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He Arotake Pōtitanga Motuhake Independent Electoral Review



Summary document

An invitation to tell us what you think about our
electoral system

September 2022

Produced 2022 by Accessible Formats Service,
Blind Low Vision NZ,
Auckland

Total print pages: 11

Total large print pages: 19

Notes for the Large Print Reader

Print page numbers are indicated as:

Page 1

Main text is in Arial typeface, 18 point.

Headings are indicated as:

Heading 1

Heading 2

Heading 3

Omissions and alterations

Some minor images have been omitted.

The typeface has been enlarged in most of the diagrams.

Transcriber's Notes

Transcriber's notes are indicated with **[TN]** and are in a separate box where possible.

Introduction

The Independent Electoral Review (the **review**) was set up by the Minister of Justice to review Aotearoa New Zealand's election laws. This review is an opportunity to make election rules clearer, fairer, and more accessible for current and future voters.

The panel appointed to undertake the review is chaired by Deborah Hart. Its members are Associate Professor Maria Bargh (deputy chair), Professor Andrew Geddis, Dr Lara Greaves, Alice Mander, and Robert Peden.

Don't have much time? This summary tells you the purpose of the review, some key issues, and the questions we have for you.

Want to know more? Have a look at our consultation document, available on our website at <https://electoralreview.govt.nz/>.

You can answer as many questions as you like, or just tell us your views without answering the questions. We welcome submissions on a single issue, a few issues, or the whole review. We encourage you to share what matters most to you within our Terms of Reference.

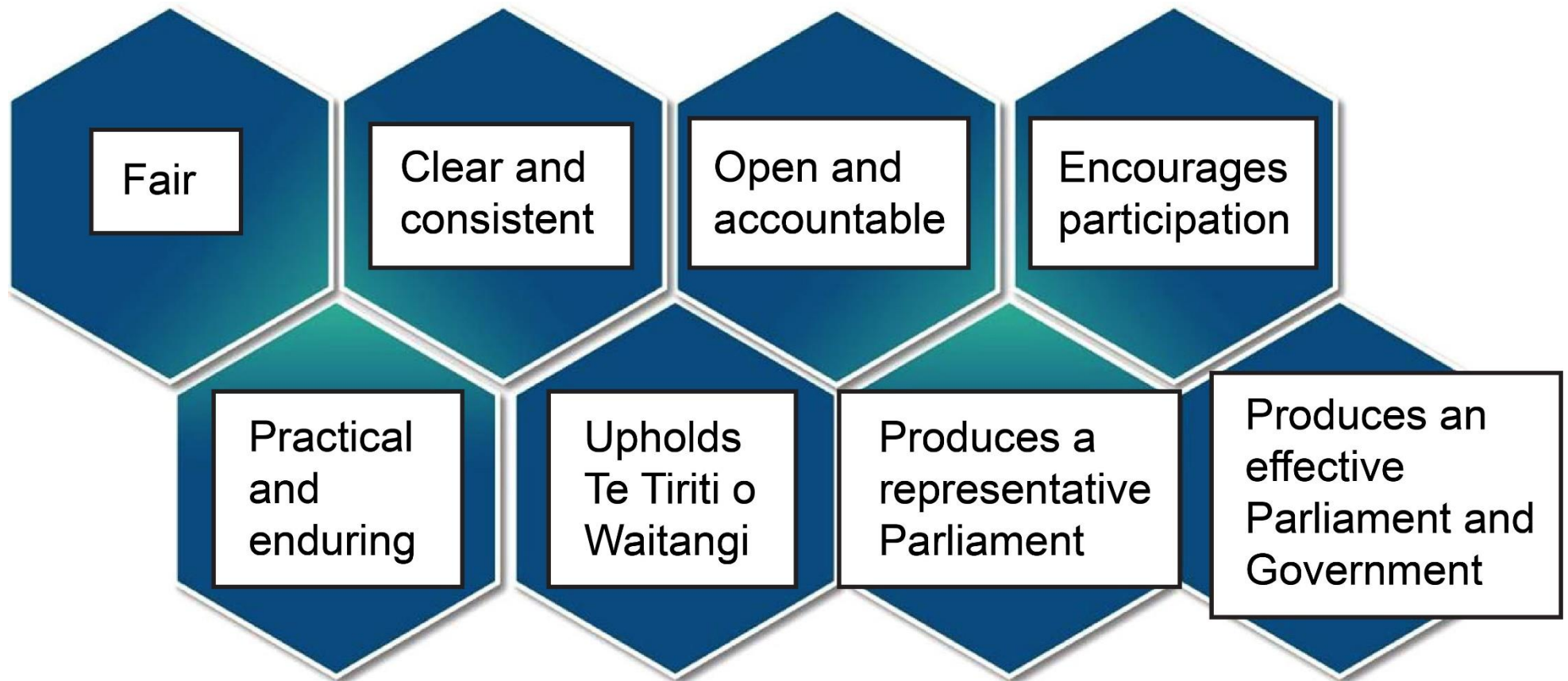
Why do we need this review?

