



**He Arotake Pōtitanga Motuhake**  
Independent Electoral Review

## **Interim report: Executive summary**

Our draft recommendations for a fairer,  
clearer, and more accessible electoral system

June 2023



# Message from the Chair

Kia ora koutou katoa

The electoral system is an essential part of Aotearoa New Zealand's democracy.

Over the past year, the Independent Electoral Review has been reviewing the electoral system to find out what is working, and what could be improved now and for future generations. We've heard from a range of New Zealanders from diverse backgrounds and viewpoints. We've also looked back, drawing on ideas that have emerged from previous work.

It is now clear to us that while many parts of Aotearoa New Zealand's electoral system work well, we think it can be better. Our interim report sets out the key changes we're proposing, with a view to receiving your input.

One of the main ideas underpinning our draft recommendations is fairness. Getting a 'fair go' is an idea that resonates with New Zealanders. But we've found several areas where our current laws are not as fair as they could be.

We also want to make sure that as many people as possible can take part in our electoral system, whether as voters, candidates, or members or supporters of political parties. We think that making our electoral laws fairer, clearer, and more accessible in the ways that we recommend will encourage this kind of participation and help ensure the success of our democracy in the future.

We hope that our vision for the future of Aotearoa New Zealand's electoral system will resonate with you.

We're due to send our final report to the government in November 2023. Prior to 17 July 2023 we want to hear from you so we can take your views into account when finalising our recommendations. Please tell us what you think. I look forward to hearing from you.

Ngā mihi nui



Deborah Hart

Chair, Independent Electoral Review Panel

# Have your say



## We want to hear from you

Over the past year, we have been reviewing Aotearoa New Zealand's electoral system to find out what is working well and what could change. We have formed an initial view and would like to hear what you think. This will help us to test our thinking and refine our proposals, before we finalise our report for the Minister of Justice.

This executive summary covers our main proposals and provides a list of our draft recommendations for each area of the electoral system. In our [interim report](#), we provide an explanation of how we reached this view for each recommendation.

You can find translated and accessible versions of our report, as well as an overview of the key themes from our proposals, on our website at <https://electoralreview.govt.nz/>.

## How to have your say

We welcome your feedback on our draft recommendations.

Please share your thoughts with us through our [online consultation tool](#). You have the option of filling in a survey or uploading your own written submission. You can answer as many or as few questions as you like. We encourage you to share what matters most to you. To begin, scan the QR code or visit: <https://electoralreview.govt.nz/submit/>.



Our [website](#) provides information on how to make a submission in an alternate format, like New Zealand Sign Language. You can also send your submission to:

Independent Electoral Review

Free Post 113

PO Box 180

Wellington 6140

We have listed dates for upcoming public webinars on our [website](#). Please sign up if you are interested in hearing from the panel.

If you have any questions, please email us at [secretariat@electoralreview.govt.nz](mailto:secretariat@electoralreview.govt.nz).

## Closing date to share your views

The closing date for all submissions is **17 July 2023**. Submissions received after this date may not be able to be considered. If this closing date might affect or prevent you or your organisation's participation, please let us know.

## Proactive release and Official Information Act obligations

The panel may proactively release the submissions that it receives. By default, if submissions are proactively released, they will be published with names but not with the contact information and demographic details of submitters. If you want your name to be anonymised, please state this clearly when you send it to us.

Your submission could also be subject to a request for information under the Official Information Act 1982 (the Official Information Act).

Please let us know if you think there are reasons we should not release information you have provided in your submission, and in particular:

- which part(s) you think should be withheld, and
- the reason(s) why you think it should be withheld.

We will take your views into account when responding to requests under the Official Information Act. However, this does not guarantee that your submission will be withheld. Valid reasons for withholding official information are specified in the [Official Information Act](#).

## Privacy Act obligations

The Privacy Act 2020 governs how the Independent Electoral Review collects, holds, uses, and shares personal information about you and the information you provide. You have the right to access and to correct this personal information.

# Executive Summary

## Background

1. We were established as an independent panel in May 2022 by the Minister of Justice to review our electoral system. Our Terms of Reference cover most aspects of the electoral system but exclude online voting, alternatives to the Mixed Member Proportional (**MMP**) electoral system, the retention of the Māori electorates, local government elections or broader constitutional matters like the re-establishment of an Upper House.
2. Between September and November 2022, we met with a wide range of New Zealanders and received over 1,700 written submissions. We are grateful to all those who took the trouble to tell us their views. We have taken careful account of them when developing our own views. We now seek your feedback on the preliminary conclusions and recommendations we present in this interim report on what we think is working well and what needs to be improved. After we have considered all feedback, we will prepare our final report which we will present to the Minister by the end of November this year.

## Part 1: Foundations

### Overall design of electoral law

3. The Electoral Act 1993 needs to be thoroughly redrafted to modernise its language, structure, and content to make it easier to understand, implement and keep updated. Some parts are too detailed and some are not detailed enough. It specifies how things are to be done (like using the postal service) rather than what is to be done and to what standard, making it difficult to innovate. It uses outdated language in certain areas, such as provisions referring to mental health and people with disabilities.
4. Alongside this redrafting, the offence provisions also need an overhaul and consolidation to ensure they are consistent and fit for purpose. There are a great many. Some are outdated, some are unclear, some have inconsistent penalties, and for some it is not clear that an offence is the best means of obtaining compliance.

