



Document 1

Local Government briefing

Hon Simeon Brown
Minister of Local Government

Title: Remaining materials for passage of the Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Bill

Date: 18 July 2024

Key issues

The Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Bill (the Bill) is expected be passed by 30 July 2024. The Bill is awaiting second reading. This briefing provides you with:

- materials to support you for the remaining stages of the Bill; and
- an Amendment Paper for your approval. It clarifies decisions needed from Councils about Māori wards and Māori constituencies, and requirements for holding the polls.

Action sought	Timeframe
<p>Note the Bill is awaiting:</p> <ul style="list-style-type: none"> • second reading on 23 July 2024; • committee of the whole House on 24 and 25 July 2024; and • third reading on 30 July 2024. 	
<p>Approve the content of the attached Amendment Paper to clarify the decisions required from councils about Māori wards and Māori constituencies.</p> <p>Review the attached materials to support you for consideration of the Bill at committee of the whole House.</p>	By Monday 22 July 2024
<p>Review the attached speech and legislative statement for the Bill's second reading.</p> <p>Circulate the legislative statement for the Bill's second reading.</p>	By 11.00am Tuesday 23 July
<p>Review the attached speech and legislative statement for the Bill's third reading.</p> <p>Circulate the legislative statement for the Bill's third reading.</p>	By 11.00am Tuesday 30 July

Contact for telephone discussions (if required)

Name	Position	Contact Number	Suggested 1 st contact
Rowan Burns	Policy Manager	9(2)(a)	✓
Tim Fahey	Policy Analyst		

Return electronic document to:	Tim.fahey@dia.govt.nz
Cohesion document reference	3W2DU3RAJ5R2-1792698455-14215
Ministerial database reference	LG20243192

Purpose

1. This briefing provides you with materials for the remaining legislative stages for the passage of the Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Bill (the Bill), expected to pass by 30 July 2024.
2. It also seeks your agreement to approve the substantive content of the attached draft Amendment Paper. The Amendment Paper clarifies decisions required from councils about Māori wards and Māori constituencies, and responsibilities and requirements for holding the polls. The final version will be provided for your approval on Monday 22 July 2024.

Background

3. The Bill amends the Local Electoral Act 2001 and the Local Government Electoral Legislation Act 2023. It also makes consequential amendments to the Local Electoral Regulations 2001.
4. The Bill will:
 - Adjust the statutory timeframes for local elections to give more time for the postal delivery of voting papers; and
 - Reinstate the mechanism for polls on Māori wards.
5. The Bill provides transitional provisions for councils that have established, or resolved to establish, Māori wards without a binding poll since 2020. Under the Bill these councils would be required to hold a binding poll at the 2025 local elections. Alternatively, these councils would have the option to reverse their Māori wards decisions to avoid a poll at the 2025 local elections.
6. The Bill was reported back to the House by the Justice Committee on 21 June 2024.

The Bill is expected to go through its remaining legislative stages in the last 2 weeks of July.

Step	Expected date	Information and attachments
Second reading	Tuesday 23 July	Draft speech (Appendix A) Legislative statement (Appendix B)
Committee of the whole House	Wednesday 24 & Thursday 25 July	Committee of the whole House pack (Appendix C) Amendment Paper (Appendix D)
Third reading	Tuesday 30 July	Draft speech (Appendix E) Legislative statement (Appendix F)
Royal Assent	Tuesday 30 July	Royal Assent needs to happen the same day as third reading.
Act comes into force	Wednesday 31 July	The Bill needs to be in force by 31 July 2024. That is the due date for councils to resolve on their initial representation proposals. This will allow councils to avoid resolving on representation arrangements if they intend to reverse their decisions later.

The Committee of the whole House pack is attached at Appendix C

7. We are scheduled to meet with you on 22 July 2024 to discuss the pack. It is made up of four sections;
 - Section 1: Bill overview;
 - Section 2: Key messages and primary Q&As;
 - Section 3: Supplementary Q&As; and
 - Section 4: Clause by clause analysis.

We have worked with Parliamentary Counsel Office to prepare an Amendment Paper to the Bill attached at Appendix D

8. On 23 June 2024, you agreed to agree to issue instructions for the Parliamentary Counsel Office to prepare an Amendment Paper to the Bill [LG20242914 refers].
9. The Amendment Paper includes a change to require councils to resolve to either reverse their previous decision to establish Māori wards, or to resolve to retain Māori wards and hold a poll at the 2025 elections, by 6 September 2024. The Bill is currently drafted in a way that implies councils only need to make an active decision if they choose to disestablish or rescind. It is silent on any process for councils to decide not to disestablish or rescind, and to proceed to a poll.
10. It also clarifies that the use of the special consultative procedure is not required for the decision to hold a poll, in the same way that it is not required for the decision to reverse their previous Māori wards decisions.
11. The Amendment Paper also confirms that the electoral officer is responsible for holding the poll, if the council is required to hold a poll in accordance with the above changes.
12. As the proposed amendments to the Bill were minor and did not involve substantive new policy you do not need to seek Cabinet agreement for this Amendment Paper.
13. The second reading speech acknowledges your intention to introduce the Amendment Paper during the committee of the whole House stage.
14. The Amendment Paper is presented as a “revision-tracked” version of the Bill, where the changes are marked up from the version of the Bill at second reading. The content of the Amendment Paper is final, but the explanatory note and minor details such as the date and numbering of the Amendment Paper are still to be updated. A final version will be provided for your approval on Monday 22 July 2024, prior to the Bill’s printing for the House.

Recommendations

15. We recommend that you:

- a) **note** that the Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Bill is awaiting
- second reading on 23 July 2024;
 - committee of the whole House on 24 and 25 July 2024; and
 - third reading on 30 July 2024.
- b) **approve** the content of the attached draft Amendment Paper to clarify the decisions required from councils about Māori wards and Māori constituencies; **Yes/No**
- c) **review** the materials for the Committee of the whole House stage;
- d) **review** the speech and legislative statement for the second reading;
- e) **circulate** the legislative statement for the second reading by 11.00am Tuesday 23 July;
- f) **review** the speech and legislative statement for the third reading; and
- g) **circulate** the legislative statement for the third reading by 11.00 am Tuesday 30 July.



Rowan Burns
Policy Manager

Hon Simeon Brown
Minister of Local Government

_____/_____/_____

List of Appendices (Separate attachments)

Appendix A: Draft second reading speech

Appendix B: Draft legislative statement for second reading

Appendix C: Committee of the whole House pack

Appendix D: Draft Amendment Paper **Withheld under section 18(d) of the Official Information Act 1982**

Appendix E: Draft third reading speech

Appendix F: Draft legislative statement for third reading

Released under the Official Information Act 1982

Second Reading Speech – Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Bill

Legislative statement

I present a legislative statement on the Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Bill.

Process

I move, that the Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Bill be now read a second time.

Recap of the Bill and policy objectives

The broad purpose of this Bill is to further strengthen our local democracy by:

- reinstating polls on Māori wards and Māori constituencies;
- requiring councils to hold a binding poll at the 2025 local elections if they did not hold a poll when establishing Māori wards; and
- adjusting the statutory timeframes for local elections to give more time for the postal delivery of voting papers.

Māori wards

With this Bill, councils will again be able to decide to hold binding polls on Māori wards, and communities will again have the opportunity to petition their council to hold one.

I want to stress that we are not removing the right to establish a Māori ward, we just believe it should be up to local people to decide on their local representation.

We are also not creating anything new. All we are doing is reinstating provisions of the legislation as they were originally established over twenty years ago.

The policy settings remain the same as they were before 2021:

- a binding poll will be required if a petition is signed by at least 5% of electors on a council's roll and presented to a council;
- any person on the electoral roll for that council will have the right to vote;
- the outcome of the poll is binding by a simple majority; and
- it will be binding for two local government terms, which is six years.

The Bill will also require councils to hold a poll at the 2025 local elections if they established Māori wards or Māori constituencies since 2020 without a poll. The outcome of the poll will take effect at the 2028 local elections.

Requiring councils to hold a poll will ensure those who did not get a say will now get an opportunity to do so.

Postal delivery timeframes

This Bill also makes a number of small changes to support participation in the 2025 local elections. With the decline of postal volumes, there is a risk that some voters won't receive their voting papers within the current six-day window required by the Act.

New Zealand Post has informed the Government it could take up to two weeks to complete the nationwide delivery of voting papers for the 2025 local elections.

It is obviously not acceptable to deprive anyone from having the opportunity to have their voices heard, therefore the Bill will extend statutory timeframes to ensure everyone has a reasonable opportunity to cast their vote in time.

Select Committee process

I want to thank the Justice Committee for the important work they have done on this Bill in the relatively short amount of time they had to do so. In addition, the Committee received thousands of written submissions and heard from multiple individuals, groups, organisations, and councils over several days.

I also want to acknowledge and thank everyone who took the time to submit on this Bill and exercise their democratic rights.

As you would expect in any healthy democracy, some expressed their disagreement to this Bill, but there were also those who voiced their support.

People in support agreed that the Bill will restore democratic rights that were removed by the 2021 amendment Act. Submitters said that reinstating the poll provisions increased democracy by returning decision-making to communities on issues of constitutional and representative significance.

Several submitters supported the requirement for councils to hold a poll if they established Māori wards without one previously because it would give communities more say on those recent decisions made.

There were also submitters that expressed their general opposition to the existence of Māori wards. But like I said earlier, we are not opposed to the existence of Māori wards. We just believe that local communities should get a say on whether they should have one or not.

Recommendations made by the Justice Committee

The Committee has provided several technical recommendations on the transitional provisions of the Bill that deal with the requirement for councils to hold a poll.

These recommendations are small tidy-ups that make sure the intent of the legislation is clear for the public, and for councils to implement.

I thank the Committee for its careful consideration of these matters, and helpful suggestions.

Amendment Paper

During the Committee of the Whole House stage, I intend to table an Amendment Paper to deal with some additional matters.

The Amendment Paper will require councils to resolve to either reverse their previous decision to establish Māori wards, or to resolve to hold a poll at the 2025 local elections, by 6 September 2024.

The Bill as currently drafted implies that councils only need to make an active decision if they choose to disestablish or rescind. The Bill does not specify the process for councils to make the decision to hold a poll.

This change is made to reflect that the choice to hold a poll is subject to the same requirements as the choice to disestablish or rescind, including that the use of the special consultative procedure is not required for this decision.

This change will give more certainty for councils about the process and requirements for either course of action.

Lastly, the amendment paper will also confirm that the electoral officer is responsible for holding the poll, if the council resolves to hold a poll in accordance with the changes mentioned earlier.

NZ post and need for a broader electoral reform

Currently New Zealand Post delivers over three million voting packs within six days every three years.

This six-day timeframe has remained the same since the 1980s, while the number of voting packs required has increased.

Of those who submitted on adjusting the statutory timeframes for local elections, there was overwhelming support for this proposal.

New Zealand Post submitted in support of the changes to the timeframe. As the main supplier of postal voting papers, they acknowledged that they currently struggle to deliver voting packs within the current six-day window.

Several organisations and local authorities also supported extending timeframes for the delivery of voting papers as this will improve access to and participation in local democracy.

Along with supporting an extension of timeframes for the delivery of voting papers, many submitters recognised it as a temporary solution.

As I said in my first reading speech, this government is committed to improving local democracy and having conversations on broader electoral reform.

Once this Bill is passed, I look forward to engaging with stakeholders on what any potential future changes could look like.

Conclusion

This Bill is about restoring local democracy by giving back to electors the rights to decide on their local electoral arrangements. These rights were hastily taken away by the previous government, and now is the time to do the right thing and give local communities their voice once again.

We live in a representative democracy, and as such local voices need to be heard loud and clear.

I commend this Bill to the House.



J.17

Legislative Statement for the Second Reading of the LOCAL GOVERNMENT (ELECTORAL LEGISLATION AND MĀORI WARDS AND MĀORI CONSTITUENCIES) AMENDMENT BILL

Presented to the House of Representatives in accordance with Standing Order 272

The Local Government (Electoral Legislation and Māori Wards And Māori Constituencies) Amendment Bill is an omnibus Bill introduced under Standing Order 267(1)(a) as it deals with an interrelated topic that can be regarded as implementing a single broad policy.

The single broad policy of the Bill is to enable local electors to take part in their local elections and decisions about their local electoral arrangements.

The Bill amends the Local Electoral Act 2001 and the Local Government Electoral Legislation Act 2023. The Bill also makes amendments to the Local Electoral Regulations 2001 as a result of changes to the timeframes for local elections.

The Bill gives effect to the Coalition Government's commitment to restoring the right to a local referendum on the establishment or ongoing use of Māori wards and Māori constituencies. This includes requiring a referendum on any Māori wards and Māori constituencies established without a referendum at the 2025 local body elections.

Background to Māori wards and Māori constituencies

Under the Local Electoral Act 2001, Māori wards and Māori constituencies are an opt-in provision for councils that allows them to decide whether specific members will be elected only by people on the Māori electoral roll.

Before February 2021, councils were required to hold a binding poll on whether to establish Māori wards or Māori constituencies if a petition of at least 5 per cent of the people on the council's electoral roll requested it. Polls could also be initiated by councils. The result of the poll was binding on a council for two local government terms.

In 2021, the mechanism for binding polls on the establishment of Māori wards and Māori constituencies (initiated by either the councils itself or by a petition of electors) was removed.

Return to binding polls on Māori wards and Māori constituencies

This Bill will reinstate the poll policy settings as they were before 2021, including the:

- threshold for petitioning the council (5% of electors on the council's roll at the last local elections);
- eligibility to vote (any person on the electoral roll for that council);
- percentage required to bind the council to the outcome (simple majority); and
- binding length (two local government terms).

Transition period for fresh decision-making on Māori wards and Māori constituencies

This Bill will require councils to hold a poll at the 2025 local elections if they established Māori wards or Māori constituencies without one. The outcome of the poll will take effect at the 2028 local elections.

This Bill allows councils who have resolved to establish Māori wards or Māori constituencies for the 2025 local elections to rescind their resolution. This means councils will not be required to hold a poll at the 2025 local elections.

Councils who had Māori wards or Māori constituencies at the 2022 local elections will also be able to resolve to disestablish their Māori ward or Māori constituencies for the 2025 local elections. This means these councils will also not be required to hold a poll at the 2025 local elections.

Background to delivery of voting papers in local elections

Under the Local Electoral Act 2001 there is a 22.5 day voting period for postal voting in local elections. Under the Local Electoral Regulations 2001, all postal voting papers must be delivered in the first 6 days of the voting period. New Zealand Post (NZ Post) is the main delivery provider for local election voting papers. While booth voting is an option for councils, all councils have used postal voting since 1995.

NZ Post will not be able to deliver voting papers inside the statutory timeframes for the 2025 and future local elections. This is due to a significant decline in letter volumes since the Local Electoral Act 2001 was passed, while courier demand has increased. This has led to a reduction in staff and postal infrastructure.

Failing to deliver voting papers in time creates a risk that some voters will not have a reasonable opportunity to cast their vote.

Extension of legislative timeframes to deliver voting documents

This Bill will extend the delivery period for voting papers from six days to 14 days. The voting period will also be extended by 10 days, to a total of 32 and a half days. These changes will enable all eligible voters to receive their voting papers in a timely manner. This Bill will also fix some minor administrative problems with the electoral timeframe including providing more time to print and assemble voting documents, and changing the day voting documents are sent out so any errors can be fixed up before the weekend.

Select Committee

The Justice Committee (the Committee) reported the Bill back to the House on 21 June 2024.

The Committee recommended several technical changes to the transitional provisions in the Bill that deal with the requirement for councils to hold a poll if they previously established Māori wards without holding a poll. These recommended changes make sure the intent of the legislation is clear for the public, and for councils to implement.

The Bill is intended to come into effect by 31 July 2024 to support decision making on representation arrangements ahead of the 2025 local elections.

Released under the Official Information Act 1982



Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Bill

Committee of the Whole House Pack

Released under the Official Information Act 1982

Contents

Section 1: Bill overview	3
Bill overview	4
Amendment Paper	6
Section 2: Key messages and primary Q&As	7
Reinstatement of Polls on Māori wards.....	8
Requiring councils to hold a poll on Māori wards if they have not done so previously...	10
Implementing rescind/disestablishment decisions	13
Repealing the requirements to make an active decision on Māori wards.....	15
Adjusting the time frames for local elections for the delivery of postal voting.....	16
Amendment Paper – Clarifying council decision making.....	19
Section 3: Supplementary Q&As.....	20
Topics that came up during Select Committee.....	21
Canterbury Regional Council (Ngāi Tahu Representation) Act 2022.....	23
Wider local electoral reform.....	25
Waitangi Tribunal Report.....	26
Section 4: Clause by clause analysis.....	27
Preliminary clauses	28
Part 1: Amendments to Local Electoral Act 2001	30
Part 2: Amendments to Local Government Electoral Legislation Act 2023	45
Part 3: Amendments to Local Electoral Regulations 2001.....	47
Schedule 1	54
Appendix A: Group 1 and 2 councils	99
Appendix B: Flowchart diagram.....	100

Released under the Official Information Act 1982

Section 1

Bill overview

Released under the Official Information Act 1982

Bill overview

The Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Bill (the Bill) is an omnibus Bill that amends several Acts to enable local electors to take part in their local elections and decisions about their local electoral arrangements.

The proposals in the Bill include:

- Reinstating polls on Māori wards and Māori constituencies.
- Requiring councils to hold a binding poll at the 2025 local elections if they established Māori wards or Māori constituencies since 2020 and did not hold a poll.
- Adjusting the statutory timeframes for local elections to give more time for postal delivery of voting papers.