Modern and accessible electoral law is important for our democracy to function well. Large parts of Aotearoa New Zealand's electoral law have remained the same for over 60 years and have become outdated.

As democracy comes increasingly under threat around the world, this review is a chance to strengthen our electoral system for the future.

We have been asked to ensure that our electoral system meets these objectives:

[TN]: See objectives on the next page.



What is the review about?

The review covers almost everything to do with how elections work. Some of the key issues are discussed in the next pages.

Throughout the review, the panel will also be thinking about legislative design and previous Electoral Commission and Justice Committee recommendations.

We won't be looking at online voting, alternative voting systems to MMP, local government electoral law, retention of the Māori electorates, or broader constitutional issues.

You can find out more about the scope of the review in our Terms of Reference on our website:

<https://electoralreview.govt.nz/>.

Te Tiriti o Waitangi—the Treaty of Waitangi

One of the objectives of the review is to provide advice on how to ensure the electoral system upholds Te Tiriti o Waitangi—the Treaty of Waitangi. The panel would like to hear what issues within the review are most important to Māori.

Electoral law should enable Māori perspectives to be represented in Parliament and support active participation by Māori in the electoral system. The Crown has a duty to actively protect these rights.

Keep in mind



As you prepare your submission, you may want to think about:

How can the Crown uphold its obligations under Te Tiriti o Waitangi—the Treaty of Waitangi in regard to electoral law?

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Part 1: The voting system

Aotearoa New Zealand uses a Mixed Member Proportional (**MMP**) voting system to elect Members of Parliament (**MPs**). Parliament usually has 120 seats and is made up of MPs who represent their electorate (**electorate MPs**), and MPs who represent their political party (**list MPs**).

Representation and MMP

While the review is not looking at alternatives to the MMP voting system, it is looking at proposals the Electoral Commission made in 2012 for improving the way MMP works. These include reviewing the thresholds political parties (**parties**) must cross to enter Parliament. Currently parties must either get 5 per cent of the party vote or win at least one electorate seat. The review is also considering the Electoral Commission's 2012 proposals to abolish overhang seats and fix the ratio of electorate to list seats at

60:40 to maintain representativeness and proportionality in Parliament.

Parliamentary term and election timing

Currently, Aotearoa New Zealand must hold a general election at least every three years. Regular elections are essential to democracy because they ensure that voters get an opportunity to decide if they want to change their MPs or the government.

The review is considering whether the parliamentary term should be changed from three years. It will also look at whether any changes should be made to the process for calling an election. Currently, the Prime Minister can decide to call an election at any time before the three years are up.

Other issues

This part of the review will also cover how an MP can lose their seat in Parliament, and what happens then.

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Part 2: Voters

Voting is an important way that people participate in Aotearoa New Zealand's democracy. By voting, people choose who will represent their interests in Parliament.

The rules for who can vote, and how they can vote, are core parts of our electoral system.

The right to vote

Before anyone can vote in a parliamentary election, they must be enrolled to vote. To be eligible to enrol, a person must be 18 years or older, a New Zealand citizen or permanent resident, and have lived in Aotearoa New Zealand for at least a year continuously at some point. Some people are disqualified from voting—for example, if they live overseas and have not returned to Aotearoa New Zealand recently, if they are serving a prison sentence of three years or more, or if they have committed a serious electoral offence.

