## Governing Body

**OPEN ATTACHMENTS**

### ATTACHMENTS UNDER SEPARATE COVER

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**Note:** The attachments contained within this document are for consideration and should not be construed as Council policy unless and until adopted. Should Councillors require further information relating to any reports, please contact the relevant manager, Chairperson or Deputy Chairperson.
Draft submission to the Justice Select Committee

In the matter of the Local Electoral Matters Bill

Auckland Council, May 2018
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<tr>
<td>Ka mihi ake ai ki ngā maunga here kōrero,</td>
<td>I greet the mountains, repository of all that has been said of</td>
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<tr>
<td>ki ngā pari whakarongo tai,</td>
<td>this place,</td>
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<td>ki ngā awa tuku kiri o ōna manawhenua,</td>
<td>there I greet the cliffs that have heard the ebb and flow of</td>
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<tr>
<td>ōna mana ā-iwi takeake mai, tauiwi atu.</td>
<td>the tides of time,</td>
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<tr>
<td>Tāmaki – makau a te rau, murau a te tini, wenerau a te mano.</td>
<td>and the rivers that cleansed the forebears of all who came</td>
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<tr>
<td>Kāhore tō rite i te ao.</td>
<td>those born of this land and the newcomers among us all.</td>
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<td>Auckland – beloved of hundreds, famed among the multitude, envy</td>
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<td></td>
<td>of thousands.</td>
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<td>You are unique in the world.</td>
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Auckland Council Submission to the Justice Select Committee on the Local Electoral Matters Bill

Purpose

1. This is Auckland Council’s submission to the Justice Select Committee on the Local Electoral Matters Bill (“Bill”).

2. Auckland Council is looking forward to appearing before the committee to speak to its recommendations.

Executive Summary

3. Auckland Council is welcoming the opportunity to present a submission to express our strong support for this Bill. The amendments it proposes will support our efforts to increase democratic participation and enable a large local authority such as Auckland Council to conduct a trial of online voting with a subset of voters.

4. We support the Bill because it is addressing matters that need to be resolved now if a trial of online voting is to happen for the 2019 local elections.

5. We have been supporting the introduction of online voting since Auckland Council was created in 2010. With voter turnout consistently declining over the past decades, Auckland Council has been an active supporter of new ways to promote local elections, increase voter participation and create an easy experience for candidates and voters. Online voting is one of the options that would enable voters to engage with the democratic process how, when and where they want.

6. We support clauses 3 to 9 without amendment.

7. We recommend changes to clause 11 so that Electoral Officers can have access to not only voters’ age group information, but also information on Māori descent and turnout.

8. We have included in our submission recommendations on other matters that should also be put in place before the 2019 local elections. These amendments relate to:
   
   i. allowing candidate nominations and profile statements to be submitted electronically;

   ii. improving the processes for Auckland Council to conduct a review of its representation arrangements, namely the ability to change the number of governing body members and to modify local board boundaries to maintain alignment with ward boundaries.

9. We note that the matters dealt with in this Bill are only a portion of electoral matters that need attention to fully modernise the local electoral system. Should the members want information on the full range of changes we support, we refer you to Auckland Council’s submission on the inquiry initiated by the former Justice and Electoral Committee into
the 2016 local elections, which was abandoned in November 2017. It is attached in Appendix A.

Context

10. Auckland Council, joining forces with other New Zealand local authorities and sector organisations New Zealand Society of Local Government Managers (SOLGM) and Local Government New Zealand (LGNZ) to form the Online Voting Working Party, has been actively working towards the introduction of a trial of online voting since 2010.

11. The working party strongly advocated for trialling online voting at the 2016 local elections. The initial response from the Government was positive, with a framework setting out the requirements for the trial being developed. Eight councils¹ were confirmed to participate.

12. Yet the trial did not proceed, as then Associate Minister for Local Government Louise Upston announced that more work was required to ensure a trial would meet public and government expectations.

13. Regardless of its willingness to be involved, Auckland Council was excluded from participating in the trial early in the process due to its size.

14. This Bill now gives Auckland Council the opportunity to be involved in a 2019 online voting trial.

Trialling online voting

15. Online voting is already lawful, and has been since 2001. It is included in the definition of voting methods in section 5 of the Local Electoral Act 2001. However, there are no regulations authorising online elections. What the Bill does is amend the Local Electoral Act 2001 to allow voters to choose from alternative voting methods and to enable regulations authorising a voting method to be offered to a specific subset of electors at an election for the purposes of a trial.

16. This provides a mechanism to limit the risks of trialling a new voting method on the total elector population. In Auckland Council’s case, this means we could offer online voting as an additional voting method alongside postal voting to specific categories of electors such as overseas electors, disabled electors, or electors within a ward or local board area, or a combination of these.

Why online voting?

Internet is an integral part of modern life

17. The Internet has become an integral part of everyday life. New Zealanders, like people everywhere in the world, already undertake a large number of activities online, including shopping, banking, socialising and running businesses. Online voting is therefore a natural progression and constitutes an opportunity to modernise the operation of local democracy in New Zealand. Extending innovation and modern technology to the democratic process will contribute to making it relevant to today’s society.

¹ Whanganui, Rotorua, Matamata Piako, Selwyn and Masterton District Councils, and Porirua, Palmerston North and Wellington City Councils
18. Auckland Council strongly supports the trialling of online voting as a complementary method to postal voting, thereby widening the options available for people to engage with the democratic and voting process.

Online voting has the potential to increase voter turnout

19. Voter turnout has been dropping in both national and local elections in New Zealand. In the Auckland 2016 local elections, the voter turnout was 38.5%. This means that almost two out of three eligible electors did not vote. A strong mandate by voters strengthens democracy.

20. Overseas experience shows that online voting alone will not boost voter turnout. However, it does have the potential to enhance the participation in elections. Auckland Council conducted voter awareness research after the 2016 local elections, which strongly indicates that if online voting was available, offering a more convenient way of submitting votes, electors would be more inclined to vote.

21. When asked “If you had the choice of online voting or postal voting in the future, which would you prefer?”, 74% of the respondents across all age groups in the 2016 survey said they would prefer online voting to postal voting. Focusing on the non-voter group alone, 82% of respondents said they would prefer online voting to postal voting and 25% said online or app-based voting would make them more likely to vote.

22. The results reflect an appetite for online voting, particularly when faced with the inconvenience of postal voting: 13% of non-voters (4% of all respondents) completed voting papers but did not post them. Factors such as not knowing where to find a post box, the further effort of physically taking papers to a post box and the confusion caused by the postal deadline and the actual close of the voting period a few days later, all created further barriers to voter participation. Removing these barriers alone would potentially have pushed the overall voter participation in Auckland’s 2016 local elections from 38.5% to 42.5%.

Online voting improves accessibility

23. Currently a large part of the disability community requires support to complete and post voting papers. People with vision impairment, for example, cannot vote independently and secretly without the assistance of a support person. Online voting, coupled with screen-reading technology, would allow them to vote unaided.

24. International postal timeframes can make it difficult for overseas voters to submit their votes in time. For them as well, online voting would make it easier to participate in the New Zealand local elections.