Reinstatement of polls on Māori wards and Māori constituencies

- In 2021, the mechanism for binding polls on the establishment of Māori wards and Māori constituencies (initiated by either the council itself or by a petition of electors) was removed.
- The Bill reinstates the same policy settings as they were before 2021, including:
 - The threshold for petitioning the council on Māori wards (5% of electors on the council's roll at the last local elections);
 - The eligibility to vote on Māori wards (any person on the electoral roll for that council);
 - The percentage required to bind the council to that outcome (simple majority); and
 - The binding length (2 local government terms).
- The Bill also removes the requirement (due to come into effect after the 2025 local elections) for councils to consider Māori wards or Māori constituencies every 6 years during their representation reviews if they have not established Māori wards or Māori constituencies.

Requiring councils to hold a binding poll if they have not done so previously

- The Bill requires councils to hold a poll at the 2025 local elections if they established Māori wards or Māori constituencies, since 2020 without a poll. The outcome of the poll will take effect at the 2028 local elections.
- The Bill allows councils who have resolved to establish Māori wards or Māori constituencies for the 2025 local elections to rescind their resolution. If they take this option, these councils will not be required to hold a poll at the 2025 local elections.
- Councils who had Māori wards or Māori constituencies for the first time at the 2022 local elections will also be able to resolve to disestablish their Māori wards or Māori constituencies for the 2025 local elections. If they take this option, these councils will not be required to hold a poll at the 2025 local elections either.

Adjusting the statutory timeframes for local elections

- Under the Local Electoral Act 2001, there is a 22 and a half day voting period for postal voting in local elections. Under the Local Electoral Regulations 2001, all postal voting papers must be delivered in the first 6 days of the voting period.
- The Bill extends the delivery of voting papers from 6 days to 14 days. The voting period is also extended by 10 days to a total of 32 and a half days.
- The Bill also fixes some minor administrative problems with the local electoral time frame including:
 - Providing more time to print and assemble voting documents; and
 - Changing the day voting documents are sent so any errors can be fixed before the weekend.

The Bill is structured in 3 parts. Part 1 amends the Local Electoral Act 2001. Part 2 amends the Local Government Electoral Legislation Act 2023. Part 3 amends the Local Electoral Regulations 2001.

Released under the Official Information Act 1982

Amendment Paper

Amendment Papers were previously known as Supplementary Order Papers.

There is one Amendment Paper in your name.

Topic	In name of	Support
Clarifying council decision making	Hon Simeon Brown	Yes

The one Amendment Paper in your name should be supported.

The Amendment Paper will require local authorities to make an active decision on whether to reverse their decisions to establish Māori wards or Māori constituencies, or to hold a poll alongside the 2025 local elections. Group 1 and group 2 local authorities will be required to resolve on a course of action by 6 September 2024. The Amendment Paper also clarifies requirements for council electoral officers holding polls on Māori wards or Māori constituencies.

More information on the Amendment Paper in your name is available on page 19.

Released under the Official Information Act 1982

Section 2

Key messages and primary Q&As

Released under the Official Information Act 1982

Reinstatement of Polls on Māori wards

Key messages

The Bill gives effect to the Coalition Government's commitment to reinstating the right to local referendum on the establishment or ongoing use of Māori wards and Māori constituencies (Māori wards).

In February 2021, legislation was passed that prevented communities from petitioning their councils to hold a binding poll on the issue of Māori wards.

In August 2023, legislation was passed that required councils to make a decision on Māori wards as part of their regular representation review process. This was a requirement as long as a council had not established Māori wards.

This Bill will reinstate the ability for communities to demand binding polls on council decisions to establish or disestablish Māori wards. Councils may also choose to hold a binding poll on Māori wards without receiving a petition. The Bill reinstates the same policy settings as they were before 2021 including:

- The threshold for petitioning the council (5% of electors on the council's roll);
- The eligibility to vote (any person on the electoral roll for that council);
- The percentage required to bind the council to the outcome (simple majority); and
- The binding length (2 local government terms).

This Bill also repeals the requirement for councils to make an active decision on Māori representation every six years during their representation reviews if they had not established Māori wards. These requirements were due to come into effect after the 2025 local elections.

These amendments will enable local people in their communities to decide whether they want Māori wards or not.

Key questions and answers

How many councils established Māori wards since the poll provisions were removed?

Since binding polls were removed, 45 councils have decided to establish Māori wards without a poll.

What will the changes mean for councils without Māori wards?

The only effect on these councils is that people on the electoral roll will be able to petition their councils to hold binding polls on Māori wards from the next term of local government, 2025 – 2028. These polls will follow the previous process and could take effect starting from the 2028 local elections.

Are Māori wards the only way Māori can have a say in local government?

No, the Local Government Act 2002 requires local authorities to have processes in place for consulting with Māori in accordance with the principles of consultation under the Act. Councils will continue to engage with Māori as they have previously when it comes to matters that affect them.

Was the Bill vetted against the New Zealand Bill of Rights Act 1990 by the Attorney General?

Yes, the Bill was vetted against the Bill of Rights Act and it was found to be consistent with the rights and freedoms affirmed in the Bill of Rights Act.

Released under the Official Information Act 1982

Requiring councils to hold a poll on Māori wards if they have not done so previously

Key messages

As part of the Coalition Government’s commitments on Māori wards, councils that established Māori wards or Māori constituencies without holding a poll will be required to hold a poll at the next local body elections.

44 councils will be required to hold a binding poll at the 2025 local elections if they established Māori wards since 2021 and did not hold a binding poll. The exception is Tauranga City Council, which will be given the option to either hold a poll before the 2028 elections, or disestablish their Māori ward for the 2028 local elections.

The Bill also allows councils an opportunity to decide to disestablish their existing Māori wards or rescind their decision to create Māori wards if they have not yet implemented them. This would give these councils an opportunity to avoid having to hold a poll.

Up to 31 councils that established Māori wards last term would have the option to disestablish their Māori wards while up to 13 councils that made their decision during the current term of local government would have the option to rescind their decision. These decisions would take effect at the 2025 local elections.

After the Bill is enacted, councils will have until 6 September 2024 to decide to rescind or disestablish, or hold a poll. By the same date, any councils that opt to rescind or disestablish will also need to decide how they will implement the decision and update their representation arrangements before the 2025 local elections.

Councils with Māori wards that were established before the poll provisions were removed in 2021 will not be affected. These are Bay of Plenty Regional Council, Waikato Regional Council, and Wairoa District Council. As Ōpōtiki District Council held a non-binding poll which received a “yes” vote result before resolving to establish Māori wards, they will not have to hold another poll.

Key Questions and Answers

Which councils have the option of disestablishing their Māori wards or rescinding their decision to have Māori wards?

31 Councils would have the option to disestablish their Māori wards (known as group 1) while 13 councils who have made their decision during the current term of local government would have the option to rescind their decision (known as group 2). A full list of group 1 and 2 councils is attached as **Appendix A**.

What are the key decisions councils will need to make to comply with the proposed legislation?

Councils have two key decision points during this process. The first decision is whether to reverse the previous decision to establish Māori wards, or to retain the Māori wards and hold a poll at the 2025 elections.

The second decision is for councils that choose to reverse their previous decisions. These councils must choose whether to continue with or revert to their most recent representation arrangements without Māori wards, or to complete a shortened representation review. A diagram outlining these choices for group 1 and group 2 councils is attached as **Appendix B**.

Why can't the outcome of a poll be implemented immediately if it is held with the 2025 election?

Because elections, candidates and voting papers are based on the council's existing representation arrangements (number of councillors, number of wards, ward boundaries). If the poll removes separate Māori representation then the ward structure needs to be recalculated, consulted on, and confirmed before calling for candidates for the new arrangements.

Why can't councils hold polls earlier so these changes could take effect at the 2025 elections?

After the Bill is enacted, there is very limited time for councils to hold a poll on Māori wards, and to carry out a representation review before the pre-election processes start in April 2025. Polls take around three months to complete, following the requirements of the Local Electoral Act 2001. To enable polls to take place in 2024, and to take effect for the 2025 elections, would have significantly compromised the representation review process.

How well placed are councils to undertake these polls given the other pressures they're under?

The Bill will require up to 45 councils to complete a poll process (and some will also need to complete a representation review) that they have not planned or budgeted for. The estimated cost for a council with 150,000 electors to hold a poll is \$75-150,000. This does not include the costs of public information, engagement and communications that are likely to be managed by the councils themselves.

Will local communities get to have their say on council resolutions to reverse previous Māori ward decisions?

The Government has included an option for councils to reverse their recent Māori wards decision, if they wish to avoid holding a binding poll in 2025. There will be a limited time available for councils to make this decision and it is unlikely there will be time for a comprehensive public engagement process. Some councils may choose to start early conversations with their communities before the Bill is enacted.

Released under the Official Information Act 1982

Implementing rescind/disestablishment decisions

Councils will not be required to hold a poll at the 2025 local elections if they rescind their resolution to establish Māori wards for the 2025 local elections, or resolve to disestablish their Māori wards for the 2025 local elections.

Councils must choose to disestablish or rescind by 6 September 2024. If they choose this option, they must also resolve on a method to implement this decision.

Councils that resolve to disestablish their Māori wards could complete a shortened representation review process by early April 2025. Or in some cases councils may revert to their most recent representation arrangements before Māori wards were established (this option will only be available if the previous arrangements will still meet the statutory requirements for fair and effective representation).

Councils that resolve to rescind the previous Māori wards decision could complete a shortened representation review process by early April 2025. Or in some cases councils may continue with the same representation arrangements as they had at the 2022 local elections (this option will only be available if the council completed a representation review last term, or if the existing arrangements will still meet the statutory requirements for fair and effective representation).

Fair representation relates to the number of persons represented per elected member. The ratio of electors to elected member in each ward is required to be within +/-10% of the ratio for the district or region as a whole. This is designed to ensure approximate equality in representation i.e. votes of equal value.

Effective representation aims to ensure that, where possible, communities of interest should be represented by the same councillor or councillors, rather than being divided between multiple wards, and disparate communities of interest should not be grouped together in a single ward.

The Amendment Paper will require councils to make a resolution by 6 September 2024 on whether they will disestablish or rescind their Māori wards decisions, or hold a poll alongside the 2025 local elections. The Bill currently only requires councils to make a decision if they choose to disestablish or rescind, and all councils who do not do so will be required to hold a poll by default.

Key Questions and Answers

Do we know how many councils are considering rescinding their decision or disestablishing their Māori ward?

The Greater Wellington Regional Council indicated during the select committee process that it was intending to rescind its decision to create a Māori constituency, following discussions with mana whenua.

Central Hawkes Bay, Hauraki, Napier, Thames-Coromandel, Whanganui, and Hutt City Councils have all resolved to issue an initial proposal, indicating but not confirming their intention to hold a poll.

What's involved in a shortened representation review process?

The shortened representation review process involves all stages of the process set out in the Local Electoral Act 2001 but on a shorter timeframe. The period for public consultation on the initial proposal has been reduced from four to three weeks, the amount of time councils have for incorporating the public feedback and issuing the final proposal has been reduced from eight weeks to six weeks, and the time available for receiving appeals and objections from the public on the final proposal has been reduced from four weeks to three weeks.

What consultation requirements are there for councils on rescind/disestablish decisions?

Group 1 and group 2 councils are not required to use the special consultative procedure under the Local Government Act 2002, given the short amount of time available between the Bill coming into force on 31 July 2024 and the deadline to make a rescind or disestablish decision of 6 September 2024. Councils may consult with their community on this decision in any way they see fit.

As Tauranga City Council has longer to prepare for the decision to disestablish their Māori ward, this exemption does not apply.

Repealing the requirements to make an active decision on Māori wards

The Bill repeals the provisions that would have required local authorities to make an active decision on whether to have Māori wards, as part of the representation review process they were required to undertake every 6 years under sections 19H and 19I of the Local Electoral Act 2001. The intention of these provisions was to provide a way for communities to require local authorities to consider the issue of Māori representation, as the ability to trigger a binding poll through a petition was no longer available.

The provisions would also have required local authorities to undertake specified consultation with Māori and other communities before determining by resolution whether their representation arrangements would include specific Māori representation. This was intended to ensure that there was still an avenue for the public to provide input on this decision, as a binding poll was no longer an available option.

These provisions were the second stage of work on Māori wards following the Local Electoral (Māori Wards and Māori Constituencies) Amendment Act 2021 which repealed the binding polls on Māori wards and Māori constituencies.

The repeal of these provisions puts the law back to where it was in 2021 before the binding polls on Māori wards were removed.

The repeal of these provisions has the effect that decisions of local authorities concerning whether to have Māori wards will continue to be made prior to their 6-yearly representation review and that the review process will only consider the implementation of Māori wards as provided under Schedule 1A of the Local Electoral Act 2001. As the Bill reinstates the poll provisions, the repealed provisions are no longer required to provide a method for requiring councils to consider Māori representation or to provide a way for the public to have a say on councils' decisions about Māori representation.

These requirements were due to come into force on 12 October 2025 but under the Bill they will be repealed on the day after the Bill receives Royal assent.

Adjusting the time frames for local elections for the delivery of postal voting

Key messages

Since 1995, all councils in New Zealand have used postal voting for their elections. Booth voting is an option, but no councils have opted for this. New Zealand Post (NZ Post) is the main provider of local election voting paper delivery. While there are competitors, NZ Post is the only provider with the resources and capability to service nationwide local elections.

Despite this capability, NZ Post has advised the Department of Internal Affairs (the Department) that it will not be able to deliver voting papers inside the statutory timeframes for the 2025 and future local elections. Under the Local Electoral Regulations 2001, all postal voting papers must be delivered within the first 6 days of the 22-and-a-half day voting period.

This issue stems from a wider decline in letter volumes since the Local Electoral Act 2001 was passed, while courier demand has increased. This has led to reduced staff and postal infrastructure. A failure to deliver voting papers in time risks some voters not having a reasonable opportunity to cast their vote.

The Bill would change the definition of “voting period” to extend it by ten days. The total voting period for local elections will be 32 and a half days following the extension. It would also amend the period for delivery of postal voting papers, extending it from 6 days to 14 days. Consequential amendments will be made to other statutory dates in the local electoral timeframe to enable the voting and delivery period timing changes.

The Bill proposes that all changes made to postal voting provisions come into force on 1 April 2025 and will therefore apply to the October 2025 local elections and subsequent local elections.

Key Questions and Answers

Why is NZ Post still the preferred supplier?

NZ Post can deliver across New Zealand, including rural areas. NZ Post is obligated to maintain a certain level of service under a Deed of Understanding it has signed between itself and the Crown.

Why could we not just use other postal delivery services like DX Mail?

Although DX Mail has delivered for some councils, it has confirmed that it does not have the capacity to deliver nationwide. To deliver to remote areas DX Mail would still have to contract delivery to NZ Post.

Why not just use booth voting?

While booth voting is available as an option, the last council to use booth voting in an election was Lower Hutt in 1992. We believe councils should have a choice in how they run their local elections but the use of booth voting more widely could be considered as part of longer-term reform.

How will the local electoral calendar be changed?

The local electoral calendar will be amended to give postal delivery services up to two weeks to deliver voting documents. Extra time will come from a slightly reduced nomination period, and shifting the cutoff date for electors to be included on the printed roll earlier.

Will shortening the nomination period have a significant impact?

Election service providers have informed the Department that not many, if at all nominations are received in the first week. Electoral officers will communicate any new timeframes as part of the service they provide councils.

What are the other “administrative problems” you’re trying to solve?

Datam is responsible for assembling voting packs and are a business arm of NZ Post. Datam would like more time to receive candidate nomination information so they can start printing the voting papers earlier. Another issue is the day on which voting papers start to be sent out. Electoral officers would like the voting papers to be sent out earlier in the week so any errors picked up can be fixed up during the week and not over the weekend.

Could we give NZ Post more funding and ask them to deliver inside the existing timeframes?

There is no guarantee that NZ Post will be able to find the staff to deliver voting papers within the existing timeframes. NZ Post has advised it is difficult to find and upskill the staff in the time available, and not cost effective to maintain permanent excess capacity in the delivery network for the temporary peak arising from elections.

Will these changes interrupt councils' other business?

No. The changes will not have a material impact on councils' other business as the Electoral Commission is responsible for enrolling people before local elections. While councils will have to produce their pre-election report two-weeks earlier, this is information they already have to hand and do not have to generate any significant new material to produce.

What about changing the close of polling to a later date?

It is well known that local elections are held on the second Saturday in October every three years. A change in date would also mean that in 2028 the election day would be during Labour Weekend, making voting hard for those away from home without voting papers. Changing to a later date would also put additional pressure on end of year processes for councils where there are already tight timeframes.

Does the sector support the change?

The local government sector, along with several councils were supportive of the changes both before and during the select committee process.

Could voters return their voting papers online instead?

Electronic delivery and return of voting papers still presents significant security risks at this time.

Amendment Paper – Clarifying council decision making

Key messages

An Amendment Paper is required for the Bill because there was not enough time to deal with some substantive policy matters through the select committee process.

The Amendment Paper includes a change to require councils to resolve to either reverse their previous decision to establish Māori wards, or to resolve to hold a poll alongside the 2025 elections, by 6 September 2024. The Bill is currently drafted in a way that implies councils only need to make an active decision if they choose to disestablish or rescind. It is silent on any process for councils to decide not to disestablish or rescind, and to proceed to a poll.

It also clarifies that the use of the special consultative procedure is not required for this decision, in the same way that it is not required for the decision to reverse their previous Māori wards decisions.

The Amendment Paper also confirms that the electoral officer is responsible for holding the poll, if the council resolves to hold a poll in accordance with the above changes.

Key Questions and Answers

Why do councils need to make an active decision by 6 September 2024, instead of going to a poll by default?

This change was made to reflect that the option to hold a poll also counts as a decision for the purposes of the decision-making requirements set out in the Local Government Act 2002. This change will give more certainty for councils about the process and requirements for either course of action.

Why is it necessary to specify that the electoral officer is responsible for holding the poll?

This gives more certainty about the process and requirements for holding a poll.