The review is considering whether the voting age should still be 18 and whether there should be other changes to voter eligibility.

Removing barriers to participation

People are more likely to participate in elections if voting is easy and accessible. The way people vote has changed. Historically, voting took place in person on election day at polling places. Now, more people are choosing to vote before election day, known as advance voting. People can enrol and vote on the same day, including on election day. Different ways of voting are available for people with different requirements, such as overseas voters and disabled voters.

The review is considering whether the current ways of voting meets voter needs, and whether they can be made more accessible.

Emergencies and disruption

Unexpected events can prevent elections from going ahead as planned. For example, the COVID-19 pandemic affected how the 2020 election was delivered. When there is a disruption, voting can be paused at some polling places, or other voting methods can be made available. The review is considering whether these safeguards are strong enough.

Other issues

This part of the review will also cover:

- enrolling to vote, including choosing the general or Māori roll
- making sure the voting process is secure
- counting the vote and releasing the results.

Part 3: Parties and candidates

Parties and candidates can put themselves forward for election. Having a fair, impartial, and transparent process for registering parties, selecting candidates, and political financing helps to maintain trust in the electoral system.

Standing for election

Parties play an important role in contesting general elections and by-elections. They can be registered or unregistered. Only registered parties can contest the party vote.

Every citizen who is registered to vote is eligible to be a candidate for election. Permanent residents are not eligible to become candidates.

The review is considering the rules on party registration, candidate eligibility and selection, and nomination processes.

Party and candidate financing

Parties and candidates rely on private funding for their day-to-day activities and election campaigns. There is limited public funding for party advertising on TV, radio, and the internet during an election period.

The review is considering the appropriate balance between private and public funding sources, and whether there should be any changes to the current rules.

Election advertising and campaigning

Restrictions on advertising, broadcasting, and campaign expenditure are intended to create a level playing field for election participants and prevent any one voice disproportionately influencing elections through higher levels of spending.

The review is considering the current rules and whether there should be any changes.

Other issues

This part of the review will also cover:

- disclosure requirements
- the role of third-party promoters in election advertising.

Part 4: Electoral administration

A number of agencies have a role in administering Aotearoa New Zealand's electoral system to ensure the rules are followed.

The Electoral Commission

The Electoral Commission's primary responsibility is to ensure the smooth delivery of parliamentary elections. It maintains the electoral rolls (including providing the rolls for local body elections) and supports public understanding and education about the Parliamentary electoral system.

The review is considering the role of the Electoral Commission in the electoral system, including its functions, powers, governance, and independence.

Enforcement and dispute resolution

An effective and accessible enforcement and dispute resolution system is critical to the integrity of Aotearoa New Zealand's electoral laws. The Electoral Commission receives complaints, and if it considers the law has been breached, refers matters to the Police for investigation. Disputes on the meaning of rules and the outcome of elections are resolved by the Courts.

The review is considering whether any changes are needed to the current offences, penalties, and mechanisms for enforcement, and to the mechanisms for

resolving disputes (including judicial recounts and electoral petitions).

Other issues

This part of the review will also cover:

- the electoral rolls and how they are used
- electorate boundary reviews and the Representation Commission
- the role of other agencies, such as the Police, Serious Fraud Office, Broadcasting Standards Authority, and the Advertising Standards Authority
- disinformation, misinformation, and foreign interference.

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Have your say

We want to hear from you

We want to hear your views on current electoral law and your ideas about the future of the electoral system. We will use your views to help us develop recommendations on what needs to change.

We welcome submissions on a single issue, a few issues, or the whole review. We encourage you to share what matters most to you within our Terms of Reference.

You can find translated and accessible versions of this summary document and our consultation document on our website at <https://electoralreview.govt.nz/>.

How to have your say

This summary document highlights key topics within the review and includes questions to help you provide your views. You can answer as many questions as you like, or just tell us your views without answering the questions.