25. New Zealand, and Auckland in particular, is a super diverse society and many eligible voters do not have English as their first language. It is not practical to print voting information and documents in many languages, which means that some electors may struggle to understand voting papers. However, it is much easier to offer different language choices online, thereby allowing voters to engage in a more informed way in elections.

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Online voting offers a better voting experience

26. Online voting will make the voting process easier and faster, increase the speed and accuracy of results and reduce costs of local elections over time. These benefits may be hard to quantify and may take time to be realised as the online voting option will sit alongside the existing postal option for some time to come.

27. Estonia, where online voting has been used in elections from 2005 and is now well established nationwide, has attempted to quantify the efficiency gain for using online voting as opposed to booth voting. It calculated that, in the Estonian parliamentary elections of 2011, the cumulative time savings in online voting were 11,000 working days or €504,000 in average wages.³

28. Online voting offers the potential to reduce voter errors. Technology can help prevent a voter from accidentally spoiling their ballot or submitting an incorrect or invalid vote. It could also empower voters to more clearly articulate the deliberate spoiling of their vote as an act of no-confidence.

29. International experience suggests that a real tangible benefit of online voting is to substantially improve the voting experience of voters, making it more convenient to vote when, where and how they want. Auckland Council used online voting as part of its Kids Voting programmes in 2013 and 2016. The 2016 satisfaction survey showed that 72% of kids found it easy to vote online.

30. Online voting also offers potential for greater information and engagement. It provides end-to-end verifiability so that a voter is able to verify that their vote was received. These benefits will mostly improve the experience of those who were already intending to vote but do nevertheless have the potential of addressing some of the barriers of the non-voters.

Online voting overcomes the weakness of postal voting

31. The current postal voting method employed for elections in New Zealand relies entirely on New Zealand Post providing an effective and reliable service. Yet, it cannot be denied that our postal service is declining. The frequency of delivery is decreasing and the cost of sending mail is increasing. Fewer New Zealanders choose to communicate via post: in its half year results 2017/18 NZ Post announced that letter volumes declined by 13.8%, with nearly 38 million fewer letters delivered compared to the same period last year.⁴

32. It will become increasingly difficult to deliver postal voting effectively and affordably, and it is less and less likely that NZ Post will be able to support postal voting past 2022. Therefore, it is crucial to have a viable alternative to postal voting in place, and online voting is the obvious choice. This makes it imperative to trial online voting at the earliest opportunity.

33. The opponents of online voting argue that no online voting system can be completely secure. This is true of any IT system. In addition, similar concerns can be raised with postal voting, which has a number of weaknesses. These include:

• voting documents may be lost
• voting documents may not be received due to delays in delivery, a significant risk for overseas voters
• a stolen postal ballot may be used fraudulently
• the privacy of voting cannot be controlled – a voter may be coerced into voting in a particular way
• the voter has no way of knowing if their posted ballot has been received
• postal votes need to be opened and processed, resulting in possible delays and high overheads.

34. Many of the transactions that used to be carried out by post have long been replaced by online options, to the extent that people expect online facilities for their day-to-day activities. This expectation is carried through to voting, as any other method is increasingly irrelevant to communities, particularly first time and younger voters, many of whom have never posted a letter.

Booth voting is not a viable option

35. Booth voting is another voting method that is provided for in the Local Electoral Act 2001 and is authorised under regulations. However, reverting to booth voting on a single election day as an alternative or complementary option to postal voting is not a viable solution.

36. In 1992 a trial by Hutt City Council to revert to booth voting resulted in voter participation declining from 46% to 26%.

37. Election day is increasingly losing its meaning for people as they want the convenience to vote when it suits them, as has been shown by the growth in advance voting in recent years’ elections. In its report on the 2017 general election, the Electoral Commission writes: “Advance voting levels grew significantly to 47% of all votes (1,240,740 votes) compared with 29% in 2014 and 15% in 2011. […] The results of the Voter and Non-Voter Survey carried out after the election show that advance voters were more likely to vote at lunchtime and after work, which emphasises the importance of convenience for voters.”

38. A third argument against using booth voting for local elections is the complexity of the local election voting process. Compared with parliamentary elections, voting in local government elections takes more thought and more time, making booth voting impractical.

39. In Auckland, for instance, electors need to vote for the Mayor, one or two councillors for their ward, between 5 and 8 local board members, as well as DHB members, and in some cases Licensing Trust members. Using an actual example from the 2016 local elections, a Waitākere Ward/Henderson-Massey Local Board elector had to make a choice between 74 candidates standing for 21 positions, as follows:

- Mayor: 19 candidates for 1 position
- Waitākere Ward: 9 candidates for 2 positions
- Henderson-Massey Local Board: 24 candidates for 8 positions
- Waitākere Licensing Trust (Ward 2): 6 candidates for 3 positions
- Waitāmatā DHB: 16 candidates for 7 positions

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40. With both postal and booth voting being unsuitable in the future, online voting is the only efficient alternative to postal voting for the local body elections.

Why trialling on a subset of electors?

Integrity and security of voting is paramount

41. Any new voting system adopted by the New Zealand government must meet the test of being free, fair and regular; provide for universal, equal and secret suffrage; and must be fully trusted by voters. It therefore needs to be robustly tested and trialled.

42. Online voting relies on a relatively new system compared to physical voting methods and it comes with specific and significant technical and security challenges. Any failure of the system would compromise the democratic process and have long lasting effects on the confidence of the population.

Conducting a significant trial, minimising the risks

43. A significant trial of online voting will need to test the usability, security, accuracy and integrity of the system. A trial will also increase public awareness of online voting and enable users to become familiar with the new technology, thereby building trust and credibility in the system.

44. Building trust and gaining support is one of the most critical parts of the process. Without trust, the system will be unusable, and the integrity of the whole electoral system could be called into question.

45. Trialling the method on a diverse, representative sample of the eligible voting population rather than the entire electorate will allow Auckland Council to conduct a robust trial, identifying and managing the risks while minimising the damage any initial problems would cause on a wider testing population.

46. For this reason, Auckland Council supports the proposed change to the current legislation to enable only specific classes of electors to participate.

Learnings from the 2018 “Digital First” census

47. Statistics New Zealand introduced an online option for the Census back in 2006. At the time, New Zealand was one of the first countries in the world to test-run an online census. There was a 7% completion rate.

48. In the 2013 census, 34% took part online. That same year Statistics New Zealand ran a trial for a “digital first” census prioritising online participation in Oamaru and saw a 65% response rate.

49. The 2018 census extended the adoption of the “digital first” approach to the whole population for the first time. Paper forms remained available on request as an alternative. As of end of March more than 3.2 million people had completed the 2018 Census online, with the total expected to exceed the online target of 70%.

50. A key learning from the census progression towards online participation was to start with a small target and not promote it too widely, then slowly build on this small initial success. Extensive usability testing is vital so that problems can be identified and fixed early in the process. The testing showed that the login process was the biggest hurdle and the access code was shortened as a result of users’ feedback.
Recommendation 1

Auckland Council recommends that the Select Committee agree that clauses 3 to 6 of the Bill be enacted without amendment.

Access to date of birth information

51. The Bill will allow the Electoral Commission to provide date of birth information to local authorities if required to conduct a local election.