5. An important feature of electoral law in Aotearoa New Zealand is the entrenched, or reserved, provisions. These provisions can only be changed by a majority vote in a public referendum or by a 75 per cent vote in the House of Representatives. We found inconsistencies and gaps across the current entrenchment provisions and recommend additional provisions should be entrenched.

## Upholding te Tiriti o Waitangi / the Treaty of Waitangi

6. One of the Crown's most essential tasks is upholding its obligations under te Tiriti o Waitangi / the Treaty of Waitangi (**te Tiriti / the Treaty**) as they relate to our most fundamental of democratic rights: the right to vote and contest free, fair, and regular elections. The Crown must redress past breaches, actively protect Māori electoral rights, and provide equitable opportunities for Māori electoral participation. Decades of systematic breaches by the Crown have resulted in consistently lower rates of Māori voter engagement and participation. The Crown must do better.
7. We recommend that the Electoral Act explicitly requires decision-makers to give effect to te Tiriti / the Treaty and its principles when exercising all functions and powers under the Act and become an explicit statutory objective of the Electoral Commission. A statutory obligation will ensure the Electoral Commission has clear authority to continue its work to reach Māori voters and candidates. We also recommend the Commission works with Māori to enable Māori governance over Māori electoral data.

## Part 2: The voting system

### Improving MMP

8. We think the way seats in parliament are won in elections could be fairer and should more closely reflect the number of votes each political party gets. Our recommended changes to the core MMP settings function as a package.
9. The current party vote threshold of five per cent is higher than it needs to be. We recommend lowering the threshold to 3.5 per cent. Lowering the threshold will broaden representation by allowing more minor parties into parliament, while still allowing for the formation of stable parliaments and effective governments.
10. We recommend abolishing the one-electorate seat threshold. Currently, a party that wins an electorate is entitled to its share of list seats as well, even if it did not meet the party vote threshold. We have concluded that this gives voters in some electorates more say than voters in other electorates about which parties get represented in parliament.

11. An overhang seat occurs if a party wins more electorate seats than its share of the party vote would otherwise have entitled it to. When this happens, that party keeps all the electorate seats it has won, but the number of list seats allocated to other parties is increased until the next election. This keeps parliament in proportion to the party vote. We recommend removing these extra seats for other parties. Instead, fewer list seats should be allocated. We only recommend this change in conjunction with removing the one-electorate seat threshold so as to limit the number of overhang seats.
12. We propose fixing the ratio of electorate and list seats at 60:40 with an additional proviso that the size of parliament should always be uneven to avoid hung parliaments. The effect of this recommendation would be that parliament would increase gradually in size over time in proportion to changes in our population.

### The parliamentary term and election timing

13. Parliaments last for three years. We heard arguments for and against changing the term of parliament, which can only be done by a 75 per cent majority vote in parliament or by a majority in a public referendum. We think this is a decision for voters. It is 32 years since we last had a referendum on whether the term of parliament should be longer. It is time for another referendum, supported by an information campaign about the pros and cons of a longer term.
14. Currently, the prime minister can call a general election at any time within the three-year parliamentary term. In recent years, the prime minister has given plenty of notice – usually announcing the election date early in election year. This convention appears to work well, balancing the need for both flexibility and certainty and so we do not recommend any change.

### Vacancies in parliament

15. We think the grounds providing for when a Member of Parliament's (**MP**) seat is vacated remain largely fit for purpose. We propose that the ground for non-attendance be changed from the term of parliament to three months and that the ground for mental incapacity be removed as it is unnecessary.
16. However, we think the 'party-hopping' rules should be abolished. At the moment, an MP can lose their seat if they leave, or are removed from, their party. We heard from some submitters that this reflects the central importance of parties under MMP and the accountability of MPs to their parties and the voters that support them. However, in our view, MPs have the right to freedom of expression and of association and should be able to express dissent with the views of their party. Getting rid of these rules would protect those rights and act as an important check on parties and on the government.





17. Some submitters argued that by-elections are an expensive and unnecessary exercise. However, in our view they continue to fill an important democratic function by providing local representation and should be retained.

## Part 3: Voters

18. The rules for who can vote and how, and the way voting is administered, are of fundamental importance to our electoral system and democracy. We have focussed on how to make voting accessible and improve voter participation.