You can have your say on the review in several ways:

- You can share your views online by completing the submission form available at:
<https://consultations.justice.govt.nz/policy/independent-electoral-review/>.
- You can also write your own submission and email it to secretariat@electoralreview.govt.nz, or post it to:
Independent Electoral Review
Free Post 113
PO Box 180
Wellington 6140
- If you want to make a video submission, please get in touch with us by mail or email.
- Public events will be listed on our website at <https://electoralreview.govt.nz/>. Get in touch by mail or email if you are interested in speaking to the panel.

Closing date to share your views

The closing date for all submissions is **14 November 2022**. Submissions received after this time may not be able to be considered. If this closing date might affect or prevent your (or your organisation's) participation, please let us know.

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Privacy and official information

The panel intends to release the submissions that it receives. If you do not want your name or any other information that you provide in your submission to be released, please state this clearly when you send it to us and let us know why. For example, you may wish for some information to be kept confidential because it is sensitive personal information.

Your submission could also be subject to a request for information under the Official Information Act 1982 (the Official Information Act). We will take your views into account when responding to requests under the Official Information Act.

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.

Consultation questions

You can answer as many questions as you like, or just tell us your views without answering the questions.

Part 1: The voting system

1.1 What do you think the party vote threshold should be?

1.2 What are your views on the one electorate seat threshold?

1.3 What are your views on the overhang seats?

1.4 Do you think the ratio of electorate to list seats should be fixed? If so, what should the ratio be?

1.5 What should the term of Parliament be?

1.6 How should the election date be set?

1.7 What changes, if any, should be made to the current rules around vacancies in Parliament?

Is there anything else you would like to tell us about the topics in Part 1: The voting system?

Part 2: Voters

- 2.1 What do you think the voting age should be?
 - 2.2 What changes, if any, should be made to voter eligibility rules?
 - 2.3 What changes, if any, should be made to improve the enrolment process?
 - 2.4 What changes, if any, are needed to the Māori Electoral Option?
 - 2.5 Do the current ways of voting, including special voting, meet voter needs? If not, what changes should be made?
 - 2.6 What changes, if any, should be made to make voting more accessible?
 - 2.7 Are the safeguards protecting the integrity of the voting process strong enough? If not, what changes should be made?
 - 2.8 What changes, if any, are needed to deal with emergencies and disruptions?
 - 2.9 In what situations should an election be postponed or voting adjourned?
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- 2.10 Who should have the power to decide to postpone an election or adjourn voting?
 - 2.11 How could vote counting processes be improved?

2.12 Are the safeguards for the integrity of the vote count adequate? If not, what changes should be made?

Is there anything else you would like to tell us about the topics in Part 2: Voters?

Part 3: Parties and candidates

3.1 What changes, if any, are needed to the system for a party to become and remain registered?

3.2 What changes, if any, are needed to candidate eligibility rules?

3.3 What changes, if any, are needed to the requirements parties must follow when selecting their party lists?

3.4 What changes, if any, should be made to improve the candidate nomination process?

3.5 What changes, if any, should be made to political financing rules?

3.6 How should parties and candidates be funded?

3.7 What changes, if any, should be made to election advertising and political campaigning rules?

3.8 What restrictions, if any, should apply to election advertising and campaign spending? Who should the restrictions apply to?

Is there anything else you want to tell us about the topics in Part 3: Parties and candidates?

Part 4: Electoral administration

4.1 What are your views on the roles and functions of the Electoral Commission?

4.2 What are your views on how electoral rolls, including the unpublished electoral rolls, are maintained and accessed?

4.3 What changes, if any, are needed to the Representation Commission and the way electorate boundaries are set and named?

4.4 What changes, if any, should be made to the current offences, penalties, and mechanisms for enforcement?

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4.5 What changes, if any, should be made to ways disputes over electoral rules or election outcomes are settled?

4.6 What, if anything, should be done to reduce the risk of disinformation and misinformation influencing New Zealand's elections?

4.7 What, if anything, should be done to reduce the risk of foreign interference influencing New Zealand's elections?

Is there anything else you want to tell us about the topics in Part 4: Electoral administration?

Is there anything else you want to tell us about the review?

He Arotake Pōtitanga Motuhake

Independent Electoral Review

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