52. This will enable the elector’s date of birth to be used to authenticate electors’ identities in the design of online voting. One of the most secure methods of authentication for an online voting process is a two-step authentication process including the use of a shared secret, i.e. information that is only known to the elector and the election provider.

53. As such, the elector’s date of birth could be used as part of the authentication when voting online, as proposed:

- Step 1: the elector receives a unique identification code with their voting document. The code may be additionally protected, for example by using a scratch-off panel. When accessing the online voting portal, the elector enters their unique code.
- Step 2: the elector is then prompted to enter their date of birth, which is matched with the election provider’s database.

54. Consulted about the provisions made in the Bill, the Privacy Commissioner notes that international examples of online voting systems generally require more robust identity verification than a code and the elector’s date of birth. He therefore recommends further work and research to better achieve the identity authentication of voters, including among other options the use of RealMe, the Department of Internal Affairs’ online identity verification tool.

55. In its report into the feasibility and options for online voting at local elections\(^6\), the Online Voting Working Party looked at length into options for secure and reliable authentication, taking into account the possible impact on costs and participation rates.

56. Reviewing the possibility of using RealMe, the working party expressed concerns with the risk of impacting turnout negatively. While RealMe is becoming an increasing part of the online service delivery of government and non-government organisations, its use is not mandatory. RealMe currently does not have enough users linked to the electoral roll. The creation of a verified RealMe account involves several steps for the users, including a physical trip to a post shop. Requiring voters to create and use a RealMe account to cast their vote online would come down to adding a significant hurdle and would therefore be counterproductive, as experience demonstrates that convenience is a vital factor in encouraging participation.

57. The current postal system does not have any additional verification of identity, but rather relies on the possession of the ballot paper; people behaving ethically and lawfully; and

the trustworthiness of the postal system to ensure that the person who votes is the person who the ballot belongs to.

58. We acknowledge that another option to conduct an online election without access to date of birth information would be to require two different unique access codes. For security purposes, these would be transmitted to the voter in two separate transactions. This would have a non-negligible impact on the cost of conducting a trial.

59. In the case of Auckland, the estimated cost for a separate mailout to 1,050,000 electors containing online voter credentials would be in the order of $830,000 + GST, or 79c + GST per elector.

60. We agree that date of birth information is private and therefore support the power to make regulations that would govern the securing and disposal of date of birth information.

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**Recommendation 2**

Auckland Council recommends that the Select Committee agree that clauses 7 to 9 of the Bill be enacted without amendment.

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**Age group information for voter participation research**

61. The Bill will amend the Electoral Act 1993 to clarify that electors’ age group information may be used for the purpose of research relating specifically to participation in local elections.

62. The benefit of this change is twofold:
   - Firstly, it enables the evaluation of trials of new voting methods using age group demographics, which will inform further improvement to the design of the new method.
   - Secondly, it ensures that any local authority can access this information to better understand voter turnout and to support its efforts to improve voter participation.

**Enabling voter participation research to improve turnout**

63. A lot of international research – mostly from the United States – has been conducted on voter participation. This research provides some insights into behaviour change interventions that have proven successful in increasing voter turnout, like, for instance, sending texts to remind people to vote. Some of these interventions can potentially be applied to New Zealand elections. However very little research is available based on the New Zealand context.

64. Election awareness and promotion campaigns so far have been designed with a “one size fits all” approach for lack of information to better tailor our communications and activities. Auckland’s uniquely diverse population creates an opportunity for Auckland Council to lead New Zealand by trialling and evaluating different techniques in our unique democratic landscape.

65. Being able to access and use voters’ age group and local board area information will enable us to randomly assign electors to different interventions (e.g. different letters,
types of in-person canvassing, Facebook ads based on location etc.) and then track after the election whether they voted or not. This approach will allow us to identify the most impactful and cost-effective interventions before scaling them up across the region.

Access to Māori descent and voter turnout information

66. We would like to recommend two amendments to clause 11 of the Bill.

67. Firstly, the provision that this clause amends regulates access to information about Māori descent as well as age group. As currently worded, however, clause 11 allows local authorities to access age group information alone. We are unsure why the Bill does not allow access to information about Māori descent, as we consider that the case for access is identical to that for allowing access to information on voter age groups.

68. Secondly, we recommend that the Bill enable electoral officers to provide local authorities, for research purposes, with the following:

- Election turnout statistics down to Statistical Area 2 (SA2) level. Election turnout statistics may be provided split by age band and Māori descent status.
- Details of who has voted, in an anonymised format, to enable the local authority to assess the effectiveness of different voter mobilisation messages.

We explain why in more detail below.

Election turnout statistics

69. When elections are conducted it is common practice for an electoral officer to provide turnout statistics for a given electoral issue (e.g. council ward or local board subdivision). To better assist with elections planning it would help to have turnout statistics at a finer geographic detail (i.e. down to Statistical Area 2 level), as well as for different age groups and by Māori descent status.

Electoral roll details of persons who have voted

70. Prior to close of voting, scrutineers and candidates may be provided with the ‘marked roll’, being the names of those who have already voted. This can be used for campaign purposes. At present, this information is not available to local authorities for other purposes.

71. We are seeking to take a robust scientific approach to developing more effective ways of increasing voter turnout. Drawing on international best practice, we intend to develop and test a range of voter mobilisation messages during forthcoming elections.

72. To understand what works and for whom, we will be seeking to randomly assign individual electors to receive one of a range of voter mobilisation messages during the pre-election period, and to track which messages were most effective. To assess effectiveness, we need information on who has voted in an appropriately anonymised format.

Recommendation 3

Auckland Council recommends that the Select Committee agree that clause 11 of the Bill be amended to allow Electoral Officers to provide local authorities with:
iii. Election turnout statistics down to Statistical Area 2 (SA2) level. Election turnout statistics may be split by age band and Māori descent status.

iv. Details of who has voted and not voted, by age group, Māori descent and at Statistical Area 2 level, in an anonymised format, so the local authority can assess the effectiveness of different voter mobilisation messages.

**Additional amendments**

73. Auckland Council wishes to raise two other electoral issues that are not addressed by the Local Electoral Matters Bill.

**Allow electronic nominations and candidate profile statements**

74. The option to submit nominations electronically would benefit the candidate experience and it would lead to more accurate representation of candidate profile statements.

75. For the 2016 Auckland local elections, over 600 nomination forms and profile statements were supplied by candidates and had to individually typed and proof-read. The potential for mistakes and the cost associated with manually handling these nominations would be significantly reduced if the nominations could be submitted electronically.

76. The Local Electoral Act 2001 requires, in section 55, nominations to be submitted “in the prescribed manner” and the Local Electoral Regulations, in clause 25, state this must be in writing. It appears there is conflicting legal advice as to whether nominations that were scanned and emailed were “in writing” for the purposes of this Act.

77. We submit that something as fundamental as what ‘nomination in writing’ means should be clearly defined and we recommend that a nomination received electronically should be valid provided the particulars are all clearly legible, including the signatures and addresses of the nominee, nominator and seconder.

**Recommendation 4:**

Auckland Council recommends that the Local Electoral Act 2001 and Local Electoral Regulations 2001 be amended to allow for electronic transmission of nomination forms and associated profile statements.

