

23 February 2023

Customer Services
P. 03 353 9007 or 0800 324 636

200 Tuam Street

PO Box 345
Christchurch 8140

www.ecan.govt.nz/contact

Future for Local Government review panel
futureforlg@dia.govt.nz

Tēnā koutou kātoa,

Canterbury Regional Council (Environment Canterbury) submission on He mata whāriki, he matawhānui

Environment Canterbury welcomes the opportunity to provide feedback on the Future for Local Government draft report, He mata whāriki, he matawhānui. Please find enclosed Environment Canterbury's submission on the report and a joint statement from Papatipu Rūnanga, Te Rūnanga o Ngāi Tahu and Environment Canterbury, previously circulated to the panel.

As noted in the submission, the Future for Local Government review presents a crucial and timely opportunity to have an aspirational look at how local government should evolve over the next thirty years and we look forward to the panel's final report.

For any queries, including if Council or staff can provide any further clarity or examples on the points raised, please contact: Cecilia Ellis, Senior Strategy Advisor, cecilia.ellis@ecan.govt.nz.

Ngā mihi



Peter Scott
Chair
Canterbury Regional Council

Environment Canterbury submission on the Future for Local government review - He mata whāriki, he matawhānui

1. The Future for Local Government review presents a crucial and timely opportunity to have an aspirational look at how local government should evolve over the next thirty years. Environment Canterbury (Canterbury Regional Council) congratulates the panel on their work to date on the review, and the in-depth bold thinking within the report given the complex, broad and interdependent nature of the subject.
2. The Panel has appropriately identified the complex current and future challenges facing our communities and the need for change. However, Environment Canterbury considers that the opportunity for change may be missed given the significant Government reform programme underway, and that this could compromise the ability to create a more cohesive and sustainable system. To be able to respond to significant challenges, such as climate change that will impact on all aspects of community wellbeing, a unified and integrated approach to reform is needed.
3. Council strongly advocates that the final report is more compelling with tangible recommendations prioritised to ensure fundamental issues are addressed. The final report should be seen as an opportunity to provide an evidence-based platform to identify and progress changes needed in the short, medium and long-term to maximise the wellbeing and resilience of communities.
4. It is not solely up to local government to seize opportunities and deal with the current and future challenges. Central government needs to partner with local government and hapū/iwi to address fundamental issues. Challenges associated with funding pressures and the central and local government relationship should be addressed as a priority, including an end to unfunded or underfunded mandates.
5. The panel has accurately reflected the significant value local government plays in contributing to community wellbeing, through its in-depth understanding of local issues, and through its role in making connections and enabling solutions. Whilst regional councils are assumed in the report within local government, in general Council found that the differences between regional council and city and district councils', and therefore nuanced approaches required could be better articulated and considered. A better understanding of how the layers of local and central government work, and the different roles and functions could lead to a more effective and efficient local government, that central government and the public understand.
6. Given this and the broad nature of the topic, this submission focuses on where Environment Canterbury can add value from a regional perspective, including our evolving partnership with Ngāi Tahu and the diversity of the Canterbury region.

Regional context

7. Canterbury is New Zealand's largest region by land area (44, 500km²) and second largest by population after Auckland (655, 000¹). The Canterbury region is characterised by many significant and diverse landscapes and catchments. West to east, the region extends from the Southern Alps to the coast leading to ki uta ki tai (mountains to the sea) approach.
8. Ngāi Tahu holds the rangatiratanga (tribal authority) for over 80 per cent of Te Wai Pounamu—the South Island, including the entire Canterbury region, which includes 10 of the 18 Papatipu Rūnanga. Our relationship with Ngāi Tahu is central to all of our work and is based on recognising the rangatiratanga and mana of Ngāi Tahu over their takiwā, which directly affects the work we do at Environment Canterbury.
9. Within the Canterbury region, there are ten territorial authorities, that vary greatly in population size from 4, 200 (Kaikoura) to 389, 000 (Christchurch). 82 per cent of the Canterbury population reside in the Greater Christchurch area (Christchurch City, Waimakariri and Selwyn Districts). The Canterbury Mayoral Forum brings together the mayors of the ten territorial authorities and Chair of Environment Canterbury to provide leadership, co-ordination and advocacy for the Canterbury region and its communities.
10. From our perspective, one of the key strengths and rationale for the regional approach, is the ability to make connections, and utilise local knowledge and expertise to provide oversight that is not practicable at a national or territorial level. Regional oversight is particularly necessary for the use, protection and enhancement of the environment as the protection of the environment often requires cross-boundary identification and management of issues. The regional approach also offers opportunities for integrated and long-term strategic approaches to be taken across transport, and key infrastructure to ensure resilient and sustainable communities.

A Tiriti- Based partnership between Māori and local government (chapter 3)

11. Environment Canterbury commends the panel on the report's transformational and constructive discussions on a Tiriti-based partnership, affirming that the system needs to enable a more meaningful expression of rangatiratanga and appropriate exercise of kāwanatanga. In Canterbury, we are in a unique and privileged position as the entire Canterbury region lies within the Ngāi Tahu takiwā.
12. Notably for Environment Canterbury and regional councils generally, statutory obligations in resource management mean that regional councils have great influence over Article II matters and therefore enabling mana whenua to exercise kaitiakitanga responsibilities is especially relevant. The discussion and findings integrated throughout the report rightly recognise the importance of local expression and that a one size fits all approach is not feasible.
13. Central government have a key role in enabling local government to have a more authentic Tiriti partnership with Māori. This includes ensuring that current and future

¹ estimated resident population as 30 June 2022, Stats NZ

legislation and policy is consistent in enabling a genuine Tiriti partnership rather than being a barrier. In Environment Canterbury and Ngāi Tahu experience, local government legislation has limited the nature and extent to which our Treaty partnership can be expressed, specifically full mana whenua representation on the Council. As noted in the draft report, this led to the bespoke Canterbury approach through the Canterbury Regional Council (Ngāi Tahu Representation) Act 2022 which has enabled appointment of two Ngāi Tahu Councillors to Council. The joint statement from Papatipu Rūnanga, Te Rūnanga o Ngāi Tahu and Environment Canterbury enclosed provides further background on the governance journey (Appendix 1).

14. Environment Canterbury supports the development of a new legislative framework for Tiriti-related provisions in the Local Government Act 2002 (recommendation 6). Provisions need to enable the flexibility required so that councils and hapū/iwi can lead and develop arrangements most suitable for their local context. Development and/or review of other relevant local government legislation should be consistent with the framework and other key statutes so that other instruments do not restrict the intent of the revisions to the Local Government Act. For example, in the case of the Canterbury Regional Council (Ngāi Tahu Representation) Act 2022, the Remuneration Authority had the potential to block it during the Bill stage on practical grounds, by not providing permission for sufficient financial resources to be allocated to cover the costs of the new mana whenua positions. In another example, in our recent submission on the Spatial Planning and Natural and Built Environment Bills, the Council noted that the partnership intent is there but in practice the mechanisms fall short of intent.
15. Environment Canterbury supports recommendation 7. In Canterbury, this is expressed through the Tuia Relationship Agreement, which is about creating clear and consistent expectations for how the Environment Canterbury and Papatipu Rūnanga relationship will operate and enables a greater understanding of Ngāi Tahu values and their relevance to Environment Canterbury's work.
16. We acknowledge that the relationship is a journey, and we are evolving our understanding of what partnership means in practice. A values-based approach is fundamental to this. Local government and governance have a leadership role to play in different ways to continue this partnership trajectory and lift te Tiriti maturity in Aotearoa New Zealand. This will require capacity and capability building across all levels of local governance and government, and leadership by governors and staff to help build community capacity and capability.
17. Environment Canterbury supports recommendations 8, 9 and 10 in principle, on the proviso that they enable flexibility for local context to be expressed (e.g. tikanga) and governors and community are also given the opportunity. Some resources and ideas may be able to be developed centrally and shared, but local expression is critical to fully understand Te Tiriti context, local expression of tikanga and te ao Māori values. For example, Treaty training at Environment Canterbury includes the history of the Ngāi Tahu claim leading to the Crown apology and Ngāi Tahu Settlement Act.
18. The ability to fulfil the Tiriti-based recommendations is dependent on capability and capacity requirements being fully understood and addressed. Councils and hapū/iwi are