### Voter eligibility

19. The right to vote is a fundamental right, recognised and protected by international and New Zealand law. Having reviewed the evidence before us, we recommend lowering the voting age to 16. The small risk of giving the vote to some young people who may not be ready to exercise that right is outweighed by the potential benefits of enfranchising those who are ready.
20. Keeping the voting age at 18 could be viewed as a proportionately greater unjustified age discrimination against Māori. The eligible voters of a given population – and those who turn out to vote – get to choose who represents them. Relative to non-Māori, a greater proportion of the Māori population is aged 16 or 17. These young people are currently represented through the votes of those who are eligible to vote. This means there are proportionately fewer votes to represent the entire Māori population.
21. We also recommend extending the time that New Zealand citizens can spend overseas without losing the right to vote. People have more ways than ever before to stay connected. We think most citizens overseas would continue to be invested in and affected by government policies beyond a single electoral cycle and we recommend extending it to two electoral cycles.
22. Permanent residents, which for electoral purposes means someone living in Aotearoa New Zealand who can stay here indefinitely, may vote after living in Aotearoa New Zealand for a year. We recommend extending this period to one electoral cycle, to provide enough time to establish a sufficient connection to Aotearoa New Zealand. The amount of time that permanent residents can spend overseas without losing the right to vote should stay at 12 months.
23. We recommend all prisoners have the right to vote. Currently, anyone serving a prison sentence of three-years or more cannot vote. Given the fundamental nature of the right to vote, disenfranchisement should not form part of someone's punishment.



## Enrolling to vote

24. Currently, enrolment is compulsory, but voting is not. We do not recommend changing these rules, because they are generally working well.
25. Earlier this year, it became possible for people of Māori descent to choose whether to enrol on the general roll or the Māori roll (known as the Māori electoral option) at any time except in the three months leading up to a general election, local election, or once a seat has been formally declared vacant before a by-election happens. While this change helps to address a long-standing issue for Māori voters, we don't think it goes far enough.
26. We recommend that Māori voters should be able to switch rolls at any time up to, and including, election day. The period just before an election is when people are most likely to be thinking about their choice of roll. Based on the evidence available, the current law could prevent people from exercising the option exactly when they are most likely to do so. Extending the option may encourage voter participation.
27. We recommend continuing to limit the exercise of the Māori electoral option during the time after the Speaker of the House gives notice of a vacancy, allowing a by-election to be called. This will stop people switching rolls to vote in elections that they would otherwise not be eligible for.
28. The current rules restrict people from being on different rolls for local body and general elections simultaneously. The growth of local Māori wards around the country makes this choice increasingly relevant for Māori voters. We recommend removing this restriction to reduce administrative barriers.
29. We think considerations of digital enrolment raise important questions that need careful consideration and debate. We are interested in your views on whether and how a person's residence should be verified when enrolling and during the enrolment update campaign.

## Voting in elections

30. We make recommendations to modernise voting processes and accommodate changes in voter behaviour. It has become more common to vote before election day (during the advance voting period) than on election day. Nearly 70 per cent of voters voted before election day in 2020.
31. We think the rules for advance voting and election day voting should be more consistent. A minimum period of 12 days should be set for in-person advance voting. Special votes that can be cast in advance, such as postal and dictation votes, could continue to be offered over a longer timeframe.
32. Standards should be set to provide clear direction to the Electoral Commission on what it needs to take account of when choosing polling places, while preserving its



flexibility to determine how those standards should be met. The standards should include a range of accessibility measures.

33. The popularity of advance voting means the distinction between the advance voting period and election day is no longer fit for purpose. Rules regulating electioneering on election day are currently much more restrictive than they are for the advance voting period. We recommend changing election day restrictions to match advance voting rules, so one set of rules applies to the whole period. However, to protect the secrecy of the vote, we recommend people should not be allowed to photograph their ballot papers.
34. We recommend that only party secretaries and independent candidates should be permitted to appoint scrutineers (one per polling place). MPs should be prevented from being scrutineers so as not to influence voters. We recommend a new offence of threatening, intimidating, or harassing electoral officials to signal the importance of protecting their role in the voting process.

## Emergencies and disruptions

35. We have all become acutely aware of the potential for natural disasters, pandemics, or other unforeseen events to disrupt an election. Existing emergency provisions already provide for delaying an election or implementing alternative voting processes. We recommend updating these provisions to include a new last resort power to reconvene an expired or dissolved parliament in the event of a catastrophic disaster. We seek feedback on appropriate safeguards for this significant new power.

## Counting the vote and releasing results

36. To reduce administrative costs and speed up preliminary election results, we recommend enabling electronic vote counting of preliminary results in the future. This change would enable the Electoral Commission to start long-term work towards a live digital roll mark-off, where voters are marked off the roll electronically. This change supports progress towards a future move away from special voting. It would allow people voting outside the electorate where they are enrolled and people who enrol or update their details later in the election period to cast an ordinary vote. Digital technology has been successfully used for the count in previous referendums. Safeguards, including manually counting the official result, can manage any risks.

## Improving voter participation

37. Voter participation is central to a healthy democracy. People are more likely to vote if they understand why voting is important in a democratic system. The Electoral Commission plays a crucial role in improving voter participation and we

support its continued work in this area. We also recommend developing a funding model to support community-led initiatives for civics and citizenship education. Local people and groups are best placed to make the connections to reach communities, but they are not resourced to do so. The fund should be administered outside the Electoral Commission.

38. We also recommend some changes to rules that create barriers for certain voters to participate. For example, we recommend removing a barrier for the rainbow community by allowing people to use preferred names in addition to their legal name when enrolling and voting and enabling people on the unpublished roll to cast an ordinary vote to make voting easier for people concerned for their safety.