**Improve processes for Auckland Council’s review of representation arrangements**

78. The Local Electoral Act 2001 requires every council to conduct a review of its representation arrangements at least every six years. For other councils, this includes a review of the number of members of the council’s governing body.

**Allow flexibility of the membership of the governing body**

79. The Local Government (Auckland Council) Act 2008 sets the membership of Auckland Council’s governing body as the mayor and 20 members. This means the council is not able to review the number of members when it conducts a representation review.
80. This issue first became a concern prior to the 2016 elections when Auckland Council governing body considered whether to conduct a review for those elections. The governing body decided, instead, to seek legislative change to enable it to review the number of governing body members. The council would then conduct a review of representation arrangements for the 2019 elections. The council brought this matter to the attention of the then Minister of Local Government, however there was no appetite to address the matter at that time.

81. The inability to review the number of governing body members became an issue in 2017 when the governing body considered whether the council should create a Māori ward. Under the current legislation, if a governing body member is elected through a Māori ward, the number of general-ward members will need to decrease to 19.

**Ensure fair representation**

82. The set number of members is also an issue in the representation review which is currently underway. There is large population growth in Auckland CBD. As a result, the current ward for that area, the Waitamata and Gulf ward, does not comply with the requirement that the population per member in a ward should vary from the average across the region by no more than 10%. The variance is 43%.

83. Although there is provision in the Local Electoral Act to make a case for non-compliance, this variance is too large. As a result, the ward boundaries will need to contract considerably. An alternative solution is to add a member. However, that option is not available under the current legislation. Auckland Council does not have the same tools that other councils have to address population growth issues.

84. In 2015 an evaluation of Auckland Council was conducted by the Auckland University of Technology Policy Observatory, led by Professor Ian Shirley, titled “The Governance of Auckland: 5 Years On”. The report notes:

*Representation ratios in Auckland are much higher than the New Zealand average: the new council structure provides one representative per 8980 residents compared to an average New Zealand ratio of 1 representative per 4847 residents. New Zealand in turn is under-represented when compared to a number of overseas jurisdictions.*

85. It also notes:

*As Auckland’s population grows, representation will become more of an issue. Not only is the population projected to grow dramatically […] but there will be uneven impacts across the existing governing body and local board boundaries.*

86. The population of the Auckland Council area is currently increasing by about 40,000 people per year.\(^7\) The council requires the opportunity to address under-representation. The council might choose to not make changes but it should have the ability to change the number of governing body members if there is a strong case this needs to be done.

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\(^7\) “The Governance of Auckland: 5 Years On”, page 30

87. In 2018 the Local Government Commission (LGC) published its determination on reorganisation proposals for North Rodney and Waiheke unitary authorities.\(^9\) It notes:

> The membership of the Auckland Council governing body is fixed by the Local Government (Auckland Council) Act 2009 at 20 members plus the Mayor. [...] It was appropriate that the local government arrangements were locked down for the initial terms of the new Auckland Council, to avoid tinkering before the model had a chance to bed in. However, now that Auckland Council is in its third term, the lack of flexibility creates a growing risk. [One of the] key risks is:

- Auckland Council cannot respond as easily as other councils to patterns of growth and changes to communities of interest. (p.12)

**Maintain the alignment of local board and ward boundaries**

88. An additional issue relating to Auckland Council’s review of representation arrangements is the effect on the alignment between ward and local board boundaries if ward boundaries need to change to meet the fair representation requirement.

89. Some wards contain two local boards but otherwise ward and local board boundaries are aligned. The Local Electoral Act 2001 requires ward and local board boundaries to be aligned as far as is practicable.

90. The organisation of local boards under the Local Government Act 2002 is similar to that of local authorities. A reorganisation application is required for local boards to be created, amalgamated, disestablished or for local board boundaries to be changed.

91. The council submits that provision should be made in the Local Electoral Act 2001 so that, as part of a review of representation arrangements, the governing body and any affected local boards can agree on local board boundary changes for the purpose of maintaining alignment of boundaries with wards, taking into account any effects on communities of interest.

92. The Local Government Commission, in its report above, also referred to the matter of alignment of boundaries:

> “The Council must consider changes to its ward boundaries through the normal representation review process set out in the Local Electoral Act 2001. But if the Council wishes to change the boundaries or number of its local boards, it must apply to the Commission for a formal local government reorganisation [...]. In contrast, other councils may alter community board boundaries as part of a representation review [...].”

“Changing representation arrangements (ward and local board boundaries) through two separate processes that use different sets of criteria may result in two different outcomes.

- [...] This could result in ward and local board boundaries getting out of alignment – conceptually this need not be a problem, given the different roles of local boards and ward councillors on the governing body, but it can create

community confusion and administration challenges. Different ward and local board boundaries would increase the cost and complexity of electoral processes.

- We consider that the reorganisation process includes a number of steps not necessary for local board boundary alterations, and which would add significantly to the length of the process. [...]"

The Commission’s view is that changes to local boards should be dealt with as part of the representation review process. With Auckland Council now in its third term, it is timely for it to have the same control over its representation requirements as any other council in New Zealand. […]"

93. As a result, one of the recommendations of the LGC to the Minister of Local Government is to “consider whether amendments to the Local Government (Auckland Council) Act 2009 and Local Electoral Act 2001 are required to give Auckland Council greater control and flexibility over its representation arrangements.” (p. 5)

**Recommendation 5:**

Auckland Council recommends that:

i. the Local Government (Auckland Council) Act 2009 be amended to enable Auckland Council to review the number of governing body members when conducting representation arrangement reviews under the Local Electoral Act 2001.

ii. that the Local Electoral Act 2001 be amended to provide a process to restore alignment between ward and local board boundaries if ward boundaries need to change as a result of the review of representation arrangements.
Auckland Council Submission on the Local Electoral Matters Bill – Appendix A

The Committee Secretariat
Justice and Electoral Select Committee
Parliament Buildings
WELLINGTON

SUBMISSION OF THE AUCKLAND COUNCIL TO THE JUSTICE AND ELECTORAL SELECT COMMITTEE INQUIRY INTO THE 2016 LOCAL AUTHORITY ELECTIONS

1.0 Introduction
1.1 The Auckland Council would like to thank the Committee for the opportunity to make comments for the consideration of the Committee on its inquiry into the 2016 Local Government elections.

1.2 The Council’s submissions arise from an initial paper presented to the Council’s governing body and then presented to each of the 21 local boards for their comment before final adoption by the governing body. The following local boards requested that their comments be attached to the Council’s submission to the Select Committee: Henderson-Massey Local Board, Maungakiekie-Tamaki Local Board, Whau Local Board.