stretched with the amount of reform and unfunded mandates, while central government are also increasing capability and capacity to realise Crown obligations. which competes with local government's ability to attract or retain staff. To create transformational change, considerable investment and resourcing and a realistic transitional approach will be required that supports local government. Environment Canterbury strongly support recommendation 11 but suggests that this includes provisions for Māori and councils to help community build capacity and capability (e.g. those engaging in participatory processes) and that the funding provided meets expectations and prioritisation criteria are included so that no councils, hapū/ iwi or communities are left behind.

A stronger relationship between central and local government (chapter 6)

19. An improved central and local government relationship at all interpersonal and structural levels is critical to fully enable local government to contribute to the wellbeing and resilience of communities. An improved relationship could lead to more equitable funding, increased community trust and a more authentic te Tiriti partnership. Addressing the central and local government relationship, particularly funding critical mandates and opportunities for collaboration and co-investment should be prioritised by local and central government. A collaborative central and local government relationship is vital for the wellbeing and resilience of New Zealand and to meet global climate change commitments.
20. The report notes that relationships should be built on mutual trust, respect and confidence. For local government, central government respect means central government being clear on what local government does, and the strength and ability of local government to be able to understand local context and develop solutions with and for communities. One of the areas where there appears to be a significant lack of understanding or acknowledgment is the different manner in which central and local government are required to approach decision making and budgeting.
21. A more strategic and co-ordinated approach is needed within and between central and local government to make decisions on key strategic issues and investment decisions to address legacy and intergenerational issues. For example, key strategic infrastructure in Canterbury and the wider South Island is vital for a well-functioning national network. Preparedness for climate change will require integrated, long-term thinking, partnership with central government, and ongoing conversations about how infrastructure is funded. A more co-ordinated approach could lead to aligned strategic priorities and long-term investment, clarity of purpose and efficiency and effectiveness gains.
22. The report acknowledges the urban growth partnerships. Benefits of the Greater Christchurch partnership include sharing respective knowledge and expertise which is enabling constructive, strategic conversations about investment gaps against priority outcomes. For example, through gaining a shared understanding of local and government spend, contribution to local, regional and national outcomes, and utilising respective local knowledge and central government expertise on spatial planning. The partnership is moving towards a joint investment programme, although the timing of

funding decisions is a challenge. The urban growth partnership models should be used as examples of potential interdependent models.

23. Given the above and the need for a co-ordinated approach, Environment Canterbury supports the concept of a co-investment approach, and a collective/interpersonal model to provide the structure for this approach. The regional approach would provide the appropriate level of oversight to make connections across local boundaries and identify mutual objectives, investment gaps, trade-offs and local variations. The regional approach would also enable links to regional spatial strategies priorities and outcomes to be made. This approach could also help identify work programmes e.g. opportunities to collaborate where consistent guidance required or opportunities to share services.
24. We agree with the principle that flexibility is required to consider local conditions and existing landscape. The following elements should be included in any model:
 - enabling Tiriti partnership through mana whenua representation including funding mechanisms to enable this
 - creating a consistent wellbeing framework and understanding, so connections can be made about how local priorities and investments could contribute to regional and national priorities, including for the environment. A standardised measurement framework presents the opportunity for greater data and information sharing but investment is required.
 - ensuring the right balance of representation and mix of skill sets and knowledge to support effective and strategic decision-making. For example, concerns were raised in Environment Canterbury's submission on the Spatial Planning and Natural and Built Environment Bills, that poor representation of regional councils and mana whenua on the Regional Planning Committees could lead to a failure to account for the variation between catchments, different types of environmental issues and mana whenua concerns.
 - alignment with other key budget and planning decisions. It is critical that any co-investment approach, and interdependent model integrates and complements existing legislation, structures, and investment cycles rather than adding more complexity. An annual statement has the potential to be resource intensive depending on integration with other processes, and engagement with the public. Integration and timing with local and central election cycles, both current and any future changes also need to be considered.
 - a comprehensive assessment of the resources required to create and maintain such a model to prevent further underfunded or unfunded mandates or duplication of effort. This includes what skill sets and supporting structures are required.
 - clarity on how the principle of community-ownership would be achieved.
25. There is opportunity to consider co-investment not just in the monetary sense, but also in sharing of expertise, information and skills. For example, when developing a regulatory initiative central government should consider involving local government from the outset to co-design with hapū/iwi to fully understand problems and develop implementable solutions. Digital opportunities should also be explored from the outset to contribute to implementable, customer focused, efficient and effective approaches.

26. With a number of organisations now employing more flexible working approaches, co-sharing of workspaces and opportunities for staff to work at different locations could be explored more. Professional development for relevant central and local government roles could include opportunities to job shadow respective roles to build understanding.
27. At an interpersonal level, approaches need to be sustainable, so as elected members and governments change, there are mechanisms in place to support continued collaborative working relationships. Interactions are complex and varied, with 78 councils and 20 plus government agencies but ultimately, we are seeking to achieve similar outcomes, whether it is for the wellbeing of New Zealand as a whole, or local communities. Establishing and maintaining interpersonal relationships at all levels, should include an ongoing focus on shared values, outcomes, and objectives.
28. Whilst formality is required to create a more sustainable and effective system, the benefits of some of the more informal meeting or forum opportunities and relationships between central and local government should not be overlooked. For example, engagement between elected members, portfolio ministers and local MP engagement, and the role of Mayoral Forums and supporting forums.

Building an equitable, sustainable funding and financing system (chapter 8)

29. The review notes that the current arrangements are unsustainable yet still recommends rating as the key funding tool going forward, subject to simplification. While there will be considerable benefits from reviewing and simplifying the rate setting and planning process, this alone will not address the limitations of rates as a tool, particularly when compared to the central government tax system and process. Given the continuing pressure of unfunded mandates and increasing needs and expectations to respond to current and future challenges, the funding recommendations in the report need to be stronger, more specific, and prioritised.
30. The report acknowledges that local government's share of overall tax review has stayed at around 2 per cent of GDP over the past 70 years but central government share of GDP has increased to reflect community expectations. Yet local government has also experienced increased expectations, along with the unfunded mandates. The rating system should be supplemented by other revenue streams including a share of tax revenue, and other revenue mechanisms need to be expedited to plug the significant gap between what is expected of local government and ability to pay.
31. Relying on rates as the primary source of income, can be a perceived barrier to increase understanding amongst the community about why local government matters as the conversation is often focused on ratepayers. Local government seeks to achieve wellbeing outcomes for all the community, not just ratepayers. Particularly for a regional council, whose focus is on regulatory services and environmental outcomes rather than services to property. A modified approach and access to more funding mechanisms could contribute to more inclusive approaches in engagement, increased community understanding of local government, and incentives for communities to take action.
32. Rating is also a blunt tool that does not take into account ability to pay (e.g. asset rich, cash poor pensioners). There is a lack of consideration in the discussion and

recommendations about the sustainability of rates and other funding mechanisms over the next 30 years. While there is still a case for a rating system to be able to tax properties for services, considering the increasing trend of renting², ageing population and other projected population changes, a future funding system should also address how to assess ability to pay.