## Part 4: Parties and candidates

### Standing for election

#### Party regulation

39. Political parties play a vital role in our electoral system. They need to be regulated because they exercise significant public power in the contesting of elections, and they also receive state funding. However, parties must also be able to organise themselves, determine policy, select candidates, and contest policy in ways which reflect their widely differing sizes, ethos, and organisational approaches. Our recommendations balance these two considerations.
40. We think many of the current rules are working well, although we recommend ways to strengthen them. We recommend strengthening the requirements for parties to follow democratic procedures when selecting both electorate and list candidates and allowing the Electoral Commission to deregister a party that fails to do so. Other recommendations include requiring a party to register three months before an election, and requiring registered parties to put forward a list of candidates at each election. We recommend giving the Electoral Commission a power to audit the requirement for registered parties to have 500 current financial members who are enrolled to vote. We also recommend extending the time when a party cannot be registered to the start of the regulated period (that is, about three months before election day).
41. We recommend closing a current loophole where an unregistered party can avoid disclosure requirements by becoming a component party of a registered party.

#### Candidates

42. Eligibility to stand as a candidate is currently confined to citizens who are registered electors. We think this remains appropriate. Accordingly, it follows that if our recommendations on voting rights are accepted, then these groups should also be able to stand as candidates. That is, 16- and 17-year olds, prisoners and

overseas citizens who have been away from Aotearoa New Zealand for no more than two electoral cycles.

43. We heard from some that electorate candidates should only be able to contest electorates in which they reside and that candidates should not be able to contest an electorate and be on a party list at the same time (dual candidacy). In our view these proposals would undermine the ability of parties to stand strong candidates in all electorates and we do not recommend them.

## Political finance

44. Political finance is fundamentally important to the electoral system. Money is used by parties and candidates for a wide range of activities, including developing policy, communicating with the public, and campaigning. Making donations and providing loans is a form of political expression and electoral participation, allowing people to support parties and candidates of their choosing. The right to do so is protected by the New Zealand Bill of Rights Act 1990.
45. However, there are risks to electoral integrity and public confidence in the electoral system if some people are able to unduly influence parties and candidates through making donations or loans. Even the perception of undue influence can undermine the perceived trustworthiness of our democratic processes.
46. Our recommended changes may reduce private funding and increase compliance costs for parties. We recommend changes to state funding to address these effects. Parties are central to our electoral system and supporting them in a fairer, more transparent and up-to-date way is vital.

## Private funding

47. Private funding is an important source of political party finance and one that causes considerable concern for the public. We recommend simplifying and tightening a number of vulnerabilities in the existing private funding rules to restore public trust by increasing transparency.
48. Parties and candidates mostly rely on private loans and donations to pay for their day-to-day activities and for their election campaigns. In Aotearoa New Zealand, people have the right to support any party. While this ability requires protection, it also risks enabling the exercise of undue influence through financial means.
49. We recommend that only individuals on the electoral roll should be able to loan or donate to parties and candidates. All entities, whether trusts, companies, trade unions, iwi, hapū, or unincorporated societies should be prohibited from providing funding. They will continue to be able to participate as third-party promoters or by donating to third party promoters.



50. Donation and loan amounts are currently uncapped, and we recommend they are capped at \$30,000 per party for each election cycle. We also recommend reducing the amount of money that can be donated anonymously from \$1,500 to \$500. The reduction will improve transparency while still allowing for 'grass-roots' fundraising. The rarely used protected disclosure regime for large donations should be removed.
51. Reporting and disclosure requirements should increase in frequency ahead of elections. We recommend requiring parties and candidates to disclose the name of large donors (donations of more than \$10,000) on a weekly basis in the three months leading up to election day. The disclosure threshold for large donations should reduce from \$5,000 to \$1,000. Donations of \$200 or less should be exempt from recording requirements.
52. The definition of donation should be expanded to include event tickets, paying for access to party members such as MPs, and to purchasers and winners of goods and services at fundraisers.

### **State funding**

53. To balance the effect of our private funding recommendations on the way parties raise funds, we recommend a modest increase in the levels of state funding provided. We appreciate the contentious nature of public spending on parties that individual taxpayers may not support, but parties play a vital constitutional role in our system.
54. The changes we recommend to private funding aim to increase transparency and incentivise parties to seek larger numbers of small donations. These changes are likely to affect the amount received privately. We recommend a mix of direct and indirect state funding to compensate. Per-vote funding should be introduced on a sliding scale. Although this can favour parties already in parliament, other measures we recommend will offset this effect.
55. Tax credits of 33 per cent should be available for political donations of up to \$1,000.
56. Base funding of \$10,000 should be made to all registered parties, to support compliance with legal obligations. This funding will assist minor parties in particular to meet transparency and disclosure costs.
57. A new fund – Te Pūtea Whakangāwari Kōrero ā-Tiriti / Treaty Facilitation Fund – should be available to facilitate party and candidate engagement with Māori communities, in ways appropriate for Māori.
58. Parties should become eligible to apply to the Election Access Fund Te Tomokanga – Pūtea Whakatapoko Pōtitanga to meet the costs of providing materials to voters with accessibility needs in their campaigns.