2.0 Background
2.1 Auckland Council is responsible for local government elections in its area, which comprises a population of 1,493,200 and a total of 1,044,481 electors. The 2016 elections for Auckland Council involved 170 elected member positions for which there were 468 candidates. The positions were:

- one mayor
- 20 governing body members, elected on a ward basis
- 149 local board members for 21 local boards

2.2 Elections for three district health boards and four licensing trusts were held at the same time.

2.3 The Council engaged with the community through a number of initiatives, including:
Auckland Council Submission on the Local Electoral Matters Bill – Appendix A

- a campaign based on a theme of “Show Your Love” which we tested with audiences prior to implementing
- showyourlove.co.nz web pages providing information about candidates, supplied by the candidates themselves
- heart-shaped ballot boxes placed in shopping centres
- a range of advertising – billboards, adshells, bus backs, press, magazine, radio, digital, ethnic radio and newspapers
- digital displays on bus shelters showing real time rates of voting returns, comparing returns from different areas
- targeted social media: videos and articles via VoteAki social media sites, Facebook, Instagram, Twitter, YouTube
- “Our Auckland” – the Council’s news channel
- Auckland Council channels for posters, such as libraries and service centres
- the “Love Bus”, a brightly coloured Kombi van, which visited areas that were frequented by people, such as shopping centres, and gave presentations to community groups
- a “Kids Voting” programme in schools where classes were taught the elements of voting and undertook mock voting.

2.4 Surveys and research undertaken by the Council before and after the elections showed, among other results, that voters’ awareness of the elections increased as a result of the Council’s campaign, more people intended to vote than actually voted and more people would prefer online voting to postal voting. The full results of the research are available on http://www.knowledgeauckland.org.nz.

2.5 As a result of this activity, Auckland Council and its Electoral Officer interacted with many citizens as candidates or voters. The following submissions result from comments made by participants and from the experience of Auckland Council staff and its Electoral Officer and through reports to the local boards and the Council’s governing body.

3.0 Matai names

3.1 The Local Electoral Act 2001, in section 56, prohibits the use of official titles in candidate names when a candidate nomination is submitted. Names that can be used include a registered name or a name by which the candidate has been commonly known for the six months prior to an election. The Auckland Council area has a large Samoan population and a number of Samoan candidates wished to include their matai names on the voting paper.

3.2 Although sometimes referred to as ‘matai titles’, legal advice provided to staff is that a matai name is more in the nature of a name than of a title denoting the holding of some sort of office.

3.3 The Births, Deaths, Marriages and Relationships Registration Act 1995 under section 18 includes a similar prohibition on the use of titles as in the Local Electoral Act, yet we understand that a birth name can be changed by deed poll to include a matai name. If this is not prohibited under the Births, Deaths, Marriages and Relationships Registration Act 1995 then it should also be not prohibited under the Local Electoral
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Act 2001. To avoid doubt, the legislation should give guidance on the use of matai names.

Recommendation

3.4 Amend the Local Electoral Act 2001 to include in section 56, for the purposes of avoiding doubt, a statement on whether a matai title is, or is not, a prohibited title under section 56 (c)(iii).

4.0 Vacancies occurring within six months of an election

4.1 At the inaugural meeting of the Howick Local Board, only four weeks after election day, one of the members resigned. This resulted in a by-election at a cost of over $100,000. At the same time, the Council’s Electoral Officer was aware of two other vacancies – Bay of Plenty Regional Council (death) and Waikato Regional Council (death).

4.2 The legislation provides for an appointment to be made if a vacancy occurs within 12 months of the next triennial election. There could be a similar provision for vacancies which occur within 6 months following an election. For a First Past the Post (FPP) election, this could be the highest-polling unsuccessful candidate, subject to a test for electoral mandate (such as the number of votes received by the highest-polling unsuccessful candidate being no less than 20% of the votes of the lowest successful candidate).

4.3 The rationale for this approach is that the community would not have changed its view within a period of six months on which, of the available candidates at the time of the election, it wished to elect. However, if the highest-polling unsuccessful candidate polled very low, then this rationale is not valid and, as stated in the previous paragraph, there should be a threshold to how many votes the highest polling unsuccessful candidate received, if the appointment to the vacancy is to be automatic.

4.4 Alternatively the appointment could be at the discretion of the local authority responsible for conducting a by-election. It would take the number of votes received by the highest polling unsuccessful candidate into account when deciding between appointing to the vacancy and holding a by-election.

4.5 The rationale does not apply to mayoral positions. If a mayoral position became vacant within six months of an election it not safe to assume the community’s preference would be for the runner-up to be appointed.

Recommendation

4.6 Amend the Local Electoral Act 2001 by including a provision in section 117 “Extraordinary vacancies” to the effect that, if a vacancy occurs in the office of an elected member of a local authority, local board or community board within six months of a triennial election, the local authority responsible for conducting a by-election may fill that vacancy either by appointing the highest-polling unsuccessful candidate, providing the votes received by that candidate were at least 20% of the
Auckland Council Submission on the Local Electoral Matters Bill – Appendix A

lowest polling successful candidate, or by holding a by-election. This provision would not apply to the position of mayor.

5.0 Online voting

5.1 The Auckland Council wishes to establish online voting as an option for voters. A survey of Auckland voters conducted by the Council shows voters have a preference for online voting (out of a sample size of 1,259, 74 per cent said they would prefer online voting over postal voting). The Council is aware of the security risks associated with a voting system that is connected to the internet and so the Council is working closely with the Society of Local Government Managers, Local Government New Zealand and the Department of Internal Affairs to help ensure such a system would have the confidence of the community.

5.2 In order to gain the confidence of the community, it is the Council’s wish to start with a small trial for the 2019 elections so that an online voting system can be made more widely available in 2022 if the trial is successful.

5.3 The Council wishes, for 2019, to provide online voting as an option for the disabled and voters who are overseas. To do this, changes to the Local Electoral Act 2001 and its regulations are required. It is currently not possible under the legislation to offer online voting to a subset of types of electors, such as the disabled and overseas voters.

5.4 The Local Electoral Act 2001 defines the following voting methods in section 5:

voting method means any of the following methods of voting that are prescribed for use at an election or poll:

(a) the method of voting commonly known as booth voting:

(b) the method of voting commonly known as postal voting:

(c) any form of electronic voting:

(d) any method of voting involving a combination of more than 1 of the methods of voting referred to in paragraphs (a) to (c):

(e) any other method of voting (however described)

5.5 Section 139 of the Local Electoral Act 2001 provides for voting methods to be authorised by regulation:

(1) The Governor-General may, by Order in Council, make regulations….

...(c) authorising the use of 1 or more voting methods in elections and polls, or any specified class of election or poll, or any specified election or poll, describing each authorised voting method, and prescribing conditions, standards, performance measures, and forms for the operation of that method:….

5.6 Section 139 (2) & (3) requires advice from the Minister, before the authorisation of a voting method, that the Minister is satisfied the voting method would be able to
operate consistent with the principles in section 4 and after consulting with organisations likely to be affected.

5.7 The Local Electoral Regulations 2001 clause 9 states:

Authorised voting methods

The voting methods that may be used at an election or poll are—

(a) postal voting; or

(b) booth voting; or

(c) a combination of booth voting and postal voting.

5.8 The end result of the above provisions is that electronic voting is a voting method that is available under the Act but it is not yet authorised in the Regulations. For electronic voting to be available it simply needs to be added to the list of authorised voting methods in clause 9 of the Regulations.

5.9 Online voting can also be offered to a small section of electors when by-elections occur. A change to the Local Electoral Regulations to allow electronic voting as an authorised voting method would allow this to happen.