33. The proposed GST on rates of \$1billion and a co-investment approach with government is a good starting point and Environment Canterbury supports recommendation 22. Flood protection is one significant example where there is a clear and urgent case for co-investment given that central government is a direct and indirect beneficiary of flood protection works. A co-investment approach could enable more joined-up strategic long-term investment decisions to be made within and across central and local government. For example, funding decisions about key strategic infrastructure across the motu that benefits both communities and the nation (e.g. resilience of transport network).
34. Environment Canterbury also strongly supports a review of current legislation to enable the redesign of the long-term plan and rating provisions to enable a more simplified and streamlined process. The burdensome nature of the long-term plan process has been canvassed through previous reviews of local government funding and therefore the review can build on previous findings.
35. One of the challenges of developing a long-term plan budget is the misalignment with other key planning and budget decisions and number of assumptions that must be made about central government funding decisions or regulatory changes. This, along with emerging issues and changing priorities makes it impractical to forecast ten years. A medium term (three to five years) forecast with the ability to review budgets annually to provide flexibility to respond to emerging issues and cost pressures could be more effective.
36. Other strategic plans developed, decisions made through further reform (e.g. resource management reform) and proposed co-investment approaches could further complicate the ability to effectively plan and forecast budgets. In the review of the long-term planning process, opportunities to align and integrate other strategic and budgeting planning timeframes should be mapped out and considered (e.g. Government Policy Statements, Regional Public and Land Transport Plans, central government budgets and Statements of Intent). A possible way forward, would be to replace the long-term plan process with a process that aligns and enables collaboration with central government's budgeting process e.g. five year Statements of Intent.
37. As previously noted, the long-term planning process is a very prescriptive and resource intensive process, for elected members and staff. A considerable amount of time and resources during is spent on planning, consultation and audit when councils could instead be implementing the work. Some examples of where the process could be standardised, streamlined and/or simplified are:

² In 2018 Census, 56% of Canterbury households stated that they lived in a dwelling they owned or partly owned, a drop from 71% in 2001. In a Stats NZ report on housing in 2020, it was noted that homeownership is becoming much less common from younger people.

- review of ability to forecast and budget annually versus three to ten years. An annual approach would enable appropriate adjustments to be made, but need to balance short-term focus, with the need to address long-term strategic and investment needs.
 - taking a more risk-based approach to audit e.g. review some sections rather than the whole document and process, based on previous council experience or selection of councils to audit periodically
 - increase ability to be more flexible in consultations and engagement. The consultative process is prescriptive and includes the supplementary information (the “draft LTP”) in consultation. The ability to be more flexible to consult or engage earlier in the process e.g. seek community feedback on council priorities or link up with other key consultations could result in a more user-friendly engaging output. Given the panel’s recommendations on participative and deliberative democracy tools, clarity is needed on how these tools could be used.
 - more national guidance or consistency across on beneficiary principles and how to assess ability to pay – decisions are often influenced by ratepayer base
 - more meaningful and engaging ways of measuring and reporting success and outputs/outcomes for community
 - investigating opportunities to share services and link up with territorial authorities.
38. Given the significant resources and inefficiencies, rather than making ad hoc tweaks to the Local Government Act to simplify and streamline the process, a more holistic review and approach should be taken that aligns with other legislation and government strategic planning and budget processes and timelines.
39. Environment Canterbury strongly supports recommendation 21 and the end to unfunded mandates. The effectiveness of this approach will be dependent on how comprehensive the assessment is, and therefore the capacity and capability of central government to carry out such assessments. Early engagement and/or co-design of proposed regulatory interventions with hapū/iwi and local government where appropriate to understand local costs and benefits, and shared outcomes should be included. This could include opportunities for central and local government to share resources and establish co-working arrangements where regulatory or policy intervention is required. This recommendation will not address the existing or imminent unfunded mandates, including the Spatial Planning and Natural and Built Environment Bills, and therefore other funding mechanisms and a central government share to complement rating system is still a priority.
40. Environment Canterbury supports recommendation 23 to develop an intergenerational fund for climate change, on the assumption a clear framework and process will be developed for making decisions on funding allocations. Given the integrated approach required for climate change, and infinite number of investment opportunities that could be presented, a robust framework will be required to help identify and prioritise funding. For example, will the fund be focused on financial assistance provided to communities affected by natural disasters, managed retreat and equitable share of climate change resilience adaptation costs and/or climate change mitigation and emissions reduction activities?

41. Cross-party consensus to this approach is key to ensure the long-term intergenerational investment required is not subject to re-litigation every election cycle. In developing the funding application process, consideration should also be given to alignment with other current and future planning and budget processes given there will be considerable overlaps and linkages to other work programmes.
42. Recommendation 25 that central government pay rates and charges on crown land, is a fair and equitable approach and Environment Canterbury support this.
43. As a regional council, with limited strategic investments (e.g. ports or airports) Environment Canterbury also support other innovative and alternative approaches being available to finance local government and complement rates and central government funding.

Allocating roles and functions (chapter 4)

44. It is timely to consider how roles and functions may be allocated in the future, with the current reform programme, particularly in the case of resource management reform for Council, but also in the wider context of Three Waters, health and other key reforms. However, given the pace and lack of integration with current reforms this is likely to be an evolving process.
45. Environment Canterbury agrees that the allocation of roles and functions is not a binary decision between central and local delivery (recommendation 12). However, an adequate level of clarity and accountability is still needed. A lack of clarity about roles and responsibilities could result in a lack of ownership of roles and functions, essential roles and functions not being picked up, information going to the wrong place or work being duplicated leading to inefficiencies and adverse outcomes. We all have role to play but need to be clear about who is being represented and outcomes sought e.g. advocating for people and place is where local government plays a critical role.
46. The proposed approach is a good starting point to have a conversation about what type of process and underlying principles might need to be undertaken to carry out an allocation of roles and functions. However, the chapter and report in general, underplays where regional approaches can add value. The proposed approach for allocating roles and functions does not include an assessment of where there is the case to deviate from local to regional as opposed from local to central. This is demonstrated by Figure 11 that lacks a regional layer. This is despite the report recognising that there is a case for regional councils, e.g. in the proposed co-investment approach in chapter six. The report needs to better articulate how the territorial, regional and central layers fit together to carry out their fundamental roles and functions.
47. The three principles outlined in recommendation 13 seem appropriate as a starting point and having a process that is underpinned by key principles is essential. Robust criteria and an associated process need to be developed and agreed for departing from local or regional to central. For example, would all criteria have to be met, one criterium or would it be a scaled or prioritised criteria approach? The process will need to include how decisions would be made, including where there may be a lack of consensus.

