Acts are modified in the manner indicated by the regulations. 25

**19 Expiry of section 18**

**Section 18** expires on the close of **30 June 2004** and on the close of that date is repealed.



**Bay of Plenty Regional Council (Maori  
Constituency Empowering)**

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**Legislative history**

1 August 2000	Introduction (Bill 49-1)
6 September 2000	First reading and referral to the Local Government and Environment Committee
9 May 2001	Reported by the Justice and Electoral Committee (Bill 49-2)

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