Section 3

Supplementary Q&As

Released under the Official Information Act 1982

Topics that came up during Select Committee

Four of nine

Nine councils resolved to establish Māori wards or Māori constituencies in late 2020, to take effect at the 2022 local elections, before the 2021 legislative changes were announced. Five of these councils received a valid request for a poll by the statutory deadline of 21 February 2021. Four of these did not (Gisborne District Council, New Plymouth District Council, Ruapehu District Council and South Taranaki District Council). These four councils consider they should not be required to hold a poll.

The previous government's announcement about the 2021 changes made it clear that the law would soon change and any petitions underway would be invalidated.

5% threshold for a valid petition

The threshold for a petition to trigger a poll is 5% of people on the council's electoral roll at the last local elections. A number of submitters during the select committee stage raised the idea of increasing the threshold, or limiting those able to participate in the petition and polling process to electors on the Māori electoral roll.

The aim of the Bill is to return the polls settings to the state they were in before the 2021 changes, and return decision-making powers to communities.

Polls for all representation decisions

Māori wards are the only type of ward subject to a poll, and there is no requirement to hold polls on other types of wards or electoral arrangements. The process for community input on other electoral arrangements is through feedback during the representation review process.

Making all representation decisions subject to polls would be significantly less effective than the current representation review process, and add to the complexity of adopting a set of representation arrangements. A poll on the full set of representation arrangements would leave the question about what should happen if the result of the polls is "No".

Government financial support for councils to hold polls

No additional funding will be provided by central government, but councils are able to avoid the cost of a poll by choosing to reverse their earlier decisions to create Māori wards. Holding a poll alongside the elections also reduces costs compared to holding a standalone poll.

Timing of select committee process

The select committee process for this Bill took place from 23 May to 21 June, with submissions open for five days, and hearings taking place between 4 and 7 June. Several submitters raised concerns about the compressed timeframe.

Originally the Bill's second reading was planned to take place on 23 June, but it was later deferred to 23 July due to other legislative priorities. The committee still heard from thousands of New Zealanders who provided well-reasoned feedback on the Bill.

Insufficient time for the select committee to make changes to the Bill

Members of the committee raised concerns that there had not been time to consider substantial policy changes to the Bill (e.g. the 5% threshold) through the select committee process.

Any substantive policy changes would have required getting approval from Cabinet, which was not possible in the time available for the select committee period.

This Bill has always been on a tight timeframe to extend the statutory deadline of 31 July for councils to resolve on their initial representation proposals.

Canterbury Regional Council (Ngāi Tahu Representation) Act 2022


What does the Government want to do with the Canterbury Regional Council (Ngāi Tahu Representation) Act 2022 (ECan Act)?

The Government wants to repeal the ECan Act as part of its Coalition Agreement between National and Act.

9(2)(f)(iv)

Released under the Official Information Act 1982

9(2)(f)(iv)



Released under the Official Information Act 1982

Wider local electoral reform

Why is the Government progressing this Bill when there is so much other change happening to the local government system?

It's true that there is a lot of change happening in local government at the moment. However, reinstating the right to a local referendum on Māori wards is a Coalition Government commitment.

What can be done to future-proof local elections if adjusting the timeframes for postal voting is considered a temporary fix?

Adjusting the statutory timeframes for postal voting for local elections needs to happen to ensure the 2025 local elections can take place but consideration is required around further changes for electoral reforms, which the Government is committed to looking into.

What could electoral reform look like?

While it is too early to say at this stage some options could consider the Electoral Commission taking over the running of elections to provide consistency nationally. Any proposed changes will be consulted on with the local government sector and wider public.

LGNZ has called for a “voting day” for local elections to improve turnout. Is this something the Government is working on?

The Government will be considering options for local election reform in due course.

Waitangi Tribunal Report

What was the Waitangi Tribunal report?

In May, the Waitangi Tribunal completed an urgent inquiry into a claim that the Government's policy to reinstate polling and petitioning powers for Māori wards were a breach of the Treaty of Waitangi.

What was the outcome of the Waitangi Tribunal inquiry?

The Tribunal criticised the Crown's prioritisation of coalition agreement commitments over its obligations to Māori. It highlighted the lack of discussion or consultation with Māori as Treaty partners about the Bill's proposals. The Tribunal identified this as a breach of the Treaty principle of Partnership.

Did the Tribunal make any other findings?

Yes, the Tribunal also found:

- The Government breached its duty to act in good faith by failing to make reasonable and informed decisions in rushing the process to fit ministerial timeframes without allowing for adequate consideration of Māori views.
- The Government's prioritising of its political agenda over the decisions of Māori for dedicated political representation at a local level breached the Crown's duty to actively protect the rights and interests of Māori.
- The Tribunal considered that the poll provisions are inequitable, discriminatory, and a barrier for Māori representation in local government.
- Removing the option for Māori voters to choose whether to be represented by general or Māori ward councillors breached the Treaty principle of Options.

What does the Tribunal's decision mean for the Crown and the Bill?

The Tribunal's decisions are not binding on the Crown. It is likely that the Tribunal will consider this matter again, once the Bill is enacted, via the Constitutional Kaupapa Inquiry (Wai 3300). The Constitutional Kaupapa Inquiry will hear claims concerning grievances relating to the constitution, self-government, and the electoral system. The Inquiry commenced in December 2022.

Section 4

Clause by clause analysis

Released under the Official Information Act 1982

Preliminary clauses

Clause 1 – Title

This clause states the title of the Bill

Released under the Official Information Act 1982

Clause 2 – Commencement

This clause provides that the Bill will come into force in different stages.

Clause 2(1) states that the provisions relating to the new statutory timeframes for local elections will come into force on 1 April 2025 to apply for the 2025 local elections and subsequent local elections (clauses 4, 8, 9, 10 to 15, and 30 to 35).

Clause 2(2) states that the provision relating to the reinstatement of polls on Māori wards will come into force on 12 October 2025 (clauses 5 to 7 and clause 16). 12 October is the day after the 2025 local elections.

Clause 2(3) states that the Schedule to the Bill containing the transitional provisions will come into force on the day after Royal assent (clause 17). These require councils to decide whether to hold a binding poll at the 2025 local elections if they established Māori wards since 2020 without holding a poll, or to resolve to reverse their decisions to have Māori wards.

Clause 2(3) also states that provisions repealing the requirement for councils to actively consider Māori representation as part of their representation review will come into force on the day after Royal assent (clauses 19 to 28).

Comment:

Clause 2(1) comes into force on 1 April 2025 because this is when the local electoral calendar starts for the 2025 local elections. Several steps are required to start from 1 April 2025 leading to the local elections on 11 October 2025.

The Schedule to the Bill, referred to in Clause 2(3), comes into force on the day after Royal assent because the Local Electoral Act 2001 requires councils to resolve on their initial representation proposals by 31 July in the year before an election. If the Bill is enacted by the end of July 2024, this will give councils an extension to this deadline to make the decision whether to disestablish/rescind or hold a poll until 6 September 2024.

Part 1: Amendments to Local Electoral Act 2001

Clause 3 – Principal Act

This clause states that this Part amends the Local Electoral Act 2001.

Released under the Official Information Act 1982

Clause 4 – Section 5 amended (Interpretation)

Clause 4 amends section 5 of the Local Electoral Act 2001, which is the interpretation section.

In **Clause 4(1)** the definition of **nomination day** is amended to replace “57th day” with “71st day”. This change reduces the nomination period by 2 weeks to allow for an extended voting period.

In **clause 4(2)** the definition of **voting period** is amended to replace “22 and a half days” with “32 and a half days”. This will extend the voting period for local elections by ten days to account for the longer period in which voting papers can be delivered.

Released under the Official Information Act 1982

Clause 5 – Section 9 amended (Holding of referendum)

Clause 5 amends section 9 of the Local Electoral Act 2001. Section 9 allows a local authority to direct the electoral officer to conduct a referendum on any matter relating to the activities or objectives of the local authority or the well-being of its local government area.

Under section 9(7), as in force since 2 March 2021, the result of a referendum relating to the division of any district or region into 1 or more Māori wards or Māori constituencies is not binding on the local authority. This has the effect of preventing polls on Māori wards or Māori constituencies from being binding.

This amendment replaces section 9(7), with the effect that the result of any referendum on that issue will not be binding on the local authority unless the local authority resolves otherwise, or any enactment provides otherwise. This reinstates the law in the same form as applied before 2 March 2021, allowing councils to hold binding polls.

Released under the Official Information Act 1982

Clause 6 – Section 19Z amended (Territorial authority or regional council may resolve to establish Māori wards or Māori constituencies)

Clause 6 amends section 19Z of the Local Electoral Act 2001 (which provides for local authorities to resolve to establish Māori wards or Māori constituencies) by inserting new subsections (2A) and (2B) to clarify that the powers in section 19Z(1) and (2) to establish Māori wards or Māori constituencies also include the powers to disestablish them and that the same requirements apply in either case.

Clause 6(2) replaces the date “23 November” with “12 September” in section 19Z(3)(a). This change aligns the dates for holding a poll on Māori wards or Māori constituencies with the dates for holding a poll on the electoral system. This change to timeframes is to fit the poll timing into the representation review timeline.

Clause 6(3) also amends section 19Z(3)(c)(ii) to reinstate the ability for a poll of electors to change whether a local authority has Māori wards or Māori constituencies, after the council’s current decision on Māori wards or Māori constituencies has been in place for two terms.

Released under the Official Information Act 1982

Clause 7 – New Sections 19ZA to 19ZG inserted

Clause 7 inserts new sections 19ZA to 19ZG into the Local Electoral Act 2001 in the same form as in force before 2 March 2021 (the date on which they were repealed by the Local Electoral (Māori Wards and Māori Constituencies) Amendment Act 2021), with some adjustments to dates to match the timing for council resolutions and poll demands under sections 27 to 34 of the Local Electoral Act 2001. This reinstates:

- The provisions enabling electors to demand a binding poll on whether to establish Māori wards or Māori constituencies; and
- The provisions enabling territorial authorities and regional councils to resolve to hold a binding poll on whether to establish Māori wards or Māori constituencies.

Section 19ZA sets out the requirements for the public notice of the right for electors to demand a poll.

Section 19ZB sets out the process for electors to demand a poll.

19ZC sets out the requirements for a valid demand to trigger a poll.

19ZD sets out the requirements for territorial authorities and regional councils when they resolve to hold a poll.

19ZE sets out limitations on when a local authority can be divided into Māori wards or Māori constituencies.

19ZF provides for how the poll of electors must be run.

19ZG outlines the effect of the poll of electors.

Released under the Official Information Act 1982

Clause 8 – Section 28 amended (Public notice of right to demand poll on electoral system)

Clause 8 replaces “14 March” with “28 March” in section 28(2A) of the Local Electoral Act 2001.

This clause relates to the public notice that a local authority is required to give of the right to demand a poll on the electoral system. The change in date is to reflect the extended timeframes that the electoral officer will have to complete the poll as a result of the changes to the postal timeframes.

Released under the Official Information Act 1982

Clause 9 – Section 30 amended (Requirements for valid demand)

Clause 9 replaces “14 March” with “28 March” in section 30(3A)(a) of the Local Electoral Act 2001.

This clause relates to the requirements for a valid demand of a poll if electors demand that one be held on a proposal that a specified electoral system be used at the elections of their local authority. The change in dates is to reflect the extended timeframes that the electoral officer will have to complete the poll as a result of the changes to the postal timeframes.

Released under the Official Information Act 1982

Clause 10 – Section 33 amended (Poll of electors)

Clause 10(1) replaces “89 days” with “103 days” in section 33(3) of the Local Electoral Act 2001.

Clause 10(2) replaces “14 March” with “28 March” in section 33(4) of the Local Electoral Act 2001.

This clause relates to the date by which a poll of electors must be completed. The change in the number of days and dates is to reflect the extended timeframes that the electoral officer will have to complete the poll as a result of the changes to the postal timeframes.

Released under the Official Information Act 1982

Clause 11 – Section 34 amended (Requirements for valid demand)

Clause 11 replaces “14 March” with “28 March” in section 34(1) of the Local Electoral Act 2001.

This change in date is a consequential change as a result of the changes made to section 33 of the Local Electoral Act 2001 mentioned above.

Released under the Official Information Act 1982

Clause 12 – Section 52 amended (Notice of election or poll)

Clause 12 replaces “28 days before” with “25 days before” in section 52(2) of the Local Electoral Act 2001.

This clause relates to the latest date for the first public notice of an election. The change in days is to find more time in the local electoral cycle to allow for an extended delivery period of voting papers as a result of the issues with the postal system.

Released under the Official Information Act 1982

Clause 13 – Section 102 amended (New election or poll if election or poll declared void)

Clause 13 replaces “8 November” with “25 October” in each place it is mentioned in section 102(2) of the Local Electoral Act 2001. **Clause 13** also replaces “89 days” with “103 days” in each place it is mentioned in section 102(2) of the Local Electoral Act 2001.

This clause deals with the special provisions for a re-run election. The change in the days and dates to reflect the extended timeframes that the electoral officer will have to complete the poll as a result of the changes to the postal timeframes.

Released under the Official Information Act 1982

Clause 14 – Section 120 amended (Election to fill extraordinary vacancy)

Clause 14 replaces “89 days after” with “103 days after” in section 120(1)(b) of the Local Electoral Act 2001.

This clause relates to the date in which a by-election must be completed. The change in the number of days is to reflect the extended timeframes that the electoral officer will have to complete the poll as a result of the changes to the postal timeframes.

Released under the Official Information Act 1982

Clause 15 – Section 138A amended (Special provision in relation to certain elections to fill extraordinary vacancies and certain polls)

Clause 15 makes several amendments to the special provisions for by-elections held over the summer break as a result of the adjustments to the statutory timeframes for local elections to enable the postal delivery of voting papers.

Clause 15(1) replaces “28 September” with “14 September” and “17 February” with “3 March” in section 138A(1)(a) of the Local Electoral Act 2001.

Clause 15(2) replaces “14 March” with “28 March” in section 138A(1)(b) of the Local Electoral Act 2001.

Clause 15(3) replaces “11 April” with “24 April” in section 138A(1)(c) of the Local Electoral Act 2001.

Released under the Official Information Act 1982

Clause 16 – Section 138A amended (Special provision in relation to certain elections to fill extraordinary vacancies and certain polls)

Clause 16 amends section 138A of the Local Electoral Act 2001 to reinsert references to new sections 19ZC, 19ZD, and 19ZF, consequential to these sections being inserted by **clause 7**.

Section 138A outlines the timeframes for electoral officers to hold certain elections to fill extraordinary vacancies and certain polls, following receipt of notice.

This change means polls on Māori wards or Māori constituencies are subject to the same procedures and timeframes as the other certain polls and certain elections to fill extraordinary vacancies listed in section 138A.

Released under the Official Information Act 1982

Clause 17 – Schedule 1 amended

Clause 17 inserts new Part 3 into Schedule 1 of the Local Electoral Act 2001. This new Part 3 deals with the transitional provisions requiring councils to hold a poll on Māori wards if they have established Māori wards previously without holding a binding poll. The new Part 3 is discussed in detail starting on page 54.

Released under the Official Information Act 1982

Part 2: Amendments to Local Government Electoral Legislation Act 2023

Clause 18 – Principal Act

This clause states that this Part amends the Local Government Electoral Legislation Act 2023.

Released under the Official Information Act 1982

Clauses 19 – 28 – repeal of certain provisions on the Local Government Electoral Legislation Act 2023

Clauses 19 to 28 repeal the provisions of the Local Government Electoral Legislation Act 2023 which would amend the Local Electoral Act 2001 on 12 October 2025, were they to come into force on that date.

These provisions would have required local authorities to make an active decision regarding whether to have Māori wards or Māori constituencies, as part of the representation review process they are required to undertake every 6 years under sections 19H and 19I of the Local Electoral Act 2001. These provisions were intended to prompt councils to consider Māori representation, as without the petition process communities would no longer have a way to require councils to consider Māori representation, if the council did not do so of their own volition.

The provisions would also have required local authorities to undertake specified consultation with Māori and other communities before determining by resolution whether their representation arrangements would include specific Māori representation. These provisions were intended to provide for input from the local community in decision-making about Māori representation, in the absence of the ability to hold a poll.

The repeal of these provisions puts the law back to where it was in 2021 before the binding polls on Māori wards were removed. Reinstating the poll provisions addresses both the issue of prompting councils to consider Māori representation and community participation in council Māori representation decisions.

It has the effect that decisions of local authorities concerning whether to have Māori wards or Māori constituencies will continue to be made prior to their 6-yearly representation review and that the review process will only consider the implementation of Māori wards and Māori constituencies as provided under Schedule 1A of the Local Electoral Act 2001.

Part 3: Amendments to Local Electoral Regulations 2001

Clause 29 – Principal regulations

This clause states that this Part amends the Local Electoral Regulations 2001.

Released under the Official Information Act 1982

Clause 30 – Regulation 10 amended (Relevant date for inclusion of electors on roll)

Clause 30 makes several amendments to the dates for when residential electors and ratepayer electors are entitled to be included on the electoral roll as a result of the adjustments to the statutory timeframes for local elections. The changes also apply to any by-elections held which are measured in days and not dates.

Clause 30(1) replaces "7 July" with "18 June" in regulation 10(1)

Clause 30(2) replaces "6 July" with "17 June" in regulation 10(2)

Clause 30(3) replaces "57th day" with "71st day" in regulation 10(3)

Clause 30(4) replaces "57th day" with "71st day" in regulation 10(4)

Released under the Official Information Act 1982

Clause 31 – Regulation 21 amended (Closing of roll)

Clause 31 replaces “57th day” with “71st day” in regulation 21.

This regulation relates to when the electoral roll is to be treated as closed. The change in days is to take into account the extended delivery period of voting papers.

Released under the Official Information Act 1982

Clause 32 – Regulation 22 amended (Certification of roll)

Clause 32 replaces “25th day” with “36th day” in regulation 22.