48. In considering te ao Māori values, local hapū/iwi values need to be taken into account. For example, the Ngāi Tahu right to exercise their rangatiratanga.
49. Given the potential magnitude of carrying out a process for allocation, and the current reform programme, a staged approach looking at logical groupings of roles and functions will be required. Where roles and functions may be re-allocated, transitional pathways and impact assessments would need to be developed.
50. The assessment of roles and functions, also needs to consider what is happening outside of central and local government e.g. the work of hapū/iwi, NGOs/ stakeholders/ community groups and whether there are gaps or opportunities where local or central government should be playing a more prominent role or helping to facilitate.

Local government as champion and activator of wellbeing (chapter 5)

51. Environment Canterbury agrees local government has a key role in wellbeing and that its leadership plays an important role in advocating for community wellbeing. Local government is already innovative in promoting community wellbeing.
52. There is opportunity for councils to be more transformational rather than transactional in contributing to community wellbeing, and link up on key strategic issues such as climate change and restoration of the environment. Healthy and ecologically functional environments are essential to healthy, prosperous and thriving communities. Outcomes relating to climate change, natural hazards and restoration of the natural environment need to be prioritised in recognition of the existential risks posed by these issues. The report and recommendations lack an environmental focus and needs to reflect the significance of the environment and critical role of regional governance in contributing to environmental wellbeing outcomes. Agility and adaptability will be required to respond to emerging issues and needs.
53. A shift from a transactional approach to a transformational and relational approach may mean it will be harder to measure and report on impact and tangible outcomes. Wellbeing and measurement frameworks, that hapū/iwi, central and local government have co-developed to inform decisions on priority outcomes would be beneficial e.g. linking Treasury Living Standards and He Ara Waiora with community wellbeing indicators. Improved consistency and integration of measuring and reporting outcomes and supporting structures to enable access and sharing of data will have benefits for all.
54. For large-scale challenges and achievement of intergenerational wellbeing, such as the restoration of the natural environment, outcomes will not be realised in the short-term therefore a mission-orientated approach is appropriate. Defining milestones, key players and resources required will help track progress, ensure continuing trajectory and provide a long-term view to assist with strategic planning and funding discussions over different central and local government terms.
55. It is unclear how chapter 5 and its recommendations integrates with other recommendations within this report. Before any fundamental shifts in direction to a more relational approach, critical discussions are needed on roles and functions, funding mechanisms and improving the central and local government relationship. For example,

for councils to play a role in intergenerational wellbeing, processes need to enable councils to take long-term views in strategic planning and investment decisions.

Revitalising citizen-led democracy (chapter 2)

56. Environment Canterbury supports the involvement of the community in local decision-making for the benefit of the communities across the motu. This statement is in the context of the following:
- for regional councils there can be limited opportunity for communities to genuinely influence direction of travel, given the mandated nature of our core responsibilities. For example, upholding the National Policy Statements and National Environmental Standards.
 - how hapū/iwi rangatiratanga and partnership in local government decision making sits alongside community participatory processes is a key consideration. Councils need the discretion to work with mana whenua as partners in a way that is appropriate to their takiwā, to uphold Te Tiriti and to deliver the best outcome for the wider community. How this is done while also involving the wider community in a meaningful way is something that will vary from location to location and any provisions need to be flexible enough to allow for that.
 - the nature of the wider community participation depends upon a number of variables including how prescriptive the legislation is that we are working within, the immediacy of the environmental effects of the activity, who is paying, who is impacted, how long we have to undertake participatory activity and how much money is available to fund this activity. There needs to be sufficient flexibility in any provisions to allow for these variables.
57. Environment Canterbury do not therefore support the prescription of which deliberative democracy processes/tools must be used when. This may lead to lengthy and costly processes when we are not able to implement the recommendations due to legislation, cost or environmental effects. As noted above, the desire to engage and include the community in decision-making is high but this needs to be done only when it can be carried out in a genuine way and can meet community expectations.
58. Clearly defining participatory democracy and other related terms, however, would be useful to ensure community and council understanding is aligned. Under such a definition, we support the suggestion (in section 2.7.1) that legislative provisions would need to provide a 'more comprehensive and contemporary set of "community engagement principles" to inform council approaches to community participation'. We do not support 'including general direction to include more use of more deliberative decision-making and participatory mechanisms' as a blanket statement without the inclusion of the flexibility and discretion to consider local and circumstantial variations in approach. More participation is not necessarily better or more meaningful participation.
59. Page 51 covers the idea of providing a 'funding pool' to a few organisations to deliver progressive and experimental engagement processes. We agree this could be beneficial, however for it to provide useful information, different types of local authorities should be represented e.g. territorial authorities with a diverse range of communities

(e.g. largely urban centre; encompassing both small town urban and rural localities; largely rural location), and regional councils.

60. Central government leading by example, by being clear when participatory methods can and will be used, and publicly sharing the process and outcomes will help socialise the concept of genuine participation. The major barriers to success with community participation are likely to be a lack of awareness and trust rather than lack of opportunity.
61. Environment Canterbury supports the review of the legislative provisions relating to engagement, consultation, and decision-making and the requirements for engaging with Māori. Alignment and streamlining of requirements will support genuine and appropriate participation by the community in a way that makes best use of people's involvement.
62. We have extensive experience in Canterbury working with the community to develop our Land and Water Regional Planning framework through local zone committees and collaborative community-based activity, so we are aware that these processes take years to do well and cannot be done when legislative requirements condense the time available. Having the ability to tailor participatory processes to meet the specific constraints, and opportunities, is key to enabling genuine participation.
63. A more current example is the National Policy Statement for Freshwater Management, which requires councils to involve mana whenua to the level they wish to be involved (in developing how regional policies be amended) and to involve the wider community, and to meet statutory deadlines. Environment Canterbury is working with the ten Papatipu Rūnanga within Waitaha to work through the requirements and sub-regional plan development. This process, to be done well, takes time and resource from both the Council and the Papatipu Rūnanga, and it needs to be done ahead of any wider community conversations. To uphold the deadline, the timeframes for engagement with wider communities and stakeholders must be considerably condensed, illustrating the tension between the requirements in the legislation.
64. It is timely to look at how digital interfaces and online tools could be better used to contribute to increased participation and engagement, and more inclusive representation. Flexible provisions are needed that allow the council and community to respond to future technological changes to the way we access information and interact with each other. As a regional council that covers a significant land area, the option to hold meetings and hearings online, and to hear from the community through interactive digital feedback and conversation tools, removes the barrier of distance and the necessity to travel. This has the potential to increase participation.
65. A common digital platform used by central and local government also has the potential to increase participation through familiarity with the mechanism for doing so. It could also offer better cross-organisation collaboration on engagements with communities and more ability for organisations to share information and expertise (services). It could also contribute to more efficiencies within local government by reducing some of the costs incurred from procuring and supporting individual software packages.