5.10 For electronic voting to be available to only a subset of electors such as voters who are disabled or overseas a change to the Act is required. There is a precedent with the Electoral Regulations, for the general election, which allow the Electoral Commission to offer a telephone voting service to just some electors (visually impaired) because they are defined as special voters for the general election, and the regulation making power at section 267 of the Electoral Act 1993 allows regulations to prescribe different methods of voting for different classes of special voters.

5.11 The Local Electoral Act 2001 in section 139 provides for regulations to be made:

(e) authorising the use of special procedures for the casting of votes by any specified class of person, including (without limitation) persons with specified disabilities, and persons living or travelling overseas or living in remote locations:

5.12 An amendment could be made that allows for separate authorised voting methods by specified classes or persons, or makes it clear that the existing provision above for special procedures may include the use of separate voting methods.

Recommendations

5.13 Amend clause 9 of the Local Electoral Regulations 2001 to include electronic voting as an authorised voting method.

5.14 Amend section 139 of the Local Electoral Act 2001 to allow regulations to provide for a separate authorised voting method to be used for the casting of votes by any specified class of person, including persons with specified disabilities, and persons living or travelling overseas or living in remote locations.

5.15 Make these amendments in time to be implemented for the 2019 elections.
Auckland Council Submission on the Local Electoral Matters Bill – Appendix A

6.0 Legal requirement for candidate to state whether residing in area

6.1 Section 61 of the Local Electoral Act 2001 requires that a candidate’s profile statement must state whether the candidate lives in the area for which they are seeking election. For a candidate for a ward-based vacancy, the candidate must declare whether the candidate lives in the ward and, for a subdivision vacancy, the candidate must declare whether the candidate lives in the subdivision.

6.2 The reason for electing members on a ward or subdivision basis is to ensure a spread of representation. However, the residency statement does not give the elector any information about whether a candidate who does not live in the ward or subdivision lives just outside the ward or subdivision or lives a great distance away, possibly outside the boundaries of a council or local board altogether. Candidates who live just outside the ward or subdivision boundaries feel disadvantaged by this requirement. The Auckland Council has received complaints about this requirement.

6.3 It is also noted, that once a candidate is elected, the candidate is required to act in the interests of the full council area, or local board area, rather than the ward or subdivision.

6.4 The geographical area of Auckland is large and Auckland Council recommends retaining the residency statement in respect of whether a candidate for the governing body who is being elected on a ward basis resides within the ward.

6.5 Auckland Council has 21 local boards and are much smaller geographically. Some local boards have subdivisions and some do not. Auckland Council recommends that residency statements in respect of all candidates for a local board apply only to whether the candidate resides in the local board area and not to whether the candidate resides within the applicable subdivision, if any.

Recommendation

6.6 Amend the requirement in section 61 of the Local Electoral Act 2001 for a residency statement so that, for a local board candidate, it applies only to whether the candidate’s principal place of residence is in the full local board area and not the subdivision area. The existing requirement in regard to governing body candidates is retained.

7.0 Timing of school holidays

7.1 The school holidays overlap with the postal voting period. Many people go out of the area during school holidays and do not vote. Currently local government elections are on the second Saturday in October. Moving election day to the first Saturday in October would provide one week before election day that would not overlap with school holidays. This still gives time to adopt the annual report and it provides an additional week between the elections and the end of the year for a new council to attend to business, such as a draft annual plan.

Recommendation
Auckland Council Submission on the Local Electoral Matters Bill – Appendix A

7.2 Amend section 10 of the Local Electoral Act 2001 so that local government triennial elections are held on the first Saturday in October.

8.0 Separation of District Health Board elections

8.1 A variety of election issues on the one voting document together with different voting systems and different ordering of names confuses voters. Auckland Council used the First Past the Post electoral system and alphabetical order of names. The district health boards used the Single Transferable Vote electoral system and random order of names.

8.2 There is division of opinion on whether district health board elections should be held separately to local government elections. This would make voting for council elections simpler but it would increase costs to both a council and the district health boards.

8.3 There was, however, general agreement among local boards and governing body that the combined elections create confusion for voters. In the longer term, the option of online voting will be able to reduce this confusion as an online process has the potential to guide a voter through the voting process.

Recommendation

8.4 Note the confusion created for voters by the current system which combines local authority, district health board and licensing trust elections and that online voting has the potential to make the voting process more friendly to voters by being better able to guide voters through the process.

9.0 Electronic transmission of voting documents to and from voters overseas

9.1 Voters who are overseas during the postal voting period often do not have enough time to post back voting documents prior to election day, after receiving their voting documents in the post.

9.2 The select committee has previously recommended allowing electronic transmission. The government has supported sending blank voting documents electronically but has opposed the return of completed votes electronically.

9.3 Ultimately, online voting would solve this issue.

9.4 The Local Electoral Regulations describe postal voting in clause 6:

_The voting method commonly known as postal voting involves—_

(a) the conduct of ordinary voting by—

(i) the electoral officer posting, or delivering by other means, voting documents to the residential or postal addresses of electors; and

(ii) voters marking those documents in accordance with instructions on the documents; and
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(iii) voters returning those documents to the electoral officer by post, or other means of delivery, for counting; and

(b) the conduct of special voting in a manner prescribed by regulations (whether in a similar manner to the conduct of ordinary voting or otherwise).

9.5 The term ‘other means of delivery’ is not defined but is assumed to be confined to physical delivery and not include electronic delivery.

9.6 Clause 51 deals with the issuing of voting documents and requires the electoral officer to ‘send’ the voting documents to electors together with a reply-paid return envelope.

9.7 It is not possible to construe the existing regulations to allow electronic transmission of voting documents.

9.8 The Electoral Regulations 1996, however, contain provisions in clause 45A to issue voting documents to electors overseas electronically.

9.9 The security of such a system should be as secure as postal voting, however the Council notes that postal voting is not entirely secure and that voting documents can go missing, or can be used by persons they are not intended for. A system that allows voters to vote more easily should not be jeopardised by unnecessary security concerns.

Recommendation

9.10 Amend the Local Electoral Regulations 2001 to allow for electronic transmission of voting documents to voters overseas in similar fashion to clause 45A in the Electoral Regulations 1996.

10.0 Legislative confirmation that local authorities may promote elections

10.1 Legislation should give a clear mandate to local authorities to promote elections to avoid any uncertainty about public funds being used for election promotion purposes. The Committee is aware of concerns around the decreasing voter turnout. In the current context where the Electoral Commission has the general election as its focus, it is the responsibility of local government to remind voters of their opportunity to participate in the democratic process.

10.2 The Council is aware that this has been agreed by Cabinet and a “Local Government Regulatory Systems Bill” is being prepared to give effect to this. The Council supports this.

10.3 The purpose of promoting the elections is to raise awareness and participation. This must be done in a politically neutral manner, without providing any candidates with an electoral advantage over other candidates.

Recommendation
10.4 Amend the Local Electoral Act 2001 to give a clear mandate to local authorities to promote local authority elections as in the Cabinet papers describing a proposed “Local Government Regulatory Systems Bill”.

11.0 Electronic nominations and candidate profile statements.

11.1 The option to submit nominations electronically would benefit the candidate experience and it would lead to more accurate representation of candidate profile statements.

