

CONSTITUTION REMIT 3: RECEIVED FROM Board of Directors

CLAUSE 25 AGM, CLAUSE 29 Voting for Constitutional and Policy Remits and CLAUSE 31 Alterations to the Constitution and Policy Remits

Sub clause 25.2.3.3 currently reads:

- "25.2.3.3 The remit committee will consider the following:
- 25.2.3.3i That the remit aligns with NZNO strategic aims mission and vision statements.
 - 25.2.3.3ii Identifies possible risks associated with the remit, and consequences of the remit both intended and unintended. Where Constitutional remits affect Te Rūnanga or are inconsistent with Ngā Ture, these will be presented for endorsement at Hui ā-Tau before being presented to the NZNO AGM."

Amend to read:

- "25.2.3.3 The remit committee will consider the following:
- 25.2.3.3i That the remit aligns with NZNO strategic aims mission and vision statements.
 - 25.2.3.3ii Identifies possible risks associated with the remit, and consequences of the remit both intended and unintended. Where Constitutional remits affect Te Rūnanga or are inconsistent with Ngā Ture, these will be presented for endorsement at Hui ā-Tau **and only if endorsed will they be subject to the one person one vote process in Clause 29.**"

Clause 29 currently reads:

- "29. Voting for Constitutional and Policy Remits
All proposed alterations to the Constitution and policy remits will be subject to one person one vote process."

Amend to read:

- "29. Voting for Constitutional and Policy Remits
Contingent upon the requirements in Clause 25.2.3.3ii being met, all proposed alterations to the Constitution and policy remits will be subject to one person one vote process."

Sub clause 31.3 currently reads:

- "31.3 The Constitution shall not be altered in any way which alters the Partnership under Te Tiriti o Waitangi, unless such changes are also ratified by Te Rūnanga. Changes referring to te Tiriti o Waitangi, Kaiwhakahaere, Tumu whakarae or to terms defined in clauses 2.1.12, 2.1.14 to 2.1.16, 2.1.27 or 2.1.33 to 2.1.36 shall be placed on the agenda of the subsequent Hui ā Tau for ratification."

Amend to read:

“31.3 The Constitution shall not be altered in any way which alters the Partnership under Te Tiriti o Waitangi, unless such changes are also ratified by Te Rūnanga. Proposed changes referring to te Tiriti o Waitangi, Kaiwhakahaere, Tumu whakarae or to terms defined in clauses 2.1.12, 2.1.14 to 2.1.16, 2.1.27 or 2.1.33 to 2.1.36 shall be **presented for endorsement at Hui ā-Tau, in accordance with Clause 25.2.3.3ii.**”

Background:

The current sub clause 25.2.3.3ii is the result of recent amendments to the NZNO Constitution.

Prior to 2018, the sub clause said simply that the remit committee, “Identifies possible risks associated with the remit, and consequences of the remit both intended and unintended”. A Constitutional Remit in 2018 resulted in the addition of a second sentence, about future remits which impact on Te Rūnanga or which are inconsistent with Ngā Ture. Sub clause 25.2.3.3ii was amended again in 2019 for clarity, to produce the current wording above.

Also in 2018, however, a separate amendment simultaneously changed other parts of the Constitution. As a result of that amendment, Constitutional remits are no longer “presented to the NZNO AGM” for delegates to vote on. All remits (including this one) are now presented to financial members of NZNO, and decisions about them are made by an electronic or postal ballot, according to the one person, one vote process.

Rationale:

The two Constitutional changes in 2018, discussed above, were made without considering the effect of one on the other. This has resulted in a situation where there are inconsistencies between different parts of the NZNO Constitution. Specifically, sub clause 25.2.3.3ii now refers to a process of presenting remits to the NZNO AGM which no longer exists. It is therefore necessary to amend sub clause 25.2.3.3ii, firstly to bring it into accord with the current process for deciding remits.

In 2019 another internal inconsistency became apparent in the NZNO Constitution, between sub clause 25.2.3.3ii and Clause 29.

The intention of the current sub clause 25.2.3.3ii had been made clear in the original 2018 rationale for amending it:

“... Often remits are presented... which have not been consulted with the group of members of how the remit will fully impact and potentially restricts the ways that these groups work. The role and responsibilities of Te Rūnanga and Poari are clearly articulated however it could be compromising to the organisation should remits be passed at NZNO AGM that are make it impossible or compromise our ability to for fill our obligations outlined in the NZNO Constitution and achieving our NZNO mission and commitment to biculturalism.”

In other words, the intention was that remits which could compromise the Constitutional role of Te Rūnanga or Poari should not be presented for a decision, unless they received prior endorsement at Hui ā-Tau. In the opinion of the Co-chairs of the 2018 AGM, this was understood to be the intention when the remit was passed by AGM delegates.

However, legal advice received by NZNO in 2019 stated that Clause 29 effectively over-ruled this intention. This is because Clause 29 says that, “**all** proposed alterations to the Constitution and policy remits will be subject to one person one vote process” (emphasis added). In other words, Constitutional remits affecting Te Rūnanga or inconsistent with Ngā Ture will be subject to one person one vote process, regardless of whether or not they are endorsed at Hui ā-Tau. Amendments are therefore also required to sub clause 25.2.3.3ii and Clause 29, in order to reflect the intention of the remit passed in 2018.

Finally, a third internal conflict in the NZNO Constitution became apparent in 2019. A separate legal opinion identified that the process outlined in the current sub clause 25.2.3.3ii (endorsement at Hui ā-Tau **before** being presented for a decision) is inconsistent with Clause 31.3: “Changes referring to te Tiriti o Waitangi, Kaiwhakahaere, Tumu whakarae or to terms defined in clauses 2.1.12, 2.1.14 to 2.1.16, 2.1.27 or 2.1.33 to 2.1.36 shall be placed on the agenda of the **subsequent** Hui ā Tau for ratification” (emphasis added). Amendments proposed above are intended to resolve this conflict, too.

It is worth noting that the inconsistencies and unintended consequences of piecemeal Constitutional change which are addressed in this remit are examples of a wider problem. As well as recommending that members vote in favour of this Constitutional Remit, the Board of Directors has resolved that a review of the NZNO Constitution should follow the adoption of the Strategic Plan 2020/25. The terms of reference for this Constitutional review will be presented at the 2020 NZNO AGM.