66. Environment Canterbury supports the development and investment in internal systems for managing and promoting good quality engagement with Māori. We also support the recommendation that consideration is given to an agreed, local expression of tikanga whakahaere in standing orders and engagement practices, and for chief executives to be required to promote the incorporation of tikanga in organisational systems.
67. Through our Tuia relationship work programme, Environment Canterbury has experienced what this looks like in practice. Local expression is critical to ensure that the development of internal systems for engagement and incorporation of tikanga, are relevant and meaningful for the local hapū/iwi. Any legislative changes should not be restrictive and must allow for local expression and co-development of systems and processes. In Canterbury we have a robust relationship with mana whenua, including having Ngāi Tahu Councillors at our Council table, and it is important to that relationship that any provisions relating to it are developed together, locally.
68. Environment Canterbury agrees that there is an ongoing need to understand why the community does not fully participate, noting that participation rates are not just dependent upon the activity of the Council but can also be influenced by external factors.
69. Preparing the next generation to understand the why and how of getting involved in decisions that impact where they live, is key to increased participation in the future. This involves giving them an understanding of how the system works, the kinds of activity they can influence and whether or not their participation will be listened to. Embedding civics education into high school curriculums will help both central and local government to increase participation by laying a foundation upon which to engage.

Replenishing and building on representative democracy (chapter 7)

70. Environment Canterbury supports approaches to encourage more diverse representation at the governance level of all groups, including age, gender and ethnicity groups.
71. Environment Canterbury supports the case for centralising the administration of local body elections as it will enable a more consistent approach and efficiency gains, as well as making it easier for the community to participate in voting. However, staff should still have some presence in the regions so local context can be considered. In terms of the voting method, there are rationales for use of both the Single Transferable Vote, and the more popular First Past the Post system. There will be advantages to having some consistency of voting method across the motu. However, given the proportion of local authorities that elect STV, and dependence on a greater number of candidates to choose from, further consideration of the implications of the electoral system for different types and sizes of local authorities is required.
72. While there are challenges with online voting, there are also ongoing challenges with using the postal system so alternatives need to be explored if the system is going to be sustainable over the next thirty years. Work to resolve barriers to effective online voting should continue to be explored. The challenge of transitioning to online methods is not an isolated issue. For example, in New Zealand and globally there have been

challenges with Census participation as methods move online. Recognising that digital accessibility and acceptance is varied, a transitional or hybrid approach may be required.

73. Environment Canterbury acknowledges that any decision to lower the voting age in New Zealand requires further examination and legislative change outside of the review, and there is other work going on to examine the voting age, both at the central and local government level. Any future decisions should be consistent at the local and central level. Investment needs to be made via the national high school curriculum (as noted above in paragraph 70) to provide civics education, over a sustained period of time, to educate young voters about New Zealand's government system, why they should vote, and importantly how to find out about policies and candidate positions on the things that matter to them. 15-year-olds to 19-year-olds account for 6 per cent of Canterbury's population.
74. For the reasons set out on p175 of the report, Environment Canterbury supports a four-year electoral term in principle, including increasing the ability to be able to provide a longer-term perspective given the criticality of intergenerational issues. Given the argument for shorter terms in enabling governance accountability and more opportunities to vote, the electoral reform review position and public's view on four-year terms should be considered.
75. How central and local government strategic planning and budgetary cycles would integrate with election terms should also be reviewed before any changes are made. For example, if central government terms were to remain at three years, then every 12 years central and local government elections would occur in the same year. Having central and local government elections in the same year, could have benefits for increasing voter turnout and efficiencies but create continuity issues. An assessment of the pros and cons of more integration of central and local electoral cycles should be carried out.
76. Council agrees that better remuneration and support for elected members could contribute to increased diversity of representation and capability of governors. In reviewing criteria for setting elected member remuneration comparisons should be made with parliamentary and other governance role salaries and local context.
77. We support recommendation 18 and 19 for more comprehensive training and professional development for governors to help ensure elected members have capability and confidence in effective governance, including in Te Tiriti understanding. However, development programmes should not be too prescriptive recognising that experience, and therefore need, will vary greatly. Flexible approaches to training should also be used, as elected members will be juggling existing commitments. Aspects of training should be developed at place, e.g. Te Tiriti and cultural training should take into account local history and tikanga.
78. Regarding recommendation 20, we agree a one size fits all approach is not appropriate to support an authentic Tiriti partnership and that this should be determined via an inclusive and hapū/iwi led based process. For example, Māori wards were not an

effective mechanism to enable a partnership with mana whenua (Ngāi Tahu) in Canterbury and so was not an option pursued by Council.

Designing the local government system to enable change we need (chapter 9)

79. There is scope to review the current system and structure and whether it is fit for purpose to serve communities over the next 30 years, particularly in light of current reform programmes and the evolution of the Te Tiriti partnership. However, first clarity is needed on the allocation of territorial authorities and regional council roles and functions.
80. Any exploration of system and structure re-design cannot be done in isolation, and must take a holistic look at how local, regional, central government and mana whenua work together. For the local government system to be sustainable, fundamental challenges associated with funding and the central and local government relationship need to be addressed as a priority e.g. developing a co-investment approach and implementing funding mechanisms to complement rating as a funding mechanism.
81. Clear and transparent objectives about what a system redesign is aiming to achieve (e.g. local representation and democracy) will be required to have an open conversation with communities. A process will need to be agreed, and communities thoroughly consulted before progressing with any redesign. Learnings from reform implementation, including establishment of Te Whatu Ora/Te Aka Whai Ora and the process to develop the Three Waters reform should be considered.
82. Given the diversity of landscapes, and distribution of populations and hapū/iwi in Aotearoa New Zealand, basing the redesign of the local government system on one model may not lead to the outcomes sought and flexibility is required. Population size and distribution, and land area/location of population centres should be a key factor in system design but should not be the sole factor. Other key considerations include:
 - enabling effective partnership with mana whenua and involvement of hapū/iwi to ensure effective representation for mana whenua. For Canterbury and the South Island this includes consideration of a Ngāi Tahu takiwā and Papatipu Rūnanga. Representation must take into account the breadth of the Ngāi Tahu takiwā being the largest of any tribal authority.
 - consideration of unique biophysical and metaphysical characteristics of each region/takiwā to uphold Te Oranga o te Taiao, to enable protection of the environment and improved community wellbeing outcomes. For example, enabling an integrated approach across different catchments and the identification of issues to manage adverse effects.
 - public service reform and alignment of public service boundaries. More alignment between central and local government boundaries has potential benefits for improving mana whenua partnership, the central and local government relationship, customer experience and increased efficiencies. For example, the ability to share and access data across different government agencies and local government is often constrained by the fact we collect data at different spatial scales and formats.