11.2 Currently over 600 profile statements have to be typed for Auckland Council elections, from copy supplied by candidates, and then proof-read. The potential for mistakes arising from mis-reading candidates’ submitted originals would be reduced if content could be copied and pasted from originals submitted electronically.

11.3 The Local Electoral Act requires, in section 55, that nominations are to be submitted “in the prescribed manner” and the Local Electoral Regulations, in clause 25, state this must be in writing.

11.4 Section 61 of the Local Electoral Act requires a candidate profile statement to be submitted along with the nomination.

Recommendation

11.5 Amend the Local Electoral Regulations so that a nomination and the associated profile statement may be submitted electronically.

12.0 Consistency between Electoral Regulations and Local Electoral Regulations

12.1 The Council notes that there are provisions in the Electoral Regulations that would be useful for local government elections. Examples of such regulations are:

- Telephone dictation of vote by a voter with a disability (clause 23A, 23B)
- Electronic issue of special voting papers to voters overseas (clause 45A)
- Return of special voting documents electronically (clauses 47A, 47B, 47C)

12.2 The Electoral Regulations have been modernised to use technology but the Local Electoral Regulations have not. The Select Committee, in its report on its inquiry into the 2013 local elections, supported similar provisions in the Local Electoral Act 2001 (pages 11 and 12 of the report).

Recommendation

12.3 Modernise provisions in the Local Electoral Act 2001 or Local Regulations 2001, as appropriate, by including similar provisions to those in the Electoral Regulations which make use of modern technology to assist voters.

13.0 Electoral Officer to have access to the supplementary roll

13.1 The processing of special votes relies on the Electoral Commission checking that voters are on the electoral roll. If the electoral officer had access to the
supplementary roll, the electoral officer could do this, with the potential to speed up the counting of special votes.

13.2 The Select Committee supported this in its report on its inquiry into the 2013 local elections, (pages 11 and 12 of the report).

13.3 Recommendation

13.4 Amend the Local Electoral Act 2001, Electoral Act 1993, or their regulations, as appropriate, to provide access to the supplementary roll to electoral officers.

14.0 Access to data associated with electoral roll

14.1 It is a concern that local government election turnouts are low. Having access to statistical data associated with the electoral roll, such as age groups of electors, would be helpful when planning election awareness campaigns.

14.2 Currently the Electoral Act allows information from the electoral roll to be supplied to various recipients for various purposes. Section 112, for example, provides for information from the roll relating to age and Maori descent to be supplied for the purpose of research into scientific or health matters. In that case, the information that is supplied includes the names and addresses of electors.

14.3 The Council is only interested in anonymous statistical data for the purpose of election promotion and planning.

Recommendation

14.4 Include a provision in the Electoral Act 1993 providing for anonymous statistical information from the electoral roll to be provided by the Electoral Commission to local authorities for the purposes election planning.

15.0 Time period for printing electoral rolls

15.1 Electoral rolls were not printed in time for the start of candidate nominations because the legislated time period is too short. The time period for printing needs to be extended. It was shortened as an unintended consequence of a previous change.

15.2 This could be achieved by bringing forward the date at which residential electors are entitled to be included under the Local Electoral Regulations 2001 clause 10(1).

Recommendation

15.3 Amend clause 10(1) the Local Electoral Regulations 2001 so that the date for entitlement of residential electors to be included on the roll is brought forward from 7 July to 1 July, thus allowing more time for the roll to be printed and distributed for public inspection.

16.0 Electronic access to electoral rolls for election staff

16.1 When processing candidate nominations, staff at the Council’s service centres need to check whether nominators are on the electoral roll for the specified area. They may only have one printed hard-copy version to share between staff processing nominations for different candidates.
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16.2 Typically many nominations are submitted on the final day for receiving nominations. If only one printed copy of the roll is available in a service centre where nominations are received and processed this can lead to delays and those submitting nominations having to wait. It would be more efficient to access the current roll electronically online.

16.3 The Electoral Act 1993 provides for information on the electoral roll to be provided to local authority electoral officials on electronic storage media. Rather than using this mechanism for accessing the roll, the Council would prefer that electoral officials processing nominations had online access to the electoral roll hosted by the Electoral Commission.

Recommendation

16.4 The Electoral Commission to provide online access to electoral officials for the purpose of verifying the electoral qualifications of nominators of candidates and legislation amended as appropriate.

17.0 Relationship with Electoral Commission

17.1 The Council notes that there is confusion in the community as to who is responsible for local elections. Often, enquirers will contact the Electoral Commission which then supplies the Council’s contact details to the caller. The caller contacts the Council, and the Council’s call-centre gives the caller the contact details of the Council’s election provider.

17.2 The Council believes that the customer experience would be improved if the Electoral Commission provided the contact details of the Council’s election services provider rather than the contact details of the Council.

Recommendation

17.3 Encourage the Electoral Commission to supply the contact details of a council’s election services provider, where this is a council’s preference, to callers who mistakenly contact the Electoral Commission in regard to local elections.

18.0 Conclusion

The Council looks forward to appearing before the committee to speak to its recommendations.

Some of the Auckland Council local boards asked for their comments to be forwarded in full to the committee and these are attached.
Local Electoral Matters Bill

Government Bill

Explanatory note

General policy statement
This Bill is an omnibus Bill introduced under Standing Order 263(a). That Standing Order states that an omnibus Bill to amend more than 1 Act may be introduced if the amendments deal with an interrelated topic that can be regarded as implementing a single broad policy. The single broad policy of the Bill is to provide greater flexibility to enable local electoral arrangements to adapt to changing circumstances. This omnibus Bill achieves that single broad policy by—

• amending the Local Electoral Act 2001 to support the conduct of trials of novel voting methods;
• amending the Electoral Act 1993 to enable the design of future voting methods to utilise date of birth information;
• amending the Electoral Act 1993 to ensure that analysis of voter participation in local elections (including trials) can utilise age group information.

Departmental disclosure statement
The Department of Internal Affairs is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2018&no=50
Local Electoral Matters Bill

Regulatory impact assessment

The Department of Internal Affairs produced regulatory impact assessments on [date] to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

Copies of these regulatory impact assessments can be found at—


Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 is the commencement clause, which provides that the Bill comes into force on the day after the date of Royal assent.

Part 1

Amendments to Local Electoral Act 2001

Clause 3 provides that Part 1 of the Bill amends the Local Electoral Act 2001.

Clause 4 amends the definition of voting method in section 5 of the Local Electoral Act 2001. The amendment clarifies that the term voting method includes a method of voting that involves a choice between methods of voting.

Clause 5 amends section 36 of the Local Electoral Act 2001. Section 36 provides that an election or a poll conducted by a local authority must be conducted using 1 or more methods of voting adopted by resolution of the local authority. The amendment enables the local authority to adopt a voting method for a specified class of elector if regulations authorise the use of that voting method by a specified class of electors for the purpose of conducting a trial of the method.

Clause 6 amends section 139(1)(c) of the Local Electoral Act 2001 to enable regulations to be made that authorise, for the purpose of conducting a trial of a voting method (for example, an electronic voting method), a local authority to adopt the voting method for a specified class of elector.