59. Costing is difficult to do with any precision, particularly for tax credits. Based on averages of votes received during the past three elections, and the current number of registered parties, we estimate per-vote funding could cost approximately \$5.6 million per election, and base funding \$160,000 per annum. We note that the approximately \$4 million in state funding currently provided through the broadcasting allocation (discussed below) should be reapplied to our funding model. Furthermore, Parliamentary Service funding for the parliamentary wing of parties in the 2022/23 financial year came to approximately \$45 million. As some of this funding appears to be spent on election-related activity, some redirection to our proposed state funding model could be considered.

## Election advertising and campaigning

60. An election advertisement is generally one that encourages people to vote for or against a particular party or candidate, whether or not they are mentioned specifically. We support the current approach of applying low-level advertising restrictions all the time – such as requiring advertisements to include details of who has placed them – and increasing restrictions closer to the election.
61. We recommend that restrictions on election day advertising should only apply inside or within 10 metres of polling places, which is the approach that currently applies during advance voting. The Electoral Commission should be able to remove election billboards after the election if they have not been taken down, and charge parties for doing so.

## Media-specific regulation of advertising

62. Advertising and campaigning are increasingly done over social media and less often on television and radio. The specific rules that apply to broadcasting party and candidate advertisements on television and radio should be removed, along with the current state funding provided through the broadcasting allocation. Instead, parties and candidates should be free to advertise on television and radio as they wish, up to their campaign spending limits.
63. Online advertising, including its targeted (and microtargeted) nature, is a fast-moving and complex area. It is increasingly being used by parties and some protections are in place. We are interested in feedback about whether existing data collection and privacy legal frameworks adequately address concerns about microtargeting.

## Campaign spending limits and disclosure requirements

64. Advertising spending limits apply to all electoral participants from three months until the day before election day.
65. We recommend setting a flat spending limit of \$3.5 million for all parties, a cap of \$31,000 for candidates contesting a general election (or \$62,000 for a by-election) and setting the limit for third-party promoters at 10 per cent of the party limit. The



\$3.5 million limit reflects amounts commonly spent by the National Party and the Labour Party (including the funding they currently receive through the broadcasting allocation). We do not recommend changing current disclosure requirements.

## Part 5: Electoral administration

### Electoral Commission

66. The Electoral Commission delivers well-run elections with high levels of integrity. It also facilitates participation in the electoral system, including by working directly with communities with lower participation rates. We think it is important the Commission focuses on understanding and addressing barriers for these communities. We therefore recommend amending the requirement for the Commission to facilitate participation to a requirement that it facilitates equitable participation. The Commission could consider appointing advisory groups to help inform its work.
67. The Electoral Commission board should be expanded from three to five members. The Minister of Justice should also be required to ensure that the board collectively has skills, experience, and expertise in te Tiriti / the Treaty, te ao Māori and tikanga Māori. The board should also collectively have knowledge and experience of working with diverse communities such as rural communities, people from migrant backgrounds, and disabled people.

### Accessing the electoral rolls

68. Accurate and up-to-date electoral rolls are critical to conducting elections and to the integrity of the system. As well as having a central part to play in the electoral system, electoral roll data is accessed for other purposes, from research, to preparing jury lists and by political parties wanting to canvass voters before elections. The rolls contain personal identifiable data such as names, addresses and occupations.
69. The need to strongly protect personal data has become more critical now that technology can be used to data-match and target people. We consider electoral roll data should be more stringently controlled by amending the Electoral Act in line with the Privacy Act's requirements.
70. Public inspection and purchase of roll data should cease, as should access to information about who has voted. Access should remain for social science and health research, but with tighter controls.



71. Roll data should not be available to political parties. MPs should be able to contact constituents for parliamentary purposes, but this should be done through the Parliamentary Service.

## Boundary reviews and membership of the Representation Commission

72. The boundary review process, conducted by the Representation Commission, determines how the country is divided into electorates. We recommend Stats NZ is given flexibility on the data sources they use to calculate electoral populations, such as using the estimated resident population, instead of being required to rely on census data. We also recommend increasing how much an electorate's population size can depart from the average size (known as the population quota tolerance) from plus or minus five per cent to plus or minus 10 per cent.
73. We recommend the Representation Commission should have to consider communities of interest for Māori alongside general communities of interest when it sets general electorate boundaries as well as when it sets Māori electorate boundaries.
74. The Representation Commission includes political party representation (government and opposition) and government officials. When determining Māori electorate boundaries, the Commission also includes the chief executive of Te Puni Kōkiri and two people of Māori descent (government and opposition). We recommend these members are also members when general electorate boundaries are being considered.

## Electoral offences, enforcement and dispute resolution

75. Electoral offences need a comprehensive overhaul and consolidation. The offences, all criminal, have been added and amended over time, with some carried over from earlier electoral laws. As a result, there are some out-of-date offences and clear inconsistencies in the treatment of various behaviours.
76. The offence of 'treating' voters with food, beverage and entertainment before elections should be repealed, and a judge should have a discretion to restore voting rights to someone placed on the Corrupt Practices List.
77. The Electoral Commission lacks a full suite of investigative powers. We recommend giving the Electoral Commission additional investigative powers, such as requiring documents, and undertaking audits, as well as the ability to refer serious financial offending directly to the Serious Fraud Office.
78. The Electoral Commission also has no ability to enforce offences (enforcement is done by the Police and the Serious Fraud Office). As part of the overhaul of all offences, the ability of the Commission to impose low-level sanctions should be considered.