This regulation relates to the certification of the electoral roll and the requirement that it must be certified by the electoral officer. The change in days is to take into account the extended delivery period of voting papers.

Released under the Official Information Act 1982

Clause 33 – Regulation 23 amended (When roll in force)

Clause 33 replaces “25th day” with “36th day” in regulation 23.

This regulation relates to when the electoral roll comes into force. The change in days is to take into account the extended delivery period of voting papers.

Released under the Official Information Act 1982

Clause 34 – Regulation 51 amended (Issue of voting documents)

Clause 34 replaces “23rd day” with “33rd day” and “17th day” with “19th day” in regulation 51(1).

This change in days extends the delivery of voting papers from 6 days to 14 days to allow more time for voting papers to be sent out to enable people to receive their vote.

Released under the Official Information Act 1982

Clause 35 – Regulation 96 Amended (Issue of voting documents)

Clause 35 replaces “23rd day” with “33rd day”, and “17th day” with “19th day” in regulation 96(1).

This change is days extends the delivery of voting papers from 6 days to 14 days to allow more time for voting papers to be sent out to enable people to receive their vote.

Comment:

The similarities of clauses 34 and 35 is because the regulations separate out the conduct of elections depending on whether local authorities use the First Past the Post electoral system or the Single Transferable Voting electoral system.

Released under the Official Information Act 1982

Schedule 1

New Part 3 inserted into Schedule 1 of Local Electoral Act 2001

Clause 10 – Interpretation

Clause 10(1) of new Part 3 of Schedule 1 of the Local Electoral Act 2001 provides definitions for key concepts used in the Schedule.

Clause 10(2) provides a list of the councils falling into group 1 and group 2. Group 1 are those councils that established Māori wards or Māori constituencies at the 2022 local triennial elections. Group 2 councils are those councils that have resolved to create Māori wards or Māori constituencies for the first time at the 2025 local elections.

Released under the Official Information Act 1982

Provisions relating to group 1 local authorities

Clause 11 – Group 1 local authority may resolve to disestablish Māori wards or Māori constituencies

Clause 11 of the Schedule enables group 1 councils to resolve to disestablish their existing Māori wards or Māori constituencies from the commencement date of this amendment Act to 6 September 2024. If the council resolves to disestablish its Māori wards or Māori constituencies then the decision not to have Māori wards or Māori constituencies remains in place for two terms, and until either the council resolves to establish Māori wards or Māori constituencies again, or a poll of electors takes effect.

If a group 1 council does not resolve to disestablish their Māori wards or Māori constituencies it must hold a binding poll on the issue alongside the 2025 local elections.

Comment:

The Amendment Paper makes changes to this clause to specify that local authorities must either resolve to retain or disestablish their Māori wards or Māori constituencies, by 6 September 2024, rather than the absence of a decision to disestablish triggering a poll at the 2025 local elections by default. This applies to both group 1 and group 2 councils.

This change is to bring the decision-making approach for choosing to hold a poll into line with the decision-making principles of the Local Government Act 2002. For the purposes of the Local Government Act, a decision not to take action is still a decision. This change also provides more certainty for local authorities about the process they will have to follow to make the decision to hold a poll.

The Amendment Paper changes the heading of this clause to *Group 1 local authority must either resolve to retain or to disestablish Māori wards or Māori constituencies*

The Amendment Paper makes a number of minor drafting amendments throughout this Bill to update clause references as a result of this change. These have not been listed in this document.

Clause 12 – Special consultative procedure does not apply to resolution to disestablish

Clause 12 provides that group 1 local authorities are not required to use the special consultative procedure under section 83 of the Local Government Act when making the decision to disestablish their Māori wards or Māori constituencies, given the short timeframe they have to make this decision.

Comment:

The Amendment Paper makes changes to this clause to reflect that a council does not need to use the special consultative procedure when making either the resolution to disestablish their Māori wards or Māori constituencies or their resolution to retain them (and hold a poll). The heading of this clause is now *Special consultative procedure does not apply to resolution*.

Released under the Official Information Act 1982

Clause 13 – Effect of resolution to disestablish

Clause 13(1) states that if a local authority resolves to disestablish their Māori wards or Māori constituencies, the resolution does not affect any council decisions made in the current term to establish Māori wards, or affect any elections before the commencement date.

Clause 13(2) and 13(3) provide that, despite 13(1), a council's resolution to disestablish their Māori wards or Māori constituencies has the effect of ending any representation review process that were underway that include Māori wards or Māori constituencies and no further action is required from the council.

Clause 13(4) states this applies even if the council has issued an initial proposal for public consultation.

Comment:

The Select Committee recommended amending 13(3) to clarify that any relevant proceedings before the Local Government Commission related to the council's representation review also come to an end, if a council chooses to disestablish their Māori wards or Māori constituencies. This provides more certainty that the entire representation review process comes to an end if the council resolves to disestablish.

Released under the Official Information Act 1982

Clause 14 – Local authority resolving to disestablish Māori wards or Māori constituencies must decide how representation arrangements for 2025 election to be set

Clause 14 sets out the process group 1 councils must follow, and the requirements that must be met, if the council resolves to disestablish their Māori wards or Māori constituencies for the 2025 local elections.

Clause 14(2) provides that councils may either to revert to their most recent representation arrangements without Māori wards (“pre-2020 representation arrangements”), or to complete a shortened representation review.

Clause 14(3) requires councils to complete a shortened representation review, if the council’s pre-2020 representation arrangements would no longer meet the requirements for fair representation of electors and effective representation of communities of interest (as set out in clause 15).

Clause 14(4) provides that the shortened representation review process includes the involvement of the Local Government Commission under sections 19R and 19S of the Local Electoral Act.

Released under the Official Information Act 1982

Clause 15 – Requirements to be satisfied for local authority to revert to pre-2020 representation arrangements

Clause 15 sets out the conditions under which group 1 councils can revert to previous representation arrangements, and process for demonstrating that those conditions are met.

Clause 15(2) states that councils choosing this option will be required to obtain updated population estimates from Statistics New Zealand on the population of each electoral area (region, district, constituency, ward, community or subdivision), which includes providing information to Statistics New Zealand on the definition of any of these areas, if required.

At the meeting where the council resolves on its decision to revert to previous representation arrangements, the council must table:

- The updated population estimates;
- An explanation of how the fair and effective representation requirements will be met under the proposed arrangements; and
- A statement from the Local Government Commission on the consistency of the proposed arrangements with the +/-10% requirement, given the updated population estimates.

Clause 15(3) provides that if a council already has a current exception from the +/-10% requirement for a specific area that has been previously granted by the Local Government Commission under section 19V(6), the exemption can stay in place when reverting to older arrangements, so it does not prevent councils who have an existing exception from taking this option.

Comment:

The Select Committee recommended amendments to this clause to ensure that references to “fair and effective representation” are in relation to communities of interest and in accordance with sections 19T to 19W of the Local Electoral Act, for more clarity.

The Committee also changed references to “updated population estimates” to “2023 population estimates”; and references to “most recent representation review” to “pre-2020 representation arrangements”, for more specificity.

The Committee made changes to clause 15(3) to clarify that previous exemptions under section 19V(6) only apply to the specific electoral area that was exempted, not to any other area within the district or region, and not to the set of representation arrangements as a whole.

Clause 16 – Objections process does not apply to resolution to revert to pre-2020 representation arrangements

Clause 16 provides that the objections process in section 19P of the Local Electoral Act does not apply to a council's resolution to revert to older representation arrangements.

The objections process is a part of the representation review, where members of the public may object to a council's final representation proposal. If objections are received, they are referred to the Local Government Commission to make a final determination.

Released under the Official Information Act 1982

Clause 17 – Adjustments to boundaries by group 1 local authority

Clause 17 allows councils that choose to revert to make small changes to the boundaries of electoral areas (e.g. wards, constituencies, communities, or subdivisions) to ensure they align with current meshblock boundaries determined by Statistics New Zealand.

Comment:

The Select Committee recommended changes to require these councils to make boundary changes to align with current statistical meshblock boundaries as part of this process, rather than just enable them to do so.

The Committee also recommended that councils be required to seek and consider advice from Statistics New Zealand about any adjustments it had made to relevant statistical meshblock boundaries since the end of the previous representation review, to ensure the boundaries are consistent.

Released under the Official Information Act 1982

Clause 18 – Local authority must notify resolution to revert to pre-2020 representation arrangements

Clause 18(a) requires the council to give public notice of the resolution to revert, including the representation arrangements that will be in place for the 2025 elections.

Clause 18(b) requires the council to send a copy of the notice to all parties as would normally be required to be notified by 19Y(2) of the Local Electoral Act as part of the standard representation review process, and provide a copy of the plans for the representation arrangements the council is reverting to, including boundary changes, if any have been made.

Comment:

The Select Committee recommended inserting clause 18(a)(ia), which specifies that the public notice issued by the council should also include the number of appointed positions for community boards a council has (if any), for completeness and consistency with the requirements in the Local Electoral Act.

The Committee also recommended changes to clause 18(c) to clarify that if minor changes have been made to the boundaries of electoral areas to align them with Statistics New Zealand's meshblock boundaries then new plans should be provided. This clarifies that old plans may be submitted if no changes to boundaries are required.

Released under the Official Information Act 1982

Clause 19 – When notified basis for election for next triennial election has effect

Clause 19 sets out the requirements for the council's proposed reverted representation arrangements to be valid.

Clause 19(1) provides that following public notification, councils are required to provide a description or plan of each ward, constituency, community and/or subdivision to the Surveyor-General. The Surveyor-General, or a person appointed by them, must certify that the council's proposed description or plan is sufficient to identify the boundaries of each area adequately.

Clause 19(2) provides that if the description or plan is not sufficient but the Surveyor-General (or person appointed by them) certifies that it can be amended and the issue rectified without making any changes to the area intended to be described, the council may amend it by resolution to comply with these requirements.

Released under the Official Information Act 1982

***Clause 20 – Group 1 local authority reverting to pre-2020 electoral arrangements:
representation review after 2025 triennial general elections***

Clause 20 requires that councils who choose to revert to their previous representation arrangements, they must complete a representation review in the following term to ensure their representation arrangements are updated before the 2028 local elections.

Released under the Official Information Act 1982

Shortened representation review process

Clause 21 – Application of clauses 22 to 28

Clause 21 specifies that clauses 22 to 28, which set out the process for the shortened representation review, apply to group 1 councils who either choose or are required to complete a shortened representation review before the 2025 local elections. Sections 22 to 28 apply the representation review provisions in the Local Electoral Act, with some timeframe amendments, to include all stages of the standard representation review process on a compressed timeframe.

Released under the Official Information Act 1982

Clause 22 – Requirements for resolution

Clause 22 applies section 19K of the Local Electoral Act to group 1 councils completing the shortened representation review process. Under section 19K(1AA), a council's resolution on its initial representation proposal under this section must be passed by 31 July the year before an election year. Clause 22 amends this date to 13 September 2024.

Clause 23 – Public notice of proposals and responsibilities

Clause 23 applies section 19M of the Local Electoral Act to these councils. Under section 19M(1), once a council has resolved on its initial representation proposal, it must issue the proposal for public consultation within 14 days and no later than 8 August. The modified clause requires that, following its resolution on its initial representation proposal, the council must issue the representation proposal for public consultation within 7 days and by 20 September 2024.

Section 19M(2) requires the public consultation period to be no less than one month. The modified clause amends this to state that the public consultation period must be no less than three weeks, and end on or before 11 October 2024.

Released under the Official Information Act 1982

Clause 24 – Response to submissions

Clause 24 applies section 19N of the Local Electoral Act. Section 19N(1) requires councils to take no more than 8 weeks following the close of the public consultation period to consider submissions, amend their proposal, and give public notice of the final proposal. Clause 24 amends this timeframe to no more than 6 weeks.

Released under the Official Information Act 1982

Clause 25 – Appeals

Clause 25 applies section 190 of the Local Electoral Act. Section 190(1) allows members of the public who provided a submission on a council’s initial proposal to make a written appeal on the final proposal.

Section 190(2)(a) and 190(2)(b) provide that this period is for not less than one month and must end on 3 December in the year before the triennial local elections.

Clauses 25(a) and 25(b) amend this to a period of not less than three weeks and must end by 13 December 2024.

Released under the Official Information Act 1982

Clause 26 – Obligation to forward appeals and objections to Commission

Clause 26 applies section 19Q of the Local Electoral Act. 19Q requires councils to forward any appeals and objections the council received on its final representation proposal to the Local Government Commission by 20 December in the year before the triennial local elections.

Clause 26 amends this date to 23 December 2024.

Released under the Official Information Act 1982

Clause 27 – Commission to determine appeals and objections

Clause 27 applies section 19R of the Local Electoral Act, which requires the Local Government Commission to make a determination on a council's representation proposals before 11 April in the year before the triennial local elections. Clause 27 amends this date to 11 April 2025.

Released under the Official Information Act 1982

Clause 28 – Group 1 local authority completing shortened representation review process: representation review after 2025 triennial general elections

Clause 28 states that group 1 councils that complete this shortened representation review process must complete their next representation review in accordance with the requirements in the Local Electoral Act. This clause confirms that these councils are not required to complete a representation review in the 2025 to 2028 electoral term, although they may choose to do so.

Released under the Official Information Act 1982

Provisions relating to group 2 local authorities

Clause 29 – Group 2 local authority may rescind resolution to establish Māori wards or Māori constituencies

Clause 29 of the Schedule enables group 2 councils to resolve to rescind their resolution to establish Māori wards or Māori constituencies from the commencement date of this amendment Act to 6 September 2024.

If a group 2 council does not resolve to rescind their Māori wards or Māori constituencies decisions it is required to hold a poll on this issue at the 2025 local elections.

This is the equivalent of clause 11 relating to group 1 councils.

Comment:

As discussed on page 55, the Amendment Paper makes changes to the Bill to specify that local authorities must either resolve to affirm or reverse previous decisions in relation to Māori wards or Māori constituencies, by 6 September 2024, rather than the absence of a decision to reverse Māori wards or Māori constituencies decisions leading to a poll at the 2025 elections by default.

This amendment is the equivalent of the changes made to clause 11, applied to group 2 councils.

The Amendment Paper changes the heading of this clause to *Group 2 local authority must either resolve to affirm or rescind resolution to establish Māori wards or Māori constituencies*

Clause 30 – Special consultative procedure does not apply to resolution to rescind

Clause 30 provides that group 2 councils are not required to apply the special consultative procedure under section 83 of the Local Government Act when making this decision. This is the equivalent of clause 12 relating to group 1 councils.

Comment:

The Amendment Paper makes changes to this clause to reflect that a council does not need to use the special consultative procedure when resolving to either rescind their resolution to establish Māori wards or Māori constituencies or their resolution to hold a poll.

The Amendment Paper amends the heading of this clause to *Special consultative procedure does not apply to resolution* to reflect that councils are not required to use the special consultative procedure for either decision.

Released under the Official Information Act 1982

Clause 31 – Effect of resolution to rescind

Clause 31 provides that a group 2 council resolution to rescind their previous Māori wards decision would end any representation review processes that were underway that included Māori wards, even if public notice of the initial proposal has been given.

Comment:

The Amendment Paper makes changes to clarify that this requirement applies to councils that make a resolution to rescind the decision, given the changes to clause 29.

Released under the Official Information Act 1982

Clause 32 – Group 2 local authority rescinding resolution to establish Māori wards or Māori constituencies must decide how representation arrangements for 2025 election to be set

Clause 32 requires councils choosing to rescind to also determine how it will set its representation arrangements for the 2025 local elections by 6 September 2024.

Released under the Official Information Act 1982

Clause 33 – Options for representation arrangements for 2025 general election if representation review completed since 2019

Clause 33 provides that councils who choose to rescind and **have** completed a representation review following the 2019 elections may continue with their current representation arrangements for the 2025-2028 term if the council chooses to, as the representation arrangements are still current under the Local Electoral Act.

These councils may also choose to complete a shortened representation review, in which case the shortened representation review process outlined in clauses 22-28 apply.

Released under the Official Information Act 1982

Clause 34 – Options for representation arrangements for 2025 general election if no representation review completed since 2019

Clause 34 provides that group 2 councils that choose to rescind but **have not** completed a representation review since the 2019 elections may continue with their current representation arrangements only if the council can demonstrate that fair and effective representation requirements are met. These councils may also choose to complete a shortened representation review.

If the requirements are not met, or the council chooses to do so, the council must complete the shortened representation review process outlined in clauses 22-28.

Released under the Official Information Act 1982

Clause 35 – Requirements to be satisfied for group 2 local authority to continue existing representation arrangements

Clause 35 sets out the conditions under which group 2 councils that have not completed a representation review since 2019 can continue with previous representation arrangements, and the process for demonstrating these conditions are met. Councils must be able to demonstrate the existing representation arrangements will still meet fair and effective representation requirements set out in the Local Electoral Act.

Clause 35(2) states that councils choosing this option will be required to obtain updated population estimates from Statistics New Zealand on the population of each electoral area (region, district, constituency, ward, community or subdivision), which includes providing information to Statistics New Zealand on the definition of any of these areas, if required.

At the meeting where the council resolves on its decision to revert to previous representation arrangements, the council must table:

- The updated population estimates;
- An explanation of how the fair and effective representation requirements will be met under the proposed arrangements; and
- A statement from the Local Government Commission on the consistency of the proposed arrangements with the +/-10% requirement, given the updated population estimates.

Clause 35(3) provides that if a council already has a current exception from the +/-10% requirement for a specific area that has been previously granted by the Local Government Commission under section 19V, the exemption can stay in place when reverting to older arrangements, so it does not prevent councils who have an existing exception from taking this option.

Comment:

The Select Committee recommended the same amendments to clause 35 that apply to clause 15. These amendments ensure that references to “fair and effective representation” are in relation to communities of interest and in accordance with sections 19T to 19W of the Local Electoral Act, for clarity.