Clause 7 amends section 141 of the Local Electoral Act 2001 to provide—

- that regulations under section 139(1)(c) may specify a class of electors by reference to a local government area or subdivision, or any other characteristic that makes a voting method suitable for the specified class of electors; and
- that, where regulations authorise a voting method that involves date of birth information, the default measures to protect information that are set out in section 89 of the Act apply to the date of birth information and that regulations must also prescribe measures to prevent unauthorised access to, or use of, such information.
Clause 8 amends section 142 of the Local Electoral Act 2001 to provide that regulations relating to electoral rolls must not provide for any electoral roll to include an elector’s date of birth.

Clause 9 makes a consequential amendment to regulation 11 of the Local Electoral Regulations 2001. Regulation 11 sets out the information that must be included on an electoral roll. The consequential amendment to regulation 11 provides that an electoral roll must not include an elector’s date of birth.

Part 2
Amendments to Electoral Act 1993

Clause 10 provides that Part 2 of the Bill amends the Electoral Act 1993. Clause 11 amends 112 of the Electoral Act 1993. Section 112 provides for persons conducting research to request that the Electoral Commission supply them with lists of electors within certain groups for the purpose of research that relates to scientific matters or to human health. If a request meets certain conditions (and the Electoral Commission is satisfied that the requested lists should be provided), the Electoral Commission is required to supply the lists. An amendment to section 112(1) provides for the Electoral Commission to supply lists of electors in a particular age group for the purpose of research that relates to elector participation in any election, by-election, or poll conducted under the Electoral Act 1993 or the Local Electoral Act 2001.

Clause 11 also amends section 112(3) to provide that a request made under section 112 may seek information about electors who appear to be entitled to vote in 1 or more local board areas. Currently, section 112(3) provides that a request may seek information about electors who appear to be entitled to vote within 1 or more other local authority subdivisions (for example, wards or community board areas), but local board areas are not included.

Clause 12 amends section 113 of the Electoral Act 1993. Section 113 requires the Electoral Commission to supply local authorities with specified information for the purpose of any election, by-election, or poll. An amendment to section 113(10) requires the Electoral Commission to supply local authorities with electors’ date of birth information for the purpose of conducting any election, by-election, or poll.

Clause 12 also amends section 113(10)(f) to provide that the specified information may include a description of the local board area in which each elector appears to be entitled to vote. Currently, section 113 provides that specified information may include, in respect of each elector, a description of each local authority and subdivision in which the elector appears to be entitled to vote, but local board areas are not included.

Finally, clause 12 adds a new subsection (11) to section 113, which provides that date of birth information must not be provided by the Electoral Commission except to an electoral official of a local authority for the purposes of an election, by-election, or poll. It also provides that the date of birth information may be provided for the purposes of an election, by-election, or poll only if regulations have been made under
section 139(1)(c) of the Local Electoral Act 2001 (as amended by clause 6) that authorise a voting method that requires the use of date of birth information for the election, by-election, or poll.
Hon Nanaia Mahuta

Local Electoral Matters Bill

Government Bill

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**Part 1**

**Amendments to Local Electoral Act 2001**

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**Part 2**

**Amendments to Electoral Act 1993**

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The Parliament of New Zealand enacts as follows:

1 Title
This Act is the Local Electoral Matters Act 2018.

2 Commencement
This Act comes into force on the day after the date of Royal assent.

Part 1
Amendments to Local Electoral Act 2001

3 Amendments to Local Electoral Act 2001
This Part amends the Local Electoral Act 2001.

4 Section 5 amended (Interpretation)
In section 5(1), definition of voting method, paragraph (d), after “combination of”, insert “or choice between”.

5 Section 36 amended (Voting method for elections and polls)
After section 36(3), insert:

(4) Subsection (5) applies if—
(a) regulations authorise the use of a voting method, for the purpose of conducting a trial of that method, by a specified class of elector in any specified class of election or poll or in any specified election or poll; and
(b) the local authority adopts that voting method by resolution in accordance with those regulations.

(5) The voting method to be used by the specified class of elector in the election or poll must be the method adopted by resolution under subsection (4).

(6) If, under subsection (5), any election or poll of 1 or more territorial authorities in which a voting method is to be used by a specified class of elector is to be conducted in conjunction with 1 or more other elections or polls, that voting method is to be used by the specified class of elector in each of the elections or polls.

(7) If subsection (5) or (6) (or both) apply to an election or a poll, the voting method or methods to be used for other electors in the election or poll must be determined in accordance with subsections (1) to (3).

6 Section 139 amended (Regulations)
In section 139(1)(c), after “or any specified election or poll”, insert “(or, for the purpose of conducting a trial of a voting method, by a specified class of elector or by all electors in any specified class of election or poll or in any specified election or poll)”.
7 Section 141 amended (Voting methods)
In section 141, insert as subsections (2) and (3):

(2) Regulations made under section 139(1)(c) may specify a class of elector by reference to—
(a) a local government area or subdivision in which the specified class of electors is eligible to vote; or
(b) any other characteristic that makes a voting method suitable for the specified class of electors (for example, in relation to an electronic method of voting, the members of the specified class may reside overseas or in remote locations, or have a relevant disability).

(3) If regulations made under section 139(1)(e) authorise the use of a voting method that requires the use of electors’ date of birth information,—
(a) the regulations must also prescribe—
(i) measures to prevent unauthorised access to, or use of, electors’ date of birth information; and
(ii) the manner in which documents or records containing electors’ date of birth information must be secured after the completion of the count (in accordance with section 89(1));
(b) any document or record containing an elector’s date of birth must be treated as specified material for the purpose of section 89(5).

8 Section 142 amended (Electoral rolls)
In section 142, insert as subsection (2):

(2) Despite subsection (1) and section 139(1)(f), regulations made under section 139(1)(f) must not provide for any electoral roll to include an elector’s date of birth.

9 Consequential amendment to Local Electoral Regulations 2001
(1) This section amends the Local Electoral Regulations 2001.
(2) After regulation 11(2), insert:

(2A) Despite subclause (2)(a)(iii), the electoral roll must not include any elector’s date of birth.

Part 2
Amendments to Electoral Act 1993

10 Amendments to Electoral Act 1993
This Part amends the Electoral Act 1993.
Part 2 cl 11

Local Electoral Matters Bill

11 Section 112 amended (Supply of information on age and Maori descent)
(1) In section 112(1)(b)(ii), after “descent”, insert “; or”.
(2) After section 112(1)(b), insert:
   (c) without limiting paragraph (a), for the purposes of research by that person that relates to elector participation in an election, a by-election, or a poll conducted under this Act or the Local Electoral Act 2001, a list of electors in a particular age group as defined in section 114(9).
(3) In section 112(3)(f), replace “;—” with “; or”.
(4) After section 112(3)(f), insert:
   (g) 1 or more named local board areas;—

12 Section 113 amended (Supply of computer-compiled lists and electronic storage media to local authorities)
(1) After section 113(10)(a), insert:
   (aa) the elector’s date of birth:
(2) After section 113(10)(f)(iv), insert:
   (iva) local board area; or
(3) After section 113(10), insert:
(11) However, the Electoral Commission must not supply electors’ date of birth information except under subsection (1) and may supply that information only if regulations made under section 139(1)(f) of the Local Electoral Act 2001 authorise a voting method that requires the use of electors’ date of birth information to be used for the election, by-election, or poll.

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