79. The Electoral Act contains mechanisms for resolving election outcomes through election recounts and election petitions. To prevent frivolous or vexatious actions, judges should have the discretion to decide whether a recount goes ahead: whether at the electorate or national level. If this is accepted, we recommend removing deposits required for recounts.

## Security and resilience

### Managing disinformation

80. The spread of disinformation (that is, false information, intentionally spread to mislead or influence people), especially online, has the ability to undermine the integrity of the electoral system and distort free and open debate. While it is of particular importance to the electoral system, the issue is far broader than the electoral system. We are concerned about the risk disinformation presents to the security and resilience of the electoral system, and to voter participation. Upholding rights to freedom of expression and freedom of association are also important.
81. We recommend extending the timeframe for the offence of knowingly publishing false information to influence votes during the voting period, so that it covers the time for advance voting as well as election day.
82. Internationally, finding ways to regulate disinformation is a developing area. In Aotearoa New Zealand, ways to address it are being considered by social media companies and by the Government. The outcome of that work will impact on the electoral system. In the meantime, education is the best tool we have.

### Foreign interference

83. Efforts by other countries to influence, disrupt or subvert our national interest present a risk to our electoral system. The New Zealand Security Intelligence Service did not identify systemic, state-sponsored interference activity in the 2020 election. However, electoral interference remains a key area of its focus, due to the prevalence of interference in elections around the world. The New Zealand Secret Intelligence Service has confirmed a small number of states engage in interference activities against our national interest, including by targeting our political sector.
84. Our current law contains a number of safeguards, and the Electoral Commission works with our security agencies to identify potential foreign interference. We recommend addressing an existing vulnerability in our system by preventing third-party promoters using money from overseas persons to fund election advertising in the three months before an election.





# Draft Recommendations

## Part 1: Foundations

### Chapter 2: The Overall Design of Electoral Law

- R1. Redrafting the Electoral Act 1993 to incorporate the changes set out in this report and to update the statute's structure and language with the aim of making it modern, comprehensive and accessible.**
- R2. Reassessing the appropriate use of primary and secondary legislation as part of the redrafting process.**
- R3. Adding to the currently entrenched provisions by entrenching:**
  - a. the Māori electorates (to the same extent that the general electorates are already entrenched)**
  - b. the method for the allocation of seats in parliament and the party vote threshold**
  - c. the right to vote and to stand as a candidate**
  - d. the process for removing members of the Electoral Commission.**

### Chapter 3: Upholding te Tiriti o Waitangi / the Treaty of Waitangi

- R4. Requiring decision-makers to give effect to te Tiriti o Waitangi / the Treaty of Waitangi and its principles when exercising functions and powers under the Electoral Act. This obligation should apply generally across the Act and be explicitly included in the Electoral Commission's statutory objectives.**

- R5. The Electoral Commission prioritises establishing Māori governance over data collected about Māori in the administration of the electoral system.**

## Part 2: The Voting System

### Chapter 4: Representation Under MMP

- R6. Lowering the party vote threshold for list seat eligibility from five per cent of the nationwide party vote to 3.5 per cent.**
- R7. Abolishing the one-electorate seat threshold, provided the party vote threshold is lowered.**
- R8. Removing the existing provision for extra seats to compensate for overhang seats, with fewer list seats allocated instead, if the one-electorate seat threshold is abolished, as recommended.**
- R9. Fixing the ratio of electorate seats to list seats at 60:40, requiring parliament to be an uneven number, and allowing the size of parliament to grow in line with the population.**

### Chapter 5: Parliamentary Term and Election Timing

- R10. Holding a referendum on the parliamentary term, supported by a well-resourced information campaign (including dedicated engagement with Māori communities and leaders).**
- R11. Continuing to allow the prime minister to call a general election at any time before the end of the parliamentary term.**



## Chapter 6: Vacancies in Parliament

- R12. Changing the ground for non-attendance so that a Member of Parliament's seat becomes vacant once they have been absent from parliament without the leave of the House for three months.**
- R13. Removing mental incapacity as a ground to remove an Member of Parliament.**
- R14. Retaining the remaining grounds for when an Member of Parliament's seat becomes vacant, including the grounds of citizenship and for criminal convictions.**
- R15. Repealing the restriction on Members of Parliament remaining in parliament if they cease to be a member of the party from which they were elected.**
- R16. Keeping the current rules for filling vacant electorate seats and list seats, including the process for a seat that is vacated within six months of a general election.**

## Part 3: Voters

### Chapter 7: Voter Eligibility

- R17. Lowering the voting age to 16.**
- R18. Extending the time that New Zealand citizens can spend overseas without losing the right to vote to two electoral cycles.**
- R19. Extending the time that permanent residents must spend in Aotearoa New Zealand before gaining the right to vote to one electoral cycle.**
- R20. Keeping the time that permanent residents can spend overseas without losing the right to vote at 12 months.**
- R21. Clarifying the use of the term 'permanent resident' for electoral purposes to avoid confusion.**
- R22. Granting all prisoners the right to vote.**