The Committee also changed references to “updated population estimates” to “2023 population estimates”; and references to “most recent representation review” to “pre-2020 representation arrangements”, for more specificity.

The Committee made changes to clause 35(3) to clarify that previous exemptions under section 19V(6) only apply to the specific electoral area that was exempted, not to any other area within the district or region, and not to the set of representation arrangements as a whole.

Clause 36 – Objections process does not apply to resolution to continue existing representation arrangements

Clause 36 provides that the public may not make objections on a group 2 council's resolution to continue with existing representation arrangements for the 2025 local elections, in the same way that clause 16 applies to group 1 councils.

Released under the Official Information Act 1982

Clause 37 – Group 2 local authority must notify resolution to continue existing representation arrangements

Clause 37 requires group 2 councils that have resolved to continue with its existing representation arrangements must give public notice of the resolution, including the details of the representation arrangements, and provide a copy of the notice to all parties as would normally be required by 19Y(2) of the Local Electoral Act as part of the standard representation review process.

Clause 37(2) names the Western Bay of Plenty District Council and Central Hawkes Bay District Council as also needing to lodge descriptions of wards, communities, and subdivisions with the Surveyor-General if they choose this option. This is because both of these plans need to be updated:

- Western Bay of Plenty District Council: there was a boundary alteration with Tauranga City Council in 2020/21.
- Central Hawkes Bay District Council: an audit has shown that the current plans do not comply with the Surveyor-General's requirements.

Comment:

The Select Committee recommended inserting clause 37(1)(a)(ia), which specifies that the public notice issued by the council should also include the number of appointed positions for community boards a council has (if any), for completeness and consistency with the requirements in the Local Electoral Act.

Released under the Official Information Act 1982

Clause 38 – Group 2 local authority: representation review after 2025 triennial general election

Clause 38 provides that group 2 councils that have not completed a representation review since 2019, and have resolved to continue with its existing representation arrangements for the 2025 election, must complete a representation review in the 2025-2028 electoral term

Group 2 councils that have either completed a representation review since 2019, or completed a shortened representation review process, hold their next representation review under the applicable provisions of the Local Electoral Act.

Released under the Official Information Act 1982

Clause 39 – Local authority must conduct binding poll in 2025 if Māori wards or Māori constituencies not disestablished or decision to establish not rescinded

Clause 39 requires group 1 and group 2 councils that do not choose to reverse their decisions in relation to Māori wards or Māori constituencies to hold a poll alongside the 2025 local elections, and specifies how this must be done.

Clause 39(2) provides the question that electors must be polled on.

Clause 39(3) requires the polls use the First Past the Post electoral system.

Clause 39(4) requires the polls to be held at the 2025 elections and in accordance with the Local Electoral Act provisions relating to the conduct of polls.

Clause 39(5) requires the result of the poll to remain in place for two terms following the 2025 local election.

Comment:

The Amendment Paper makes changes to this section to reflect that the council must now resolve to either hold a poll or reverse their previous decisions in relation to Māori wards or Māori constituencies, rather than holding a poll by default if no decision is made.

The new heading of this clause is *Local authority resolving to retain, or to affirm resolution to establish, Māori wards or Māori constituencies must conduct binding poll in 2025*

Released under the Official Information Act 1982

Clause 39AA – Notice of poll must be included in public notice for 2025 triennial general election

Clause 39AA is a new clause inserted by the Amendment Paper. It requires the electoral officer responsible for conducting the 2025 local elections to provide public notice of the poll, and then hold the poll alongside the elections.

Released under the Official Information Act 1982

Clause 39A – Application of limitation on division into Māori wards or Māori constituencies

Clause 39A is a clause inserted by the Select Committee. New section 19ZE, inserted by clause 7 of this Bill, requires that if a poll is held, the outcome of the poll must be in effect for two terms. This clause clarifies that polls held under the transitional provisions of this Bill are also subject to the requirements of 19ZE and must therefore also be in effect for two terms.

Released under the Official Information Act 1982

Clause 40 – Review of representation arrangements following conduct of poll

Clause 40 provides the process for councils once the poll results have been returned.

For councils that receive “yes” votes:

- Councils that have not completed a representation review since 2022 must follow the process in Schedule 1A of the Local Electoral Act which sets out the process of how to implement the decision to establish a Māori ward or Māori constituency.
- Councils that have completed a representation review since 2022 can continue with their existing representation arrangements.

Councils that receive ‘no’ votes must complete a representation review in the 2025-28 term to implement the results of the poll for the 2028-31 electoral term, even if the Māori ward has not been in place for two terms.

Released under the Official Information Act 1982

Group 1 and group 2 local authorities: extension to 31 July 2024 deadline for initial representation review proposals

Clause 41 – Application of clauses 42 to 44

Clause 41 explains that clauses 42-44, which provide an extension of time for group 1 and group 2 councils holding polls at the 2025 elections, to pass a resolution on their representation proposals, only apply if the Bill commencement date is on or before 31 July 2024.

This is because councils must resolve on their representation proposals by 31 July in the year before an election year, and if the Bill passes after that date they will be required to resolve on their representation proposals by 31 July regardless.

Released under the Official Information Act 1982

Clause 42 – Extension of time for passing initial representation review resolution

Clause 42 extends the deadline for the date for councils to resolve on their initial representation proposal to 13 September 2024.

This clause does not require councils who intend to hold a poll to cease any existing representation review processes they have underway.

Released under the Official Information Act 1982

Clause 43 – Local authority using extended time must follow shortened representation review process

Clause 43 requires councils who make use of these provisions to follow the shortened representation review process outlined in clauses 23 to 27.

Released under the Official Information Act 1982

Clause 44 – When next representation review required

Clause 44 provides that councils that hold a shortened representation review are required to hold their next representation review in accordance with the standard provisions in the Local Electoral Act, and no additional requirements are imposed.

Released under the Official Information Act 1982

Provisions applying to Tauranga City Council

Clause 45 – Application of clauses 46 to 50

Clause 45 specifies that the following clauses apply to Tauranga City Council, which is dealt with separately from other group 1 and group 2 councils as it held its elections on 20 July 2024.

Released under the Official Information Act 1982

Clause 46 – Council may resolve to disestablish Māori ward

Clause 46 allows Tauranga City Council to resolve, by 30 November 2026, to disestablish its Māori ward before the 2028 elections.

Comment:

The Amendment Paper makes changes to this section to reflect that Tauranga City Council, as is the case with the group 1 and group 2 councils, must now resolve to either hold a poll or disestablish its Māori ward, rather than holding a poll by default if no decision is made.

The Amendment Paper changes the heading of this clause to *Council must either resolve to disestablish Māori ward or to hold poll*.

Released under the Official Information Act 1982

Clause 47 – Effect of resolution to disestablish

Clause 47 clarifies that if Tauranga City Council resolves to disestablish its Māori ward this does not retrospectively affect its 2024 election or current electoral arrangements.

Clause 47(1) provides that the resolution of the council to disestablish its Māori ward will apply for two terms, as it does for group 1 councils.

Released under the Official Information Act 1982

Clause 48 – Council must hold binding poll if it does not resolve to disestablish Māori wards

Clause 48 sets out requirements for Tauranga City Council to follow if the Council does not disestablish its Māori ward. The poll must be held by 28 March 2027.

Comment:

The Amendment Paper makes changes to this section to reflect that Tauranga City Council must now resolve to either hold a poll or resolve to disestablish its Māori ward.

The Amendment Paper changes the heading of this clause to *Council must hold binding poll in accordance with resolution and specified requirements*.

Released under the Official Information Act 1982

Clause 48A – Application of limitation on division into Māori wards

This is a new clause inserted by the Select Committee, similar to clause 39A above. Clause 48A clarifies that the poll held by Tauranga City Council under the transitional provisions of this Bill is also subject to the requirements of 19ZE and the outcome must therefore also be in effect for two terms.

Released under the Official Information Act 1982

Clause 49 – Requirements for binding poll

Clause 49 sets out the requirements Tauranga City Council must meet if the Council chooses to hold a binding poll, and how the poll must be conducted.

Clause 49(1) requires Tauranga City Council's chief executive to provide notice to the electoral officer by 1 December 2026 of the date the poll must be held.

Clause 49(2) provides that the date must not be a date that would require deferral under section 138A of the Local Electoral Act.

Clause 49(3) requires the electoral officer to give public notice of the poll after receiving the notice of the poll from the chief executive.

Clause 49(4) requires the polls use the First Past the Post electoral system.

Clause 49(5) requires the poll to be held in accordance with the provisions of the Local Electoral Act.

Released under the Official Information Act 1982

Clause 50 – Effect of poll

Clause 50 sets out the process for Tauranga City Council to follow once the poll results have been returned. If the result is in favour of Māori wards, the Council must follow the process in Schedule 1A of the Local Electoral Act to implement the decision. If the result is against Māori wards, it must not do so.

The poll outcome determines whether the Council will have Māori wards for the next two terms, and the outcome must also be reflected in the Council's 2027 representation review.

Released under the Official Information Act 1982

Clause 50A – Obligations of electoral officer if notice requirements for binding poll not met

Clause 50A is a new clause inserted by the AP. This clause sets out the requirement for the electoral officer to hold a standalone binding poll if the chief executive has not provided notice of the date to hold the poll by 1 December 2026.

Clause 50A(2) provides that the electoral officer is required to set a date for the poll to be held; give public notice, and conduct the poll. The poll must be held before 28 March 2027.

The requirements in this clause are phrased differently to those in clause 39AA as Tauranga City Council must hold a standalone poll, rather than a poll alongside the triennial general election.

Released under the Official Information Act 1982

Guidelines

Clause 51 – Commission must issue guidelines for resolutions and determinations under transitional provisions

Clause 51 requires the Local Government Commission to issue guidelines to group 1 and group 2 councils to support them to meet the requirements outlined in the transitional provisions of this Bill. These guidelines must be sent to every group 1 and group 2 council, and a notice to this effect must be published in the New Zealand Gazette.

Released under the Official Information Act 1982

Appendix A: Group 1 and 2 councils

Councils that have <u>established</u> Māori wards since 2020 without a binding poll	Councils that have <u>resolved to establish</u> Māori wards since 2020 without a binding poll
Far North District Council Gisborne District Council Hamilton City Council Hastings District Council Hawke’s Bay Regional Council Horowhenua District Council Kaipara District Council Manawatu District Council Manawatū-Whanganui Regional Council Marlborough District Council Masterton District Council Matamata-Piako District Council Nelson City Council New Plymouth District Council Northland Regional Council Ōtorohanga District Council Palmerston North City Council Porirua City Council Rangitikei District Council Rotorua District Council Ruapehu District Council South Taranaki District Council Stratford District Council Taranaki Regional Council Tararua District Council Taupo District Council Tauranga City Council Waikato District Council Waipa District Council Wellington City Council Whakatane District Council Whangarei District Council	Central Hawke’s Bay District Council Hauraki District Council Hutt City Council Kapiti Coast District Council Kawerau District Council Napier City Council South Wairarapa District Council Tasman District Council Thames-Coromandel District Council Upper Hutt City Council Wellington Regional Council Western Bay of Plenty District Council Whanganui District Council

Released under the Official Information Act 1982

Appendix B: Flowchart diagram

Released under the Official Information Act 1982

Third Reading Speech – Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Bill

Presentation of legislative statement

I present a legislative statement on the Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Bill.

Introduction

I move that the Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Bill be now read a third time.

Local democracy is about communities deciding how they are represented at a local level. The decisions that local representatives make have a real, tangible effect on people's lives.

By passing this Bill the Government will restore the right for communities to have a greater say on who represents them to make these decisions. It will also provide for a greater opportunity to receive voting papers and cast their vote.

This Bill will:

- Reinstating binding polls for Māori wards and constituencies;
- Giving options for councils that have established Māori wards and Māori constituencies since 2021 to ensure these Māori wards can only stay in place democratically; and
- Changing statutory timeframes to ensure the safe delivery of the 2025 local elections.

Māori Wards and Constituencies

But what do the changes actually mean in practice for the people living in the regions or cities?

Well, if you live in a district where your council currently has a Māori ward and they established it without holding a binding poll, it means by the 6th of September this year your council will be required to decide on whether to disestablish their Māori ward or hold a poll at the 2025 local elections on their Māori ward.

If your council chooses to disestablish their Māori ward then they will have to either return to previous representation arrangements, if they still comply with requirements for fair and effective representation under the Local Electoral Act, or undergo a shortened representation review process.

A representation review will give you a chance to have your say on how you want to be represented locally by submitting on topics like the number of councillors and the make-up of wards and any community boards in your area.

If your council instead chooses to hold a poll at the 2025 local elections, then when you vote for your councillors next October there will also be a simple yes or no poll included on your voting papers asking whether you want a Māori ward going forward.

If your community votes yes then the ward will continue for the next 2 local elections, if you vote no, then the ward will be disestablished at the 2028 local elections.

In the future this Bill also means you will also have a greater say in how you are represented. If a council decides to establish a Māori ward then 5% of local electors can sign a petition calling for a binding poll on that decision. This poll does not have to be run in conjunction with a local election and the outcome will be binding on whether a Māori ward is established or not for the next 6 years.

Local Electoral Timeframes

The Bill will also make changes to the timeline for local elections.

As it stands, our local elections are reliant on postal services. New Zealand Post delivers over three million voting packs in a six-day timeframe every local election. This timeframe does not reflect the growth of New Zealand's population or the changing modes of communication that have happened since its introduction in the 1980s.

New Zealand Post needs more time to deliver voting papers to ensure that everyone receives their vote in time and everyone has a reasonable opportunity to cast their vote and we are giving New Zealand Post that extra time.

This means at the local body elections next year, the delivery for voting papers will be extended from six days to fourteen days to give more time to deliver voting papers while the voting period will also be extended by ten days to give people more time to cast their vote.

This will make it easier to cast your vote.

For people that live in remote areas like the Marlborough Sounds, where mail comes by boat, this change will give more time for your voting packs to be delivered. We hope this will lead to a marked improvement in your ability to participate in your local democracy.

I am grateful for the opportunity to improve the local electoral timeframes so all New Zealanders are able to cast their vote in local elections.

However, the need to extend the delivery timeframes for voting papers is emblematic of a local electoral regulatory regime that is out-of-date. The system is in need of reform and I look forward to engaging on how local democracy can meet modern expectations.

Amendments to the Bill

At the Committee of the Whole House stage some minor amendments were made to this Bill.

The changes require affected councils to make an active decision on whether to disestablish their Māori ward or hold a poll at the 2025 local elections by September 6th of this year.

If a council is required to hold a poll, like other operational decisions for local elections, the electoral officer for a council is responsible for holding a poll during the 2025 local elections.

The purpose of these amendments is to assure affected parties of their roles and responsibilities once the Bill comes into force.

Select Committee

I want to take this opportunity to thank the Justice Committee once again for their work on this Bill. Statutory timeframes meant that this process had to be completed on a tight timeline and the Committee worked hard to ensure as many people as possible had an opportunity to have their opinions heard on the Bill.

I also want to thank the submitters on this Bill. We had thousands of submissions from individuals, councils, and organisations and I appreciate the willingness and passion to participate in the democratic process.

Conclusion

This Bill is all about local communities: giving people a say on how they are represented and ensuring ample opportunity to have their voices heard. These policies are at the core of what it means to be a democracy.

I am proud to stand before the House today to deliver on Government priorities and restore local democracy.

I commend this Bill to the House.

Released under the Official Information Act 1982



J.17

Legislative Statement for the Third Reading of the LOCAL GOVERNMENT (ELECTORAL LEGISLATION AND MĀORI WARDS AND MĀORI CONSTITUENCIES) AMENDMENT BILL

Presented to the House of Representatives in accordance with Standing Order 272

The Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Bill is an omnibus Bill introduced under Standing Order 267(1)(a) as it deals with an interrelated topic that can be regarded as implementing a single broad policy.

The single broad policy of the Bill is to enable local electors to take part in their local elections and decisions about their local electoral arrangements.

The Bill amends the Local Electoral Act 2001 and the Local Government Electoral Legislation Act 2023. The Bill also makes amendments to the Local Electoral Regulations 2001 as a result of changes to the timeframes for local elections.

The Bill gives effect to the Coalition Government's commitment to restoring the right to a local referendum on the establishment or ongoing use of Māori wards and Māori constituencies. This includes requiring a referendum on any Māori wards and Māori constituencies established without a referendum at the 2025 local body elections.

Background to Māori wards and Māori constituencies

Under the Local Electoral Act 2001, Māori wards and Māori constituencies are an opt-in provision for councils that allows them to decide whether specific members will be elected only by people on the Māori electoral roll.

Before February 2021, councils were required to hold a binding poll on whether to establish Māori wards or Māori constituencies if a petition of at least 5 per cent of the people on the council's electoral roll requested it. Polls could also be initiated by councils. The result of the poll was binding on a council for two local government terms.

In 2021, the mechanism for binding polls on the establishment of Māori wards and Māori constituencies (initiated by either the councils itself or by a petition of electors) was removed.

Return to binding polls on Māori wards and Māori constituencies

This Bill will reinstate the poll policy settings as they were before 2021, including the:

- threshold for petitioning the council (5% of electors on the council's roll at the last local elections);
- eligibility to vote (any person on the electoral roll for that council);
- percentage required to bind the council to the outcome (simple majority); and
- binding length (two local government terms).

Transition period for fresh decision-making on Māori wards and Māori constituencies

This Bill will require councils to hold a poll at the 2025 local elections if they established Māori wards or Māori constituencies without one. The outcome of the poll will take effect at the 2028 local elections.

This Bill allows councils who have resolved to establish Māori wards or Māori constituencies for the 2025 local elections to rescind their resolution. This means councils will not be required to hold a poll at the 2025 local elections.