- demographic and other key projections in the next 30 years (areas of population growth and decline but also ageing population, household and family projections, etc)
 - equity and taking into account scales of efficiencies, including ensuring that organisations are not too slim that they are unsustainable to achieve their functions. This includes the ability to bring the right mix of skillsets and knowledge to support effective and strategic decision-making.
 - key strategic infrastructure assets and lifelines. For example, there are some strategic planning and investment conversations that are best made at the South Island scale e.g. regional transport and key strategic infrastructure (rail/freight).
83. It is challenging to comment on examples at this stage, given a clear and common understanding of roles and functions is required before commencing redesign. International examples are useful to assess but need to be considered carefully due to the unique Aotearoa New Zealand context particularly te ao Māori, geographical diversity and population distribution.
84. In any system redesign, there is a critical need to ensure capability and capacity issues are addressed rather than assumed. Given the potential magnitude of change and significant implications of system design, a clear transitional pathway would be required. The proposed principles seem appropriate but further thought on criteria or and application of the principles is required e.g. are all principles required to be met, what degree and flexibility is required for local and regional variations etc.
85. Environment Canterbury strongly supports the opportunity for more investment into additional shared services. Criteria to guide decisions on which services are appropriate to deliver through a shared service model should include efficiency and a customer-centric focus. Shared services opportunities are often compromised by organisations being at different stages of an investment cycle, and variation in need. For this recommendation to be progressed, it needs to be backed by investment, a clear leadership structure and process/criteria to consider investment decisions as it is difficult to resource the work individually.
86. The importance of digital and data infrastructure needs to be better integrated in the future for local government review. The rapid pace of technological change over the past 30 years is significant, and consideration of how governance and government systems will continue to evolve alongside technological advances over the next 30 years is critical. There is a real opportunity to be innovative about digital solutions and take a digital-first approach in development of implementable solutions. Failure to include consideration of digital opportunities when developing processes will compromise the ability to have an effective and sustainable system.
87. The current reform programme presents a significant opportunity to look at digital capabilities and transformation, and this opportunity needs to be more prominent in the review. For example, the resource management reform presents an opportunity to develop a standardised customer centric digital solution, rather than multiple digital planning and consenting tools. Some flexibility will still be required to account for local variation but benefits for users, decision makers and efficiency gains will outweigh the

need for multiple digital platforms. Transformation and standardisation of operational and foundational systems within organisations may be of limited value, with no significant benefit to customer/community aside from some potential efficiencies. Opportunities for digital-first and customer-centric solutions associated with current reform should be prioritised.

88. Data and information are fundamental to effective decision-making and the ability to engage with our communities about the actions we can collectively take to improve community outcomes. Investment in data infrastructure is required. A common format and framework for gathering and aggregating data will have benefits for strategic planning as well as planning for and responding to critical events. A nationally coordinated environmental monitoring and reporting system, together with prioritisation and adequate funding to research and address data and process gaps, is critical to detecting, attributing, projecting, and managing environmental change.
89. Environment Canterbury supports in principle the establishment of a Local Government Digital Partnership, but the purpose and objectives of the partnership and how the partnership will integrate with existing work is needed to avoid conflicts and overlaps. The regional sector already has a work programme to focus on digital solutions and the creation of a digital strategic framework. The Digital Solutions Group has invaluable expertise to offer in this space. Greater visibility and opportunities to collaborate with the Government on the Government Digital Strategy should be pursued.

System stewardship and support (chapter 10)

90. Strong stewardship and support are critical to the success of any system. We agree that whilst there are strengths in the current approach, there are gaps and limitations, and change will be needed to support a future system. However, fundamental questions about roles and functions, funding mechanisms, central and local government relationships and system structure and design need to be addressed and agreed before reviewing system stewardship and support.
91. From a regional council perspective, the regional sector group Te Uru Kahika provides strong support and collaboration in addressing current and future challenges given the shared common purpose. Structure and groupings need to appropriately reflect the different roles and functions, and outcomes sought.

Concluding remarks

92. We consider the future for local government conversation needs to move away from solely looking at local governance and government, to what changes need to be made more holistically at a central government level. Future conversations should be clear on what success would look like for a future local governance and government system. For example, what is the voter turnout, what does representation look like, how are challenges being grasped and responded to with the community.
93. Environment Canterbury looks forward to the Panel's final report. A continued evidence-based discussion, across central and local government, with hapū/iwi and the community, is critical for the future of local governance and government.

Future for Local Government Panel – August 2022

Joint statement from Papatipu Rūnanga, Te Rūnanga o Ngāi Tahu and Environment Canterbury

Introduction

1. Papatipu Rūnanga, Te Rūnanga o Ngāi Tahu (Te Rūnanga) and Environment Canterbury would like to share with the Panel the benefits and challenges of our governance journey over the last 12 years, as we consider our experience can add value to the whakaaro and kōrero about the future for local government. In particular, we want to share what we have learnt and implemented together to enable more effective representation of mana whenua as they are of direct relevance to the pending draft report and considerations of the Panel.
2. Our statement covers the period from 2010 up until today, including our initial Ngāi Tahu representation on the Canterbury Regional Council, our Tuia relationship, and the need for, but difficulty in achieving Ngāi Tahu representation embedded in legislation post 2019.
3. We expect there will be many areas of agreement between Ngāi Tahu and the Council regarding the future for local government in Canterbury, but unfortunately due to timing, we have not been able to progress those discussions to provide a joint view on opportunities for the future. We have therefore focussed on matters concerning the legislation, in the hope that the Panel will be able to pro-actively address those in its deliberations and proposals.

Ngāi Tahu as mana whenua

4. Ngāi Tahu holds the rangatiratanga (tribal authority) for over 80 per cent of Te Wai pounamu—the South Island, including the Canterbury region. The iwi is made up of whānau and hapū (family groups) who hold traditional authority – manawhenua - over particular areas. Ngāi Tahu are the iwi comprised of Ngāi Tahu whānui; that is, the collective of the individuals who descend from the five primary hapū of Ngāi Tahu, Ngāti Māmoe and Waitaha, namely Kāti Kurī, Ngāti Irakehu, Kāti Huirapa, Ngāi Tūāhuriri and Ngāi Te Ruahikihiki.
5. Te Rūnanga is statutorily recognised as the representative tribal body of Ngāi Tahu Whānui and was established as a body corporate on 24 April 1996 under section 6 of the Te Rūnanga o Ngāi Tahu Act 1996 (TRONT Act).

6. The members of Te Rūnanga are the 18 Papatipu Rūnanga who hold mana whenua and mana moana of their rohe. Te Rūnanga is responsible for managing, advocating and protecting, the collective rights and interests inherent to Ngāi Tahu as mana whenua.
7. The contemporary relationship between the Crown and Ngāi Tahu is underpinned by three core documents: Te Tiriti o Waitangi (Te Tiriti), the Ngāi Tahu Deed of Settlement 1997 (Deed of Settlement) and the Ngāi Tahu Claims Settlement Act (NTCSA). These documents form an important legal relationship between Ngāi Tahu and the Crown.
8. Of significance, in its apology to Ngāi Tahu (as set out in the Deed of Settlement and section 6(7) of the NTCSA), the Crown apologised for its “past failures to acknowledge Ngāi Tahu rangatiratanga and mana over the South Island lands within its boundaries”. The Crown confirmed that it “recognises Ngāi Tahu as the tāngata whenua of, and as holding rangatiratanga within, the Takiwā of Ngāi Tahu Whānui”. This statutory recognition of Ngāi Tahu rangatiratanga confirms the special relationship Ngāi Tahu has with the natural environment and whenua within the Ngāi Tahu Takiwā.
9. Rangatiratanga is the ability of Ngāi Tahu to autonomously arrange and manage its own affairs, for the benefit of Ngāi Tahu whānau and communities. In modern New Zealand, rangatiratanga will often, but not always, be exercised in conjunction with the Crown exercising its kāwanatanga.
10. As recorded in the Crown Apology to Ngāi Tahu, the Ngāi Tahu Settlement marked a turning point, and the beginning for a “new age of co-operation”. In doing so, the Crown acknowledged the ongoing relationship between the Crown and Ngāi Tahu and the expectation that policy or plans affecting the Ngāi Tahu Takiwā, or Ngāi Tahu interests and rangatiratanga within the Ngāi Tahu Takiwā, would be developed and implemented in partnership with Ngāi Tahu.