## Chapter 8: Enrolling to Vote

- R23. Retaining compulsory enrolment.**
- R24. Retaining voluntary voting.**
- R25. Allowing the Māori electoral option to be exercised at any time up to and including election day for general and local elections, while retaining the current prohibition ahead of by-elections.**
- R26. Allowing anyone of Māori descent to be registered simultaneously on one roll for general elections and a different roll for local elections.**
- R27. Improving education and engagement about the Māori electoral option.**

## Chapter 9: Voting in Elections

- R28. Requiring advance voting to be provided for a minimum period of 12 days.**
- R29. Including standards in electoral law for polling places to ensure they are widely available and accessible, including during advance voting.**
- R30. Repealing the requirement to state your name to be issued a ballot.**
- R31. Repealing the ability of a scrutineer to question voters about their identity and whether they have voted.**
- R32. Future-proofing special voting provisions by:**
  - a. Allowing anyone voting outside their electorate to cast a special vote at any time during the voting period.**
  - b. Removing postal voting as an option for overseas voters.**
  - c. Considering how to scale up voting methods for people who cannot vote in person as postal services decline.**
- R33. Making it a criminal offence to harass electoral officials.**
- R34. Applying one set of rules to prevent voter interference for the entire voting period.**



- R35. Aligning restrictions on election day with those of the current advance voting period for the wearing of lapel badges, rosettes and party colours.**
- R36. Vesting emergency powers in the Board of the Electoral Commission, not just in the Chief Electoral Officer.**
- R37. Adding a new general power for the Electoral Commission to extend the time available for any electoral processes or deadlines where they are disrupted by an unforeseen or unavoidable disruption that could impact the proper conduct of an election.**
- R38. Adding a new ability for parliament to be reconvened after it has expired or dissolved in the event of a catastrophic emergency or disaster with ongoing impacts on the proper conduct of the election.**
- R39. Making amendments to the Constitution Act to ensure the continuity of executive government in the event of an adjourned election.**

## Chapter 10: Counting the Vote and Releasing Results

- R40. Enabling the preliminary count to be conducted electronically.**
- R41. Requiring the release of the preliminary results in legislation.**
- R42. Allowing a person's vote to be counted if they have voted in advance and die before election day.**

## Chapter 11: Improving Voter Participation

- R43. Developing a funding model to support community-led education and participation initiatives, with this model also providing for 'by Māori for Māori' activities.**
- R44. Allowing people to include preferred names in addition to their legal name for enrolment and voting purposes.**
- R45. Allowing people on the unpublished roll to cast an ordinary vote.**





## Part 4: Parties and Candidates

### Chapter 12: Standing for Election

- R46. Strengthening requirements by providing the Electoral Commission with the power to either refuse to register, or to de-register, a party:**
- a. whose rules do not meet the existing statutory requirement to follow democratic procedures when selecting candidates, but only after
  - b. the party has been notified and given an opportunity to amend its rules to comply with its statutory obligations.
- R47. Requiring a registered party to submit a list of party candidates at each general election to remain registered.**
- R48. Strengthening the current requirement that a party has 500 current financial members before it is eligible to register by:**
- a. requiring those 500 members to be enrolled to vote, and
  - b. enabling the Electoral Commission to audit any registered party for compliance with this ongoing requirement.
- R49. Requiring a party secretary to confirm by statutory declaration that the process for ranking list candidates complied with the party's candidate selection rules.**
- R50. Extending the period before an election in which parties cannot be registered to the start of the regulated period (usually three months before election day).**
- R51. Prohibiting unregistered parties from becoming component parties of registered parties.**
- R52. Broadening candidate eligibility, in line with our voter eligibility recommendations, to include:**
- a. 16- to 17-year-olds
  - b. citizens living overseas for two electoral cycles
  - c. all prisoners.

## Chapter 13: Political Finance

- R53. Permitting only registered electors to make donations and loans to political parties and individual candidates.**
- R54. Spending on election advertisements that requires authorisation from a party or candidate should be treated as a donation.**
- R55. Limiting the total amount a registered elector may give by way of donations and loans to each political party and its candidates to \$30,000 per electoral cycle.**
- R56. Reducing the amount that can be donated anonymously to \$500.**
- R57. Abolishing the protected disclosure regime.**
- R58. Increasing the frequency of disclosing donations and loans in election year and lowering the thresholds for when disclosure must be made.**
- R59. Requiring the disclosure of all donors and lenders who give more than \$1,000 to a political party or candidate, but only requiring that donor and lender names are made public.**
- R60. Expanding the definition of donation to include a range of fundraising activities.**
- R61. Reducing administration by only requiring donor details to be recorded for donations above \$200.**
- R62. Increasing state funding:**
  - a. by providing registered political parties with per vote funding on a sliding scale**
  - b. with base funding for registered political parties**
  - c. by providing tax credits for people who make donations of up to \$1,000**
  - d. in a new fund – Te Pūtea Whakangāwari Kōrero ā-Tiriti / Treaty Facilitation Fund – to facilitate party and candidate engagement with Māori communities**
  - e. by expanding the purpose of the Election Access Fund to include applications by parties to meet accessibility needs in their campaigns,**



such as providing accessible communications and New Zealand Sign Language interpretation at events.