Councils who had Māori wards or Māori constituencies at the 2022 local elections will also be able to resolve to disestablish their Māori ward or Māori constituencies for the 2025 local elections. This means these councils will also not be required to hold a poll at the 2025 local elections.

Background to delivery of voting papers in local elections

Under the Local Electoral Act 2001 there is a 22.5 day voting period for postal voting in local elections. Under the Local Electoral Regulations 2001, all postal voting papers must be delivered in the first 6 days of the voting period. New Zealand Post (NZ Post) is the main delivery provider for local election voting papers. While booth voting is an option for councils, all councils have used postal voting since 1995.

NZ Post will not be able to deliver voting papers inside the statutory timeframes for the 2025 and future local elections. This is due to a significant decline in letter volumes since the Local Electoral Act 2001 was passed, while courier demand has increased. This has led to a reduction in staff and postal infrastructure.

Failing to deliver voting papers in time creates a risk that some voters will not have a reasonable opportunity to cast their vote.

Amendment Paper

During the Committee of the whole House stage an Amendment Paper made minor changes to the Bill.

Councils will now be required to make a decision by 6 September 2024 on whether to reverse their previous decisions on Māori wards or Māori constituencies, or hold a poll at

the 2025 local elections. This provides greater certainty for councils on the requirements to comply with this legislation.

Once a council has made the decision to hold a poll, the electoral officer is responsible for including the poll alongside the 2025 local elections. This amendment provides greater certainty for both councils and communities about the process for holding the poll.

The Bill provides the same choice between disestablishing its Māori ward, or holding a poll before the 2028 local elections, to Tauranga City Council, which held its elections on 20 July 2024.

Extension of legislative timeframes to deliver voting documents

This Bill will extend the delivery period for voting papers from six days to fourteen days. The voting period will also be extended by 10 days, to a total of 32 and a half days. These changes will enable all eligible voters to receive their voting papers in a timely manner. This Bill will also fix some minor administrative problems with the electoral timeframe including providing more time to print and assemble voting documents, and changing the day voting documents are sent out so any errors can be fixed up before the weekend.

Released under the Official Information Act 1982



Local Government briefing

Hon Simeon Brown
Minister of Local Government

Title: **Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Bill: Possible further amendments**

Date: 20 June 2024

Key issues

This briefing provides advice on three matters relating to the Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Bill that have arisen during select committee consideration. These include:

- Part 1: Compliance and enforcement.
- Part 2: Inclusion of the “Four of Nine” councils.
- Part 3: Decision-making processes for disestablish/rescind decisions.

There is limited time for drafting an Amendment Paper, and Cabinet decisions would be needed for some of these changes. We seek to discuss these options with you at our meeting on Monday 24 June 2024.

Action sought

Provide your direction on any Cabinet decisions to be sought, and/or drafting instructions to be issued on:

- Compliance and enforcement.
- Inclusion of the “Four of Nine” councils.
- Decision-making processes for disestablish/rescind decisions.

Timeframe

To be discussed on 24 June 2024

Contact for telephone discussions (if required)

Name	Position	Contact Number	Suggested 1 st contact
Rowan Burns	Policy Manager	9(2)(a)	✓
Lisa Mackay	Senior Policy Analyst		

Return electronic document to:	lisa.mackay2@dia.govt.nz
Cohesion document reference	3W2DU3RAJ5R2-1792698455-12997
Ministerial database reference	LG20242914

Purpose

1. This briefing provides advice on three matters arising following select committee consideration of the Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Bill (the Bill):
 - Part 1: Compliance and enforcement.
 - Part 2: Inclusion of the “Four of Nine” councils.
 - Part 3: Decision-making processes for disestablish/rescind decisions.
2. This briefing makes no recommendations on options in Parts 1 and 2, and seeks to discuss these issues with you at our meeting on Monday 24 June 2024.
3. Part 3 seeks your approval to issue drafting instructions to the Parliamentary Counsel Office to clarify that councils will need to make an active decision to either rescind/disestablish, or to hold a poll at the 2025 elections.

Background

4. The Justice Committee will shortly report back on the Bill. Due to time constraints we were unable to deal with substantive policy matters that arose through the select committee process.
5. If you wish to make changes to the Bill on any of the matters in this paper, this would need to be done through an Amendment Paper at the committee of the whole House stage. There is limited time available for drafting an Amendment Paper, and Cabinet decisions **would** be necessary for some the options outlined below.

Part 1: Compliance and enforcement

6. One of the issues that was raised in the Justice Committee’s commentary relates to council non-compliance with the proposed legislation and potential courses of action that could be taken in the event that this occurs.

7. 9(2)(h)

A large grey rectangular redaction box covers the content of paragraph 7. The text '9(2)(h)' is visible at the top left of the redaction.

8.

9. 9(2)(h)

A large grey rectangular redaction box covers the content of paragraphs 8 and 9. The text '9(2)(h)' is visible at the top left of the redaction.


9(2)(h)



Options to amend the Bill

19. Not all of the potential options outlined below would require Cabinet approval.

9(2)(g)(i)



9(2)(g)(i)

Part 2: Inclusion of the “Four of Nine” councils

31. Since our last update to you on this topic, the four councils – Gisborne District Council, New Plymouth District Council, Ruapehu District Council and South Taranaki District Council (the Four Councils) have presented arguments at select committee hearings.
32. The Four Councils consider they should not be included in the group of councils that are subject to the transitional provisions as they did not receive a valid demand for a poll by the statutory deadline. Under the law at the time, electors had until 21 February 2021 to demand a poll (using a petition) to be held before the 2022 local elections.

33. A change to the Bill to exclude the Four Councils from the transitional provisions in the Bill **would** require Cabinet approval.

Argument for changes to exclude the Four Councils:

34. The argument that the Four Councils should be excluded from the councils in the Bill which are subject to the transitional provisions is that in 2020-early 2021 their electors had the opportunity to lodge a demand for a poll and did not lodge a valid demand.

Argument against changes to exclude the Four Councils:

35. The argument for continuing to include the Four Councils in the transitional provisions for the Bill is that while technically their electors had the opportunity to lodge a demand for a poll, following Government policy announcements it was clear that the law would soon change, which would invalidate any petition.

Timing of decisions

36. A timeline is provided as **Appendix A**.
37. New Plymouth resolved to create Māori wards in July 2020, and Ruapehu resolved in October 2020, before the former Minister of Local Government made comments in the media about her intention to remove the polls. Gisborne and South Taranaki both resolved in November 2020, after these comments were made. All councils met the statutory timeframes in the Local Electoral Act and did not receive valid petitions before the statutory closing date of 21 February 2021.
38. Some of the Four Councils reported in oral submissions that they received petitions which were close to the 5% validity threshold. It is arguable that public announcements on 1 February 2021 could have dissuaded people from signing a petition between 1 February and 21 February 2021, which may have made a difference if the 5% threshold was close to being reached. However, Taupo District Council and Whangarei District Council also resolved to establish Māori wards in November 2020, and did receive valid poll demands by 21 February 2021.

Part 3: Decision-making processes for disestablish/rescind decisions

The Bill as currently drafted provides a short window to make some important decisions

39. The Bill provides a short window after enactment for 44 councils to consider the option to disestablish Māori wards, or to rescind their decision to establish them. This decision must be made by 6 September 2024, along with any decision on how this change will be implemented (i.e. will the council use previous representation arrangements or complete a shortened representation review).
40. If the Bill comes into effect on 31 July 2024 as intended, councils will have approximately 5.5 weeks to make these decisions.
41. The Bill is currently drafted in a way that implies councils only need to make an active decision if they choose to disestablish or rescind. It is silent on any process for councils to decide not to disestablish or rescind, and to proceed to a poll.
42. The Bill specifies that the special consultative procedure will not apply to council decisions to rescind or disestablish.

43. We have been working with local government governance officials to better understand the practical implications of the requirements in the Bill.

Issue 1 – decision-making requirements apply to decisions not to take action

44. Under the Local Government Act 2002, there are a number of requirements on councils when making decisions, including decisions not to take an action (section 76(4)). A decision by a council not to rescind/disestablish is also committing the council to the expenditure for the cost of the mandatory poll.
45. We recommend that technical amendments be made to the drafting in the Bill to make it clearer that councils will need to make a decision either way – either to disestablish/rescind; or to opt for the default option of a poll. This amendment would make it clear that the affected councils must choose one of these two options. We also recommend that it be clarified that the special consultative procedure would not apply to both decisions to disestablish/rescind (as currently drafted) and decisions not to.
46. This clarification may also help mitigate any risks of non-compliance, discussed in Part 1 of this paper. The proposed changes would make it more explicit that councils need to resolve in September 2024 to hold a poll, if they did not intend to rescind or disestablish.
47. As this option would be a clarification rather than a policy change, this change **would not** require Cabinet approval.

Issue 2 – the timeframes for making these decisions are challenging

48. The Local Government Act sets out requirements on councils when making decisions, include requiring them to give consideration to the views and preferences of persons likely to be affected by, or to have an interest in, the matter. How the council complies with that is a matter for the discretion and judgement of each individual council to decide, in proportion to the significance of the decision. A consultation process is not always required. A local authority must establish and maintain processes to provide opportunities for Māori to contribute to the decision-making processes of the local authority.
49. In our departmental report to the Justice Committee, we noted that it could be quite challenging for councils to meet the decision-making requirements under the Local Government Act given the short window for the council decisions. During this window councils would need to complete any consultation, if required, and comply with the requirements for council meetings and resolutions.
50. We have now looked more closely at this issue and considered two options to attempt to reduce the risk of legal challenge to council decisions:
- a. Option 1 – amend the Bill to note that councils are required to take reasonable steps to comply with the decision-making requirements in the Local Government Act, to the extent that this is possible within the timeframes of the Bill; or
 - b. Option 2 – amend the Bill to state that councils do not need to undertake consultation on the decision to rescind/disestablish (although they would not be prevented from doing this).

51. On balance we do not recommend further amendments to the Bill to change the decision-making requirements. We consider there is sufficient flexibility in the Local

Government Act provisions for the short timeframe to be factored in. Officials are available to discuss the options with you if you wish.

Next steps

Timeframes to draft an Amendment Paper are very tight

52. There is limited time available to obtain Cabinet approval for any changes and instruct the Parliamentary Counsel Office (PCO) to begin drafting the Amendment Paper.
53. If all of the proposed amendments to the Bill are minor in nature, and do not involve substantive new policy, as Minister you can approve the policy and a Cabinet process is not required.
54. If Cabinet approval is required, we recommend seeking approval from the Attorney-General to allow PCO to begin drafting these changes in anticipation of Cabinet approval. Should you agree to this approach we will provide your office with a draft letter seeking approval.
55. There are no Cabinet Legislative Committee meetings between 27 June 2024 and 25 July 2024. After seeking approval to draft in advance, PCO would need to draft the Amendment Paper by 3 July. Ministerial consultation could take place between 4 and 9 July. We would lodge the Amendment Paper for consideration by Cabinet Business Committee on 15 July, and Cabinet approval on 22 July before Committee of the Whole House on 25 July.

Released under the Official Information Act 1982

Recommendations

56. We recommend that you:

Part 1: Compliance and enforcement

a) **agree to EITHER:**

- i. Option 1: Include reference in the Bill that non-compliance with the legislation is a significant problem for the purposes of Part 10 the Local Government Act 2002 (Cabinet agreement required);

Yes/No

AND/OR

- ii. Option 2: Clarify the electoral officer's responsibility to hold a poll if this is required under the transitional arrangements;

Yes/No

Part 2: Inclusion of the "Four of Nine" councils in the Bill

b) **agree to EITHER:**

- i. **remove** the Four Councils from the transitional provisions (Cabinet agreement required);

Yes/No

OR

- ii. **retain** the Four Councils in the transitional provisions; and


Yes/No

Part 3: Decision-making processes for disestablish/rescind decisions

c) **agree** to issue instructions for the Parliamentary Counsel Office to prepare an Amendment Paper to the Bill, which will clarify that 45 councils will need to make an active decision on whether to either:

- i. disestablish Māori wards (for Group 1 councils and Tauranga City Council) or rescind their decision to establish Māori wards (for Group 2 councils); or
- ii. hold a binding poll on Māori wards at the 2025 local elections.

Yes/No


Rowan Burns
Policy Manager

Hon Simeon Brown
Minister of Local Government

_____/_____/_____

Appendix A: Timeline of decisions and announcements

21 July 2020 – New Plymouth District Council resolves to establish Māori wards

29 October 2020 – Ruapehu District council resolve to establish Māori wards

Early November 2020 – The media report comments from the then Minister of Local Government, Hon Nanaia Mahuta, promising legislation to be introduced soon to remove the poll provisions

11 November 2020 – South Taranaki District Council resolves to establish Māori wards

23 November 2020 – Gisborne District Council resolves to establish Māori wards; and

- Statutory deadline for councils to make decisions to establish Māori wards if the decision is to apply to the 2022 local elections

1 February 2021 – Public announcements about the specifics of the Bill including transitional arrangements

5 February 2021 – Bill introduced

9 February 2021 – First reading

15 February 2021 – Select committee report presented to the House

21 February 2021 – Statutory deadline for valid petitions to be lodged requiring a poll to be held before the 2022 local elections

23 February 2021 – Second reading, Committee of the whole House stage, Third reading

1 March 2021 – Royal assent

2 March 2021 – Amendment Act came into effect

Released under the Official Information Act 1982



Document 3

Local Government briefing

Hon Simeon Brown
Minister of Local Government

Title: Proactive release of cabinet material related to the Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Bill

Date: 19 June 2024

Key issues

This briefing seeks your agreement to proactively release the attached Cabinet paper *Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Bill: Approval for Introduction* and Cabinet minute.

We recommend withholding parts of this Cabinet paper under the Official Information Act 1982 to protect the confidentiality of advice you have tendered.

Action sought

Agree to proactively release the *Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Bill: Approval for Introduction* Cabinet paper and related Cabinet minute with the proposed redactions.

Timeframe

At your convenience

Contact for telephone discussions (if required)

Name	Position	Contact Number	Suggested 1 st contact
Rowan Burns	Policy Manager	9(2)(a)	✓
Jack Webb	Policy Analyst		
Return electronic document to:	Jack Webb Jack.Webb@dia.govt.nz		
Cohesion document reference	TWCXRFFVDW2E-1255692133-35		
Ministerial database reference	LG20242917		


Purpose

1. This briefing seeks your agreement to proactively release the Cabinet paper *Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Bill: Approval for Introduction* and related Cabinet minute [CAB-24-MIN-0171]. These are attached as **Appendix A**.

Background

2. On 20 May you brought this paper to Cabinet for approval to introduce the Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Bill.
3. In this Cabinet paper you indicated you would proactively release this paper subject to any redactions made under the Official Information Act 1982 as soon as practicable following the Bill's introduction.

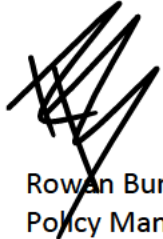
We propose releasing this Cabinet paper and the related minute with redactions

4. We recommend withholding paragraph 20 and recommendation 3 in the Cabinet paper along with paragraphs 3.1 and 3.2 in the Cabinet minute under the following section of the Official Information Act:
 - 4.1 Section 9(2)(f)(iv): to maintain the confidentiality of advice tendered by Ministers of the Crown.
5. 9(2)(f)(iv)
6. Paragraph 23 is preceded by “[Legally privileged]” as it was based on advice provided by Crown Law while the Waitangi Tribunal hearings were taking place. As the Waitangi Tribunal has released its report, Crown Law has advised that this paragraph is not legally privileged anymore and can be released.

Recommendations

7. We recommend that you:

- | | | |
|----|---|---------------|
| a) | agree to proactively release the <i>Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Bill: Approval for Introduction</i> Cabinet paper and related Cabinet minute with the proposed redactions. | Yes/No |
|----|---|---------------|



Rowan Burns
Policy Manager

Hon Simeon Brown
Minister of Local Government

Released under the Official Information Act 1982

Appendix A: Cabinet paper – *Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Bill: Approval for Introduction and related Cabinet minute [CAB-24-MIN-0171]*

Withheld under section 18(d) of the Official Information Act 1982

Released under the Official Information Act 1982



Document 4

Local Government briefing

Hon Simeon Brown
Minister of Local Government

Title: **Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Bill: Legislative statement for second reading**

Date: 19 June 2024

Key issues

The second reading for the Local Government (Electoral Legislation and Māori wards and Māori Constituencies) Amendment Bill is scheduled for Thursday 27 June 2024. We have already provided a draft second reading speech to your office and this briefing provides you with a draft legislative statement for your consideration.

Action sought

Review the attached legislative statement.

Agree to circulate the legislative statement to the Clerk of the House and to the leader, whip, or relevant spokesperson of each party by 11am on 27 June 2024.

Timeframe

By 11 am, 27 June 2024

Contact for telephone discussions (if required)

Name	Position	Contact Number	Suggested 1 st contact
Rowan Burns	Policy Manager	9(2)(a)	✓
Jack Webb	Policy Analyst		

Return electronic document to:	Jack Webb Jack.Webb@dia.govt.nz
Cohesion document reference	TWCXRFFVDW2E-1255692133-35
Ministerial database reference	LG20242896

Purpose

1. The briefing provides you with a draft legislative statement for the Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Bill (the Bill).

Second reading

2. The Bill is scheduled to have its second reading on Thursday 27 June.
3. The Bill needs to be enacted by 31 July 2024 to enable councils to make decisions on their representation arrangements ahead of the 2025 local elections. The remaining stages of the Bill are expected to take place in the last two weeks of July.

Legislative statement

4. A draft legislative statement, to be presented to the House at second reading, is provided at **Appendix A** for your consideration.
5. The legislative statement must be circulated to the Clerk of the House of Representatives and to the leader, whip, or relevant spokesperson of each party by 11am on the day that the Bill has its second reading.

Recommendations

6. We recommend that you:
 - a) **review** the attached legislative statement; and
 - b) **agree** to circulate the legislative statement to the Clerk of the House **Yes/No** and to the leader, whip, or relevant spokesperson of each party by 11am on 27 June 2024.