Our Tuia Relationship

11. Environment Canterbury and Ngāi Tahu are continuing to seek a relationship that embodies the “new age of co-operation” that is acknowledged in the Ngāi Tahu Settlement and as such have been on a journey to explore what that means in a local government context through our Tuia Relationship.
12. Tuia is the name given to the relationship agreement between Environment Canterbury and the ten Ngāi Tahu Papatipu Rūnanga Chairs of the Canterbury Region. Tuia means to work and walk together, shoulder to shoulder, and captures the nature of the evolving partnership between Environment Canterbury and Papatipu Rūnanga and acknowledges the responsibilities of Ngāi Tahu alongside the statutory responsibilities of Environment Canterbury.
13. Tuia is about creating clear and consistent expectations for how the Environment Canterbury and Papatipu Rūnanga relationship will operate and enables a greater

understanding of Ngāi Tahu values and their relevance to Environment Canterbury's work.

Achieving representation – our journey

14. Environment Canterbury has significantly benefited from contributions of the Ngāi Tahu voice and participation on Council. In 2010, the Government appointed seven Commissioners to be the governing body of Environment Canterbury through the Environment Canterbury (Temporary Commissioners and Improved Water Management) Act 2010. A condition of the appointments included having commissioners with knowledge and expertise in tikanga Māori, as it applies in the Canterbury region. This was satisfied with the appointment of Donald Couch, replaced in 2015 by Elizabeth Cunningham, both on recommendation from Te Rūnanga o Ngāi Tahu.
15. In 2016 the Environment Canterbury (Transitional Governance Arrangements) Act provided for two councillors to be appointed on the recommendation of Te Rūnanga o Ngāi Tahu, and those positions were held by Councillors Elizabeth Cunningham and Iaeen Cranwell.
16. These special arrangements remained in place for nine years and ensured a Ngāi Tahu voice on the Council and the practical benefits of mana whenua representation in Canterbury were rapidly and widely recognised. For Environment Canterbury, the benefits included more informed and effective decision-making by Council and strong supportive leadership to help ensure all Council mahi considered the interests of mana whenua across Council's processes, planning and operationalisation. For Ngāi Tahu, the benefits included a demonstrable step toward the exercising of rangatiratanga in the Ngāi Tahu takiwā.
17. In addition, Ngāi Tahu participation on Council played a pivotal role in building the social capital and community ownership of solutions that underpin air, water, land and coastal management in Canterbury. The presence of Ngāi Tahu councillors was significant, providing some confidence to Papatipu Rūnanga and Ngai Tahu Whānui that their voice remained present at the Council decision-making level.
18. As this legislation was coming to an end, Environment Canterbury worked with Papatipu Rūnanga and Te Rūnanga to explore a range of statutory and non-statutory mechanisms to ensure the ongoing voice of mana whenua on Council.
19. In 2018, Environment Canterbury promoted a local Bill to retain the right for Ngāi Tahu to appoint two members at the 2019 and subsequent local body elections. That Bill was defeated at its First Reading. The legislation that had provided Ngāi Tahu representation on Council for nine years expired in October 2019 when Environment Canterbury made a return to the status quo elected model for New Zealand Councils under the Local Electoral Act 2001.

20. Despite this setback, the Council, Papatipu Rūnanga and Te Rūnanga were determined to have Ngāi Tahu representation, and an innovative solution was created with the establishment of two Tumu Taiao positions. The Tumu Taiao roles appointed to Council by Te Rūnanga o Ngāi Tahu (on behalf of the Papatipu Rūnanga) are non-statutory roles, equivalent to Councillors except that they do not have a vote at the Council table (except at Committee level) and are funded 50:50 by the Council and Ngāi Tahu. While in practice this is a reasonable interim arrangement, it is recognised this solution is far from ideal. To genuinely recognise Treaty partnership, it must directly include mana whenua in decision-making with full voting rights that are fully funded. Consequently, the Council, Papatipu Rūnanga and Te Rūnanga have continued to advocate for change to the legislation.
21. Environment Canterbury currently has a Bill before the House that seeks to establish a bespoke arrangement that recognises Ngāi Tahu as mana whenua and ensures the tikanga and kawa relating to Ngāi Tahu kaupapa, priorities and interests under the Treaty of Waitangi and the NTCSA are represented on the Council. At the time of writing this statement, the Bill had progressed through its second reading, following the Select Committee process, with the third reading scheduled for early August. This Bill will enable Te Rūnanga o Ngāi Tahu to appoint two Ngāi Tahu councillors to the Environment Canterbury Council. These new councillors will have the same voting rights as others on the Council, and will be remunerated on the same basis.
22. In our joint experience, we have found that having a guaranteed place 'at the Council Table' is essential because of the enormous influence regional councils have over the management of the lands, waters, and other natural resources in their regions through their statutory obligations in resource management. These matters are at the heart of the guarantees under Article II of the Treaty of Waitangi and over which mana whenua assert kaitiaki responsibilities, and so it is vital that they are directly involved in the decision-making of the Council to the extent they desire.

Full details about the Tuia relationship journey (2010-2018) can be found here: [Tuia Our Journey So Far](#)

Legislative Limitations

23. Through the governance journey described, we have found that local government legislation has limited the nature and extent our Treaty partnership can be expressed, specifically full mana whenua representation on the Council.
24. With the dedication of both parties across two Council terms however, Environment Canterbury, Papatipu Rūnanga and Te Rūnanga have been able to progress a Bill that seeks to enable one of our key Treaty partnership aspirations – Ngāi Tahu representation on Council. This commitment at Governance level has enabled us to evolve an approach to regional government that moves the Canterbury region forward.
25. Whilst we acknowledge the principle and intent of the recent Local Electoral (Māori Representation) Amendment Bill to remove barriers for Māori representation on Councils, it did not provide an appropriate solution for our region. Acknowledging the rights of mana whenua within their region is a fundamental feature of Māori law and

Māori political organisation. Although Māori wards would provide for a Māori representative, this representative would not necessarily be someone of Ngāi Tahu whakapapa and therefore not hold the inherent mandates that come with that. More importantly, even if the representative was someone with Ngāi Tahu whakapapa, they would not necessarily be answerable to Ngāi Tahu whānui in the manner and extent that is required to bring through the kaupapa, priorities, rights and interests of Ngāi Tahu as the Treaty partner.

26. In response to potential community concerns about fairness and lawfulness in regard to our Ngāi Tahu Bill, the Ngāi Tahu Representation Bill went through the same review process as the Rotorua Bill, with the Attorney-General concluding that the Bill is consistent with the rights and freedoms affirmed in the Bill of Rights Act. You can read the Attorney General's Report in Attachment Two.
27. Another consideration for revised local governance currently not reflected in the legislation, is the need for collective competencies in Treaty of Waitangi, mātauranga Māori, tikanga Māori and te ao Māori. This means not only relying on specific positions to contribute these competencies but anticipating that all members should have at least a basic level of understanding and willingness to learn. It is considered this is important if local government is to have an effective partnership with iwi/Māori.