## Chapter 14: Election Advertising and Campaigning

- R63. Permitting election advertising on election day anywhere except inside or within 10 metres of polling places (where voters and scrutineers may only display lapel badges, rosettes, and party colours on their person).**
- R64. Empowering the Electoral Commission to remove election billboards and hoardings from public places from the Monday after election day, with an ability to charge a party or candidate for the cost of doing so.**
- R65. Allowing promoter statements to use PO Box numbers or email addresses instead of a physical address.**
- R66. Abolishing the restrictions on the use of television and radio for election advertising by parties and candidates.**
- R67. Abolishing the process for providing funding to parties to run election advertisements on television and radio, and reallocating the funding to our package of state funding recommendations.**
- R68. Providing the Advertising Standards Authority with funding during election periods to support its ability to respond to complaints in a timely way.**
- R69. Applying the following spending limits during the regulated period:**
  - a. registered parties: \$3.5 million**
  - b. candidates: \$31,000 for a general election (and \$62,000 for a by-election)**
  - c. third-party promoters: ten per cent of the registered party spending limit (which would be \$350,000 at present).**



## Part 5: Electoral Administration

### Chapter 15: Electoral Commission

- R70. Amending the objective of the Electoral Commission to facilitate equitable participation.**
- R71. Expanding membership of the board of the Electoral Commission from three to five members.**
- R72. Requiring the board of the Electoral Commission to have a balance of skills, knowledge, attributes, experience and expertise in te Tiriti o Waitangi / the Treaty of Waitangi, te ao Māori and tikanga Māori.**

### Chapter 16: Accessing the Electoral Rolls

- R73. Removing the availability of the main and supplementary rolls for public inspection.**
- R74. Removing the availability of the master roll for public inspection after an election.**
- R75. Removing the ability for any person to purchase electoral rolls and habitation indexes.**
- R76. Retaining access to electoral rolls and habitation indexes for social scientific and health research, but with tighter controls on data access and use and a stronger ethics approval process.**
- R77. Removing access to the electoral rolls by political parties, candidates and Members of Parliament.**
- R78. Removing the ability for scrutineers to access marked copies of the electoral rolls, which show who has voted, during the voting period and to share this information with political parties and candidates.**
- R79. Allowing Parliamentary Service to access names and addresses from the electoral roll in order to facilitate outreach to constituents on behalf of Members of Parliament.**



- R80. Removing the *Index of Streets and Places* from sale.**
- R81. Retaining the existing provisions for being enrolled on the unpublished roll.**

## Chapter 17: Boundary Reviews and the Representation Commission

- R82. Removing the requirement that the boundary review is based on census data, so that eventually other data sources could be used. Noting that improved processes will be required to ensure Māori data sovereignty and a more robust calculation of the population of Māori descent.**
- R83. Increasing the population quota tolerance (that is, the extent to which it can vary from the average population in an electorate) to plus or minus 10 per cent when setting electorate boundaries.**
- R84. Considering communities of interest for Māori alongside general communities of interest in the setting of general electorates as well as for setting the Māori electorates.**
- R85. Retaining the current membership of the Representation Commission.**
- R86. Adding the current Māori members of the Representation Commission – the Chief Executive of Te Puni Kōkiri and the two political representatives of Māori descent – as members for determining general electorate boundaries.**

## Chapter 18: Electoral Offences, Enforcement and Dispute Resolution

- R87. Undertaking an overhaul and consolidation of all electoral offences and penalties, to ensure they are consistent and still fit for purpose. This work should be guided by the principles of proportionality, effectiveness and practicality.**
- R88. Giving judges an express discretion to restore voting rights for people found guilty of a corrupt practice.**
- R89. Repealing the offence of treating voters with food, drink or entertainment before, during, or after an election for the purpose of influencing a person**

**to vote or refrain from voting. Also repealing the offence of corruptly accepting food, drink or entertainment under these conditions.**

- R90. Giving the Electoral Commission additional investigative powers (including to require documents, and to undertake audits).**
- R91. Giving the Electoral Commission the ability to refer serious financial offending directly to the Serious Fraud Office.**
- R92. Considering whether the Electoral Commission should be able to impose sanctions for low-level electoral breaches, dependent on the outcome of a broader overhaul and consolidation of electoral offences.**
- R93. Removing deposit fees for applications for recounts and otherwise retaining deposits at current amounts.**
- R94. Permitting judicial discretion as to whether an electorate-level or national-level recount goes ahead.**
- R95. Retaining existing notice periods for initiating an election petition and commencing the hearing for that petition.**

## Chapter 19: Security and Resilience

- R96. Extending the timeframe for the offence of knowingly publishing false information to influence voters to include the entire advance voting period and polling day.**
- R97. That the overhaul and consolidation of the offences and penalties regime for electoral law (recommended above) specifically considers the scope of the undue influence offence, and whether it should be expanded to include disinformation methods and mechanisms.**
- R98. That registered third party promoters cannot use money from overseas persons to fund electoral advertising during the regulated period.**

## Minor and technical recommendations

**Appendix 1** of our [interim report](#) sets out the minor and technical changes we recommend for each part of our review.





**He Arotake Pōtitanga Motuhake**  
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