Rowan Burns
Policy Manager

Hon Simeon Brown
Minister of Local Government

_____/_____/_____

Appendix A: Second reading legislative statement

Released under the Official Information Act 1982



J.17

Legislative Statement for the Second Reading of the LOCAL GOVERNMENT (ELECTORAL LEGISLATION AND MĀORI WARDS AND MĀORI CONSTITUENCIES) AMENDMENT BILL

Presented to the House of Representatives in accordance with Standing Order 272

The Local Government (Electoral Legislation and Māori Wards And Māori Constituencies) Amendment Bill is an omnibus Bill introduced under Standing Order 267(1)(a) as it deals with an interrelated topic that can be regarded as implementing a single broad policy.

The single broad policy of the Bill is to enable local electors to take part in their local elections and decisions about their local electoral arrangements.

The Bill amends the Local Electoral Act 2001 and the Local Government Electoral Legislation Act 2023. The Bill also makes amendments to the Local Electoral Regulations 2001 as a result of changes to the timeframes for local elections.

The Bill gives effect to the Coalition Government's commitment to restoring the right to a local referendum on the establishment or ongoing use of Māori wards and Māori constituencies. This includes requiring a referendum on any Māori wards and Māori constituencies established without a referendum at the 2025 local body elections.

Background to Māori wards and Māori constituencies

Under the Local Electoral Act 2001, Māori wards and Māori constituencies are an opt-in provision for councils that allows them to decide whether specific members will be elected only by people on the Māori electoral roll.

Before February 2021, councils were required to hold a binding poll on whether to establish Māori wards or Māori constituencies if a petition of at least 5 per cent of the people on the council's electoral roll requested it. Polls could also be initiated by councils. The result of the poll was binding on a council for two local government terms.

In 2021, the mechanism for binding polls on the establishment of Māori wards and Māori constituencies (initiated by either the councils itself or by a petition of electors) was removed.

Return to binding polls on Māori wards and Māori constituencies

This Bill will reinstate the poll policy settings as they were before 2021, including the:

- threshold for petitioning the council (5% of electors on the council's roll at the last local elections);
- eligibility to vote (any person on the electoral roll for that council);
- percentage required to bind the council to the outcome (simple majority); and
- binding length (two local government terms).

Transition period for fresh decision-making on Māori wards and Māori constituencies

This Bill will require councils to hold a poll at the 2025 local elections if they established Māori wards or Māori constituencies without one. The outcome of the poll will take effect at the 2028 local elections.

This Bill allows councils who have resolved to establish Māori wards or Māori constituencies for the 2025 local elections to rescind their resolution. This means councils will not be required to hold a poll at the 2025 local elections.

Councils who had Māori wards or Māori constituencies at the 2022 local elections will also be able to resolve to disestablish their Māori ward or Māori constituencies for the 2025 local elections. This means these councils will also not be required to hold a poll at the 2025 local elections.

Background to delivery of voting papers in local elections

Under the Local Electoral Act 2001 there is a 22.5 day voting period for postal voting in local elections. Under the Local Electoral Regulations 2001, all postal voting papers must be delivered in the first 6 days of the voting period. New Zealand Post (NZ Post) is the main delivery provider for local election voting papers. While booth voting is an option for councils, all councils have used postal voting since 1995.

NZ Post will not be able to deliver voting papers inside the statutory timeframes for the 2025 and future local elections. This is due to a significant decline in letter volumes since the Local Electoral Act 2001 was passed, while courier demand has increased. This has led to a reduction in staff and postal infrastructure.

Failing to deliver voting papers in time creates a risk that some voters will not have a reasonable opportunity to cast their vote.

Extension of legislative timeframes to deliver voting documents

This Bill will extend the delivery period for voting papers from six days to 14 days. The voting period will also be extended by 10 days, to a total of 32 and a half days. These changes will enable all eligible voters to receive their voting papers in a timely manner. This Bill will also fix some minor administrative problems with the electoral timeframe including providing more time to print and assemble voting documents, and changing the day voting documents are sent out so any errors can be fixed up before the weekend.

Select Committee

The Justice Committee (the Committee) reported the Bill back to the House on 21 June 2024.

The Committee recommended several technical changes to the transitional provisions in the Bill that deal with the requirement for councils to hold a poll if they previously established Māori wards without holding a poll. These recommended changes make sure the intent of the legislation is clear for the public, and for councils to implement.

The Bill is intended to come into effect by 31 July 2024 to support decision making on representation arrangements ahead of the 2025 local elections.

Released under the Official Information Act 1982



Local Government briefing

Hon Simeon Brown
Minister of Local Government

Title: **Departmental Report on the Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Bill**

Date: 9 June 2024

Key issues

The Departmental Report (the Report) on the Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Bill (the Bill) is due to be delivered to the Justice Committee (the Committee) on 10 June 2024, and presented orally on 11 June 2024.

The Report makes only minor and technical recommendations for the Committee's consideration.

However, several policy matters have arisen which may warrant making more significant changes to the Bill. There is not time to seek Cabinet approval to policy change during the very short select committee process. We will brief you further on these matters in the coming weeks, and any changes may be promoted at the committee of the whole House stage at the end of July 2024.

Action sought

Note the contents of the Departmental Report.

Note that we will brief you further on several outstanding policy matters.

Timeframe

At your earliest convenience

Contact for telephone discussions (if required)

Name	Position	Contact Number	Suggested 1 st contact
Rowan Burns	Policy Manager	9(2)(a)	✓
Amanda Shaw	Principal Policy Analyst		
Return electronic document to:	rowan.burns@dia.govt.nz		
Cohesion document reference	3W2DU3RAJ5R2-1792698455-4936		
Ministerial database reference	LG20242770		

Purpose

1. This briefing attaches the draft Departmental Report (the Report)¹ on the Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Bill (the Bill), which is due to be delivered to the Justice Committee (the Committee) on 10 June 2024. It also outlines several outstanding policy matters.

Background

2. Written submissions were open from 23 May until 29 May 2024. The Committee received 10,599 written submissions. Most submitters focussed on the proposed changes to the Māori ward provisions.
3. We presented our initial briefing on 30 May 2024. The Committee heard oral submissions in Wellington on 4-6 June 2024.

Comment

The Departmental Report summarises submissions, and makes several recommendations for minor technical changes to the Bill

Summary of submissions

4. We identified 8,658 submissions from individuals; 41 submissions from local authorities; 111 submissions from iwi organisations and trusts and 118 submissions from other organisations.
5. Of the 10,599 submissions received, 3,767 supported one or more proposals in the Bill; 6,746 were opposed to one or more proposals in the Bill, and the remaining submissions were neutral, unclear or did not discuss topics in scope of the Bill.

Minor technical recommendations

6. The Departmental Report makes a number of technical recommendations for changes to the Bill as a result of submissions analysis. These recommendations are designed to improve the workability of the Bill, and are all relatively minor in their effect.

There are several policy matters that are not able to be dealt with through the select committee process due to time constraints

7. Due to the compressed timeframe for select committee consideration, it has not been possible to promote any substantive policy changes through Cabinet.
8. If you wish to proceed on these matters, we would target making the relevant changes to the Bill through an Amendment Paper at the committee of the whole House stage. We can provide you with further advice in the coming weeks. The below sections summarise the matters ahead of more substantive advice.

¹ The Report appended to this briefing is an advanced draft and is currently undergoing final editing, proofing and data assurance. Figures are subject to minor modifications as this process is completed.

9(2)(h)

The “Four of Nine”

13. Four councils – Gisborne District Council, New Plymouth District Council, Ruapehu District Council and South Taranaki District Council (the Four Councils) – submitted that they should not be included in the group of councils that are subject to the transitional provisions.
14. The Four Councils are part of a group of nine councils that resolved to establish Māori wards in 2020 under the law as it stood before the 2021 amendments, and before the previous Government announced proposed changes to the Māori wards process. Under the law at the time, electors had until 21 February 2021 to demand a poll (using a petition) to be held before the 2022 local elections.
15. Of the nine councils, five received a valid petition by 21 February 2021 and therefore would have been required to hold a poll were it not for the 2021 amendments. However, the Four Councils did not receive a valid demand for a poll by the statutory

deadline. For example, both Ruapehu District Council and South Taranaki District Council noted that signatures were gathered to demand a poll but the 5% elector threshold was not reached.

16. The Four Councils made strong arguments to the Justice Committee in support of their position, and the committee members appear to have taken a particular interest in this issue. It is possible that the Committee (collectively or some members) may make recommendations on this point. In our draft Report we present the arguments at pages 30-32, but, in the absence of a change in Government policy position, is neutral on its recommendations. Officials are available to discuss this with you or provide advice if you wish to consider it further.

Consultation requirements

17. The Bill provides that, after enactment, the 44 affected councils have until 6 September 2024 to decide whether to disestablish their Māori wards (31 Group 1 councils) or rescind their decisions to establish Māori wards (13 Group 2 councils). By the same deadline these councils would need to decide how they will implement the decision to rescind or disestablish using the processes options set out in the Bill.
18. The Local Government Act 2002 contains a number of requirements on councils when making a decision (including a decision not to take action). These are set out in sections 77-82 of the Local Government Act 2002. In the report at page 27 the Department acknowledges that the 6 September 2024 deadline for council decisions will make it very challenging for councils to fulfil their consultation and council decision-making requirements. Councils may need to seek legal advice on how to best satisfy these requirements in the time allowed. We are developing further advice on this matter for your consideration.

Next steps

19. The Report is due to be delivered to the Committee on 10 June 2024, for oral presentation on 11 June 2024.
20. We will brief you further in the coming weeks regarding the outstanding policy issues. If you wish to proceed on these matters, we would target making relevant changes to the Bill through an Amendment Paper at the committee of the whole House stage at the end of July 2024.

Recommendations

21. We recommend that you:

- a) note the contents of the Departmental Report; and
- b) note that we will brief you further on several outstanding policy matters.



Rowan Burns
Policy Manager

Hon Simeon Brown
Minister of Local Government

_____/_____/_____

Released under the Official Information Act 1982

Appendix A: Departmental Report

Released under the Official Information Act 1982

Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Bill

Departmental Report

10 June 2024

Section 1 Introduction

Introduction to the report

1. This is the departmental report on the Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Bill (the Bill) for the Justice Committee (the Committee).
2. This report summarises public submissions on the Bill and recommends amendments. It also provides further information on questions asked by the Committee members.
3. Recommendations are summarised in **Section 2**.
4. The structure of the report is as follows:

Section 1	Introduction	Page 2
Section 2	Summary of recommendations	Page 9
Section 3	Reinstating polls on Māori wards and Māori constituencies	Page 12
Section 4	Requiring a poll to be held if one has not been held previously	Page 23
Section 5	Addressing postal issues	Page 34 Error! Bookmark not defined.
Section 6	Out-of-scope submissions	Page 38
Appendix A	Cost implications for councils	Page 39
Appendix B	LGNZ survey data on Māori representation	Page 42

Overview of the Bill

5. The Bill is an omnibus Bill that amends the Local Electoral Act 2001, the Local Government Electoral Legislation Act 2023 and the Local Electoral Regulations 2001.
6. The broad policy of the Bill is to enable local electors to take part in their local elections and decisions about their local electoral arrangements. The Bill aims to achieve this by:
 - 6.1 reinstating polls on Māori wards and Māori constituencies;

- 6.2 requiring councils to hold a binding poll at the 2025 local elections if they did not hold a poll when establishing Māori wards; and
- 6.3 adjusting the statutory timeframes for local elections to give more time for the postal delivery of voting papers.
7. The Bill also removes the requirement, due to come into effect after the 2025 local elections, for councils to consider Māori wards or Māori constituencies every 6 years during their representation reviews if they have not established Māori wards or Māori constituencies.

Overview of submissions

8. Written submissions were open from 23 May until 29 May 2024. The Justice Committee (the Committee) received 10,599¹ written submissions and these will be available on the Parliament website. Most submitters focussed on the proposed changes to the Māori ward provisions.
9. Officials from the Department of Internal Affairs presented an initial briefing on 30 May 2024. The Committee heard oral submissions in Wellington on 4-6 June 2024.
10. The Department of Internal Affairs identified 8,658 submissions from individuals; 41 submissions from local authorities; 111 submissions from iwi organisations and trusts and 118 submissions from other organisations.
11. Of the 10,599 submissions received, 3,787 supported one or more proposals in the Bill; 6,746 were opposed to one or more proposals in the Bill, and the remaining submissions were neutral, unclear or did not discuss topics in scope of the Bill.
12. On the proposed changes to the Māori wards provisions:

	Unique submissions	Form submissions	Total
Supportive	3,516	251	3,767
Neutral/not clear/other	86	0	86
Opposed	5,322	1,424	6,746
Total	8,924	1,675	10,599

13. On the proposed changes to election timeframe provisions:

	Unique submissions	Form submissions	Total
Supportive	271	0	271
Neutral/not clear/other	0	0	0
Opposed	59	0	59
Total	330	0	330

¹ This figure excludes duplicate and supplementary submissions.

Concerns raised about the timing and process for the Bill

14. Many submitters raised concerns about the lack of consultation prior to the Bill's introduction, and the short window for making submissions to the Justice Committee. Several councils, individuals and organisations commented that they were unable to make a substantial submission because of the short timeframes.
15. Te Rūnanga O Ngāti Ruanui Trust commented "the speed of the introduction of the Bill and lack of consultation with Māori and the wider community is of concern. While we note the commitment of the Coalition Agreement this does not prevent a responsibility to consult and determine views of those most directly impacted."
16. Some submitters commented that both this Bill, and the Local Electoral (Māori Wards and Māori Constituencies) Amendment Act 2021, had rushed legislative processes with very limited time for public submissions to select committee. These submitters commented that this was undesirable in both cases.
17. The Taxpayers' Union commented that although it is rarely favourable, rushed legislative processes can sometimes be justified in the case of repeal bills.

Terminology, abbreviations and acronyms

18. New Zealand has 78 local authorities broken into regional councils and territorial authorities (city and district councils); this document refers to them all as "councils".
19. A ward is a geographic area within the council boundaries. They are a way to divide up the council district or region into geographic areas for elections. It is similar to an electorate for parliamentary elections. These are referred to as "wards" for city and district councils and "constituencies" for regional councils. Geographic electoral areas for electors on the Māori roll are known as "Māori wards" at territorial authorities and "Māori constituencies" at regional councils. For simplicity, this report uses the term "Māori wards" to refer to them both.
20. The terms "referendum" and "poll" have been used interchangeably by submitters. We primarily use the word "poll" in this department report as that is the wording used for the Māori wards provisions in the Bill (and in the pre-2021 Local Electoral Act 2001).
21. Other abbreviations in this report:

Full text	Abbreviations
Justice Committee	The Committee
Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Bill	The Bill
Local Electoral (Māori Wards and Māori Constituencies) Amendment Act 2021	2021 Amendment Act

Responses to information requests

22. Between 30 May and 6 June 2024, members of the Committee requested information on particular topics from officials. In the table below we have either answered the question or provided a reference to the relevant part of this report.

Information request	Departmental response
<p>What consultation did advisers do on the Bill, and what was the outcome of that consultation? <i>(from the Legislative Scrutiny memo)</i></p>	<p>The Department conducted inter-agency consultation on the policy decisions and draft Bill (the Ministry of Justice, the Electoral Commission, Statistics NZ, Land Information New Zealand, Te Arawhiti and Te Puni Kōkiri). Officials from the Local Government Commission, and the Legislation Design Advisory Committee, were consulted on the policy decisions but not the draft Bill. A summary of the key agency feedback is available on page 10 of this evidence to the Waitangi Tribunal urgent inquiry.</p> <p>Due to tight timeframes, there was no public consultation or consultation with iwi and Māori on reinstating polls on the establishment of Māori wards and Māori constituencies.</p> <p>Due to the time constraints of the Bill, consultation with the local government sector was very limited. Local Government New Zealand, Taituarā, election service providers, and NZ Post (and their business division Datam) were consulted on the proposed changes to election timeframes and were supportive of the changes.</p>
<p>What changes were made to the Bill since it was vetted by the Ministry of Justice for compliance with the New Zealand Bill of Rights Act 1990? <i>(from the Legislative Scrutiny memo)</i></p>	<p>The Ministry of Justice provided its report based on version 6.6 of the draft Bill. A small number of editing changes were made between version 6.6 and the Bill as introduced. Subsequent versions of the Bill were provided to the Ministry of Justice vetting team, before Cabinet approved the Bill for introduction, to confirm that there were no substantive changes.</p>
<p>What are the cost implications for councils from the Bill's proposals?</p>	<p>The available cost information is summarised at Appendix A.</p>

Information request	Departmental response
<p>Could the Bill be split into two – one covering the postal changes and one covering the Māori ward changes?</p>	<p>In practical terms, the clerk of the committee has advised that it is possible for the Committee to divide the Bill and report the resulting bills back to the House as separate bills. The Committee can also choose to retain one of the bills for further consideration, and seek an extension to the report back date from the Business Committee. However, we note that the Bill cannot be easily divided as the parts of the Bill are organised by the Act or Regulation to be amended, rather than by subject matter. Dividing the Bill would require significant restructuring of the Bill.</p> <p>The timing considerations for the two parts of the Bill are:</p> <ul style="list-style-type: none"> • Māori wards – the Government’s preference is that these changes are enacted by the end of July 2024 so that the transitional mechanisms can be implemented this term, and the mandatory polls held at the 2025 local elections. 31 July 2024 is a statutory deadline for the 13 councils that have resolved to establish Māori wards for the 2025 local elections to resolve on their initial proposal for their new representation arrangements (incorporating Māori wards). The Bill proposes to give these councils the option of a short extension to that date while they consider the various options under the transitional provisions. This extension will not be available to councils if the Bill comes into effect after 31 July 2024. • Election timeframes – these provisions do not have such a tight timeframe. We strongly recommend that the changes be enacted by the end of the 2024, and the earlier the changes are enacted the more this will help councils, election service providers and other operational agencies/organisations (the Electoral Commission, Statistics NZ, NZ Post, DX Mail, Datam) prepare and budget for next year’s elections.
<p>More information on “the Four” councils, including:</p> <ul style="list-style-type: none"> - what would be involved in excluding them from the Bill - the rationale for why four other councils were deliberately excluded 	<p>More information about Gisborne District Council, New Plymouth District Council, Ruapehu District Council and South Taranaki District Council is outlined on pages xx to xx.</p>
<p>The option to hold the mandatory polls earlier so the outcome can apply from 2025</p>	<p>More information on this is outlined on pages xx to xx.</p>

Comment on issues raised by a submitter about polls not being truly representative due to:

- inequities in receiving postal papers; and
- well-resourced misinformation campaigns vs lack of council funding to provide neutral information.