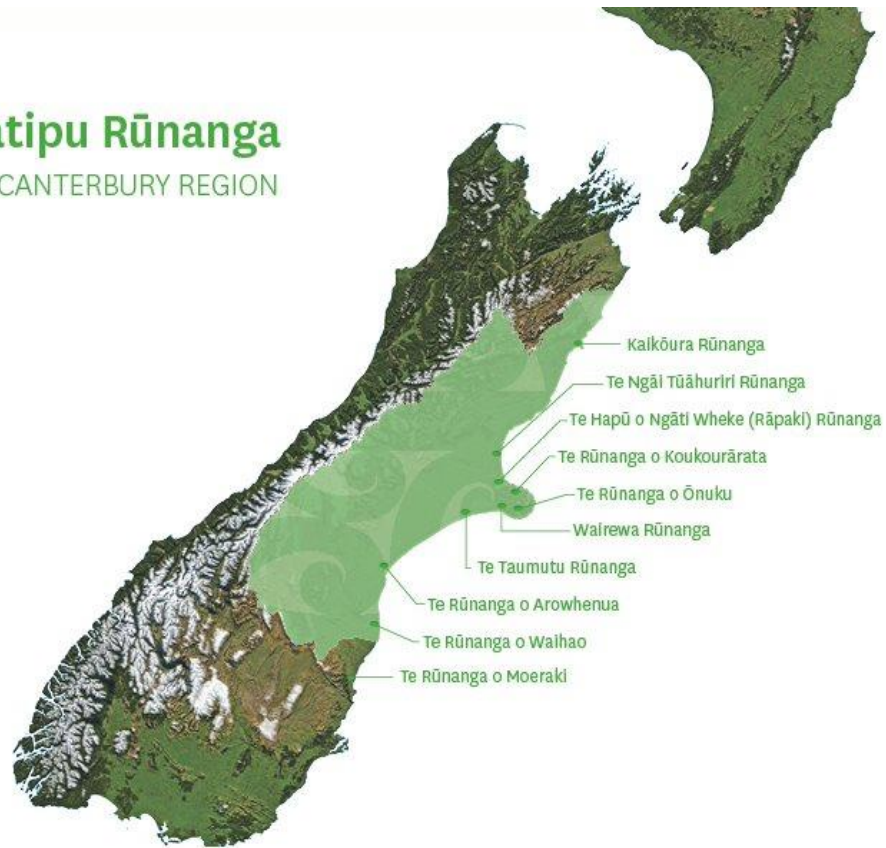
Concluding remarks

28. Te Rūnanga o Ngāi Tahu and Environment Canterbury are committed to changes to local government where the governance structures are set up to practically achieve an authentic Tiriti partnership.
29. Our experience is that genuine representation of mana whenua at the governance level is the only reliable way to ensure that their values and concerns are given full expression in the Council's decision making and environmental work.

*He waka kōtuia kāhore e tukutukua ngā mimirā
(a canoe that is interlaced will not become separated at the bow)*

ATTACHMENT ONE – Papatipu Rūnanga in the Canterbury Region

Papatipu Rūnanga IN THE CANTERBURY REGION



ATTACHMENT 2:



LEGAL ADVICE

LPA 01 01 24

23 November 2021

Hon David Parker, Attorney-General

Consistency with the New Zealand Bill of Rights Act 1990: Canterbury Regional Council (Ngāi Tahu Representation) Bill

Purpose

1. We have considered whether the Canterbury Regional Council (Ngāi Tahu Representation) Bill (the Bill) is consistent with the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990 (the Bill of Rights Act).
2. We have concluded that the Bill appears to be consistent with the rights and freedoms affirmed in the Bill of Rights Act. In reaching that conclusion, we have considered the consistency of the Bill with s 19 (freedom from discrimination). Our analysis is set out below.

The Bill

3. The main objective of the Bill is to provide for Ngāi Tahu representation on the Canterbury Regional Council (trading as Environment Canterbury). This is to be achieved by empowering Te Rūnanga o Ngāi Tahu to appoint two non-elected members to Environment Canterbury, to serve equally alongside the 14 elected members.
4. The Bill is intended to reinstate Ngāi Tahu representation on Environment Canterbury, which was previously provided for during 2016-2019 under the Environment Canterbury (Transitional Governance Arrangements) Act 2016.

Consistency of the Bill with the Bill of Rights Act

Section 19 - Right or Freedom discrimination

5. Section 19(1) of the Bill of Rights Act affirms the right to freedom from discrimination on the grounds set out in the Human Rights Act 1993 (the Human Rights Act).
6. The key questions in assessing whether there is a limit on the right to freedom from discrimination are:
 - a. does the legislation draw a distinction on one of the prohibited grounds of discrimination under s 21 of the Human Rights Act; and if so,
 - b. does the distinction involve disadvantage to one or more classes of individuals?

7. A distinction will arise if the legislation treats two comparable groups of people differently on one or more of the prohibited grounds of discrimination. Ethnicity is a prohibited ground of discrimination under s 21 of the Human Rights Act. Whether disadvantage arises is a factual determination.¹
8. The Bill proposes to confer rights on Māori that are not conferred on other people, by providing Ngāi Tahu with non-elected representatives on the Council, in addition to their vote for elected members. The Bill could therefore be seen to draw distinctions on the basis of race or ethnic origins.
9. Notwithstanding this, the extent to which the distinctions reflect the status of Māori as the Crown's Treaty partner, and the Crown's duties under Te Tiriti o Waitangi, we do not consider any other group is in a comparable position.
10. The Treaty of Waitangi settlement agreed between Ngāi Tahu and the Crown in November 1997 acknowledged the rangatiratanga and mana of Ngāi Tahu over their lands ("the Settlement") and affirmed their "special association" with the natural environment in a number of areas². On the basis of this, the Settlement awarded Ngāi Tahu positions of input into environmental management bodies throughout the South Island/Te Wai Pounamu. This included establishing a Ngāi Tahu statutory adviser position to the Department of Conservation and awarding dedicated seats to appointees of Te Rūnanga o Ngāi Tahu on the New Zealand Conservation Authority and on Conservation Boards within the Ngāi Tahu Claim Area.
11. Empowering Te Rūnanga o Ngāi Tahu to appoint two non-elected members to Environment Canterbury adheres to the same principle as the decisions to give Ngāi Tahu input into other environmental governance bodies in the Settlement. Ngāi Tahu have a unique claim to input into the Environment Canterbury context on the basis of their special association with the Canterbury natural environment. No comparator group is currently recognised by the government as having this special association in this region.
12. In the context of the provisions within this Bill, no other persons or groups can be considered to be in comparable circumstances to Ngāi Tahu and no persons or groups will be materially disadvantaged by the passing of the Bill. The result of this assessment is that s 19 of the Bill of Rights Act is not engaged.

Conclusion

13. We have concluded that the Bill appears to be consistent with the rights and freedoms affirmed in the Bill of Rights Act.



Jeff Orr

Chief Legal Counsel
Office of Legal Counsel

¹ See, for example *McAlister v Air New Zealand* [2009] NZSC 78, [2010] 1 NZLR 153 at [40] per Elias CJ, Blanchard and Wilson JJ.

² Deed of Settlement between Te Rūnanga o Ngāi Tahu and the Crown, 21 November 1997, Section 2, "Crown's Apology, Acknowledgements and Agreements."