The Department does not collect turnout information on standalone polls, or the demographics of who votes and who does not. We are not aware of anyone else collecting demographic information relating to these polls but have not been able to research this point in the time available.

Funding for local elections

Local elections are administered and funded by each local authority. For the triennial local elections the territorial authority administers the election and is reimbursed by the relevant regional council(s) for a share of the cost. It is up to each council to decide its budget for an election which will include base costs to pay for fundamentals such as printing, postage, vote counting and election service provider support, and then more flexible costs for things such as candidate and elector support and information.

All council Chief Executives have a responsibility under the Local Government Act 2002 for facilitating and fostering representative and substantial electoral participation in elections and polls. However, the reality is that there are significant variances in budget between councils resulting in great variation of the levels of service, voter support, promotional activities and voter research that are possible. Larger and metropolitan councils will benefit from cost savings due to economies of scale and population density. Councils with sparse populations in remote areas may struggle to provide even basic voter support services to these electors.

Inequities in receiving postal papers

There are a number of factors that can contribute to people not receiving their voting papers in the mail including the Electoral Commission having out of date address information, the person not being registered for a rural delivery service, and other postal delivery issues.

It is hoped that the proposed changes to election timeframes in the Bill will reduce some of the general postal delivery issues.

The Department does not have data on electors that do not receive voting papers in the mail. In its recent report on the 2023 parliamentary election the Electoral Commission noted that there was a slight increase between 2020-2023 in the number of people on the dormant roll.²

Electors on the Māori electoral roll are overrepresented in dormant roll statistics.

The “backup” if someone does not receive their papers by post is to cast a special vote which is usually done in person at council premises or at a mobile voting station. As mentioned above, it is more challenging for councils to provide special voting support to remote communities.

Official information and misinformation

In recent years debates on Māori wards have often been accompanied by organised campaigns by national-level advocacy groups.³

The submitter noted that Far North District Council did not have the resources to provide detailed neutral information about Māori wards in order to counterpoint well-funded campaigns that may contain misinformation. A significant component of election costs relates to printing and postage costs. Keeping the number of pages per voting pack,

Information request	Departmental response
	and the weight of the papers, down is a critical factor for postal efficiency. Adding detailed information on Māori wards to the voting pack is likely to be prohibitively expensive for many Councils.
What is the LGNZ survey data about Māori representation?	The available information is summarised at Appendix B .
Could the Bill be expanded to include enrolment on polling day?	In our view this may be within the scope of the Bill but would require some investigation of the implementation requirements because for local elections enrolment is handled by a separate agency (the Electoral Commission) from those conducting the elections (councils and election service provider companies). In the time available we have not been able to investigate the feasibility or the cost implications of such a change. This may be more appropriate to be considered as part of a wider reform project for local elections.
Summary of the Waitangi Tribunal recommendations	This information is summarised in the departmental comment on page 16-17 .

² Electoral Commission, [Report-on-the-2023-General-Election.pdf \(elections.nz\)](#), May 2024, page 59.

Section 2 Summary of recommendations

23. The Department of Internal Affairs makes a number of technical recommendations for changes to the Bill as a result of submissions analysis. These recommendations are designed to improve the workability of the Bill.
24. The technical recommendations are set out in the table below.

Clause	Clause title	Recommended change
Part 1		
Clause 7, new section 19ZE(a)	Limitation on division into Māori wards or Māori constituencies	Clarify (either in Part 1 or in the Schedule) that this limitation section also applies to polls conducted under the transitional provisions in the Bill.
Schedule		
New Part 3, clause 12	Special consultative procedure does not apply to resolution to disestablish	Clarify that the special consultative procedure is not required for council decisions on whether or not to disestablish Māori wards [recommended change is in bold]
New Part 3, clause 13(3)	Effect of resolution to disestablish	Clarify that in addition to council representation review processes coming to an end, and the council not being required to take any further action, any proceedings before the Local Government Commission under section 19R LEA also come to an end, and the Commission is not required to take any further action.
New Part 3, clause 15	Requirements to be satisfied for local authority to revert to pre-2020 representation arrangements	All references to “fair and effective representation” in this clause should be related to communities of interest and in accordance with sections 19T to 19W of the Local Electoral Act 2001 (as modified by clause 15(3)).
		In 15(2) - Replace each reference to “updated population estimates” with “2023 population estimates” for more specificity.
		In 15(3) - Replace reference to “most recent representation review” with “pre-2020 representation arrangements”.

Clause	Clause title	Recommended change
New Part 3, clause 17	Adjustments to boundaries by group 1 local authorities	<p>Amend this clause so it specifies that a Group 1 local authority that resolves to revert to its pre-2020 representation arrangements <u>must</u>:</p> <ul style="list-style-type: none"> • seek and consider advice from Statistics NZ as to any adjustments that have been made by Statistics NZ to relevant statistical meshblock boundaries since either: <ul style="list-style-type: none"> ○ notice of a Local Government Commission determination was given under section 19S(1); or ○ public notice of the proposed pre-2020 arrangements was given under section 19M if there were no submissions on the proposal; or ○ public notice of the pre-2020 arrangements was given under section 19N(1) if there were no appeals or objections to the Local Government Commission. • determine by resolution any necessary adjustments to the boundaries of any ward, constituency, community, or subdivision as required to ensure that they coincide with current statistical meshblock boundaries determined by Statistics NZ. <p>[Currently checking this one with LGC and Stats NZ to make sure the bullet points are the best way to frame this]</p>
New Part 3, clause 18	Local authority must notify resolution to revert to pre-2020 representation arrangements	<p>In 18(a) - In addition to the number of elected positions the local authority will have add, reference to the number of appointed positions for community boards (if any).</p> <p>In 18(c) – Clarify that if minor changes made to boundaries then new plans should be provided. (So it is clearer that the old plans can be resubmitted if there are no changes).</p>
New Part 3, clause 30	Special consultative procedure does not apply to resolution to rescind	In 18(a)(i) - Clarify that the special consultative procedure is not require for council decisions on whether or not to rescind the previous decision to establish Māori wards [recommended change is in bold]
New Part 3, clause 33(4)	Options for representation arrangements for 2025 general election if representation review completed since 2019	Delete the word “review” in “existing representation review arrangements”

Clause	Clause title	Recommended change
New Part 3, clause 35	Requirements to be satisfied for group 2 local authority to continue existing representation arrangements	All references to “fair and effective representation” in this clause should be related to communities of interest and in accordance with sections 19T to 19W of the Local Electoral Act 2001 (as modified by clause 15(3)).
		In 35(2) - Replace each reference to “updated population estimates” with “2023 population estimates” for more specificity.
New Part 3, clause 37(a)(i)	Group 2 local authority must notify resolution to continue existing representation arrangements	In addition to the number of elected positions the local authority will have add reference to the number of appointed positions for community boards (if any).
New Part 3, clause 40(3)	Options for representation arrangements for 2025 general election if representation review completed since 2019	Delete the word “review” in “existing representation review arrangements”
New Part 3, clause 50	Effect of poll	Add a reference to the outcome of the poll being included in the Council’s 2027 review of representation arrangements

Section 3 Reinstatement of binding polls on Māori wards and Māori constituencies

Overview

25. The Bill will reinstate provisions, that existed before the 2021 Amendment Act to the Local Electoral Act, which enable a portion of a council's electors to call for a binding poll on whether or not the district or region will have Māori wards. It will also reinstate the ability for councils to initiate binding polls.
26. The settings that existed before 2021 would also be reinstated including:
 - the threshold for petitioning the council (5% of electors on the council's roll at the last local elections);
 - the eligibility to vote (any person on the electoral roll for that council);
 - the percentage required to bind the council to the outcome (simple majority); and
 - the binding length (2 local government terms).
27. This Bill will also remove the requirement, due to come into effect after the 2025 local elections, for councils to consider Māori wards every 6 years during their representation reviews if they have not established Māori wards.
28. Of the 10,262 submissions that were received on this part of the Bill, 6,746 opposed the proposal, and 3,516 submissions supported the proposal.
29. Of the 41 councils that submitted on the Bill, 40 submitted in opposition of this part of the Bill. One council did not express a particular position.
30. This section of the report is organised by submissions in favour of reinstating the polls, followed by submissions against reinstating the polls.
31. A small number of submissions recommended changes, including changes to the operation of the poll provisions, discussed at the end of this section.

Support for the reinstatement of binding polls on Māori wards and Māori constituencies

32. Key themes for the submissions in support of the Bill included:
 - The Bill restores democratic rights that were removed by the 2021 Amendment Act.
 - The Bill would return to the concept of "one person, one vote", and all votes should be treated equally.
 - General opposition to the existence of Māori wards.
 - Māori wards increase costs for councils.

The Bill restores democratic rights that were removed by the 2021 Amendment Act

33. 1,777 submissions claimed that reinstating the poll provisions increased democracy through returning decision-making on issues of constitutional and representative significance to communities.
34. A submission from three Western Bay of Plenty District councillors considered that the consultation processes involved in establishing a Māori ward were not an adequate substitute for a referendum in which all ratepayers would have the right to express their opinion.
35. The New Zealand Taxpayers Union submitted that the 2021 Amendment Act was anti-democratic, as it removed decision-making powers from the public and let councillors make the final decisions. Claire Winter submitted that “allowing local residents to voice their view via a referendum is the closest thing to localism.”
36. Democracy Northland submitted that there was a disconnect between the views of councillors and the views of communities on Māori representation, where councillors were in favour of Māori wards but communities were not. This view was based on their experience collecting signatures for petitions immediately prior to the 2021 changes.
37. Lena Chapman submitted that “The competitive nature of elections is grounded in the premise that representatives and officials are elected to their roles by 'the people'. Without this ability of 'the people' to elect and remove local and central Government officials there is no base requirement to act in the best interests of 'the people', thus undermining the checks and balances that enable a stable democracy to flourish.”
38. Some submitters, including the New Zealand Taxpayers Union, referred to the convention that elected members should not be responsible for making decisions about their own representation, and that the public should have final say about representation arrangements.
39. Democracy Action submitted that councils should be required to hold a poll on Māori wards before making a resolution to establish a Māori ward, without a petition being necessary to trigger the poll. Hobson’s Pledge also noted that the process of gathering sufficient signatures to reach 5% of council electors was time-consuming and expensive.

Departmental comment

The intent of requiring a petition of local electors to trigger a poll was to provide a base threshold of support for a change before the district or region needs to incur the time, cost and resource of a poll. Requiring all councils to hold polls prior to resolving to establish a Māori ward would impose additional costs on councils, and add approximately three months to the establishment process. This may add to disincentives to councils resolving to create Māori wards.

The Bill would return to the concept of “one person, one vote”, and all votes should be treated equally

40. A total of 1,866 submissions saw the Bill as a returning to the principle of ‘one person, one vote’ as the foundation of the electoral system. The One New Zealand Foundation submitted that the principle of one person, one vote meant that each voter’s voice carries equal weight in the democratic process, regardless of social status, wealth, or any other factor.
41. A number of people who made submissions about this concept also expressed concerns that Māori received extra votes or privileges, and in some cases, were appointed to councils without being voted in. Several raised concerns that this increased costs for councils and that unelected councillors could veto council decisions.
42. Some submitters recommended that if a council creates a Māori ward, it should be required to meet the same plus or minus 10% population requirement of the Local Electoral Act.

Departmental comment

The Māori wards system does not mean voters on the Māori electoral roll have more opportunities to vote or more opportunities for representation than those on the general electoral roll. Māori wards are also subject to the democratic process and are elected by majority vote by electors on the Māori electoral roll.

Māori electors are only able to vote for the Māori ward councillor(s) for the area that they live in. They are not able to vote for the general ward councillor(s) for that area. This does not represent a departure from the concept of one person one vote.

The statutory formula for determining the number of Māori members is set out in the Local Government Act and ensures that a vote in a Māori ward has broadly the same weight as a vote in any other ward, in accordance with the Local Electoral Act’s fair representation requirements. This is not always in favour of the Māori electoral population. Porirua City Council provided an example of their representation figures between general and Māori wards. Their general ward councillors represent 5,862 people, while the Māori ward councillor represents 8,220.

There is only one council with appointed members on the governing body, Environment Canterbury, which established these positions through the Canterbury Regional Council (Ngāi Tahu Representation) Act 2022, a local act. No other councils can have appointed councillors as part of their representation arrangements, although we note there is a mechanism for appointments to fill some late-term vacancies.

General opposition to the existence of Māori wards

43. Hobson’s Pledge and a number of other submitters said that the percentage of Māori elected members in local government is similar to the percentage of Māori in the population more generally (even before the 2021 Amendment Act) and therefore no additional opportunities for specific Māori representation were required.
44. A number of submitters expressed opposition to any provisions that treated different groups separately on the basis of race.

45. A submission from three Western Bay of Plenty District councillors considered it was condescending to imply that Māori are not capable of getting elected without specific Māori representation. The same submission also noted that every citizen should get to have a say on important constitutional issues, and compares the situation to the adoption of MMP.

Māori wards increase costs for councils

46. Two submissions, Trevor Farquhar and theFacts.nz and KPI.nz, raised concerns about the cost of Māori wards on councils, and that costs would be passed on to ratepayers.

Departmental comment

The remuneration model for local authority elected members is administered by the Remuneration Authority. The Remuneration Authority's current policy is to set a "governance pool" of funding (funded by the council) that must be spent on councillor remuneration. If councils choose to create a Māori ward, this funding is not additional, but must come from the existing pool of funding. This means that if the number of councillors increases, the salary paid to each councillor is reduced.

Other financial impacts of Māori wards are also discussed below in the Opposition to the Bill section, under benefits of Māori wards.

Other recommendations

47. The New Zealand Centre for Political Research, along with a number of others in both written submissions, including Lynette Joy and Margaret Dempster; and oral submissions, such as Democracy Northland, requested some information be included in the Bill's explanatory note outlining the origin and rationale of the petition process as they expressed concerns that this was not well understood.

Departmental comment

The process for creating Māori wards in the Local Electoral Act, by council resolution subject to a petition of 5% of electors to demand a binding poll, is the same as it is for changing electoral systems. The Local Electoral Act offers councils two choices of electoral system, between either First Past the Post (FPP), or Single Transferable Voting (STV). When the decision to include Māori wards provisions in the Local Electoral Act was made in 2002, the issues of Māori representation and the STV option were seen as closely linked, as they were both considered as options to increase diversity, and the decision was made to require a consistent approach.

The decision to create Māori wards, however, does not have an impact on the choice of electoral system.

Opposition to the reinstatement of binding polls on Māori wards and Māori constituencies

48. Key themes from those that opposed the reinstatement of the poll provisions included:
- The Bill is anti-democratic.

- The Bill is not compliant with te Tiriti o Waitangi/the Treaty of Waitangi or its principles.
- Councillors should be trusted to make decisions on behalf of their communities.
- It is inequitable that Māori wards are the only type of wards subject to polls.
- The poll process itself and the wider conversation that accompanies it is divisive.
- Māori wards have benefits not just for Māori, but for councils and wider communities.
- The Bill does not comply with domestic and international human rights obligations.

The Bill is anti-democratic

49. Many of those that opposed the Bill submitted that reinstating the poll provisions decreased democracy through suppressing minority voices, and that democracy should provide opportunities for all people to have input into the way their society is run.
50. Kawerau District Council made the distinction between representative democracy, where elected members make decisions on behalf of the community, and direct democracy, where residents make decisions on each issue through a popular vote. The Council submits that local government, like central government, functions on the principle of representative democracy and it is irrational for direct democracy to apply only to Māori wards.
51. The Human Rights Commission outlined the justification for treating different populations differently to achieve equity as follows: “The principle of treating people differently in some circumstances to achieve fairness is recognised in both domestic, and international human rights law. Such measures do not amount to discrimination, or contravene core human rights or democratic principles.”
52. Hon Te Ururoa Flavell submitted that “The idea that we are all equal under the democratic process has never worked for Māori for a number of reasons and hardly ever allowed for Māori input which has maintained a monocultural view of the world.”

The Bill is not compliant with te Tiriti o Waitangi/the Treaty of Waitangi

53. 3,827 submitters raised issues of non-compliance with te Tiriti o Waitangi/the Treaty of Waitangi and its principles.
54. The New Zealand Law Society submitted that while the commitment to reinstate the poll provisions was a coalition agreement between governing parties, once a Government is formed they are bound by the Crown’s commitments and obligations to Māori under the Treaty, and should act in a way that is consistent with these commitments.
55. Many of these submitters also referred to WAI 3365, The Māori Wards and Constituencies Urgent Report. The Committee has asked advisors to provide a summary of WAI 3365, which is provided below.

Summary of *The Māori wards and constituencies urgency inquiry report* - WAI 3365, by the Waitangi Tribunal⁴

The Waitangi Tribunal criticised the Crown's prioritisation of commitments in the coalition agreement over its obligations to Māori, specifically highlighting the lack of discussion or consultation on the proposals in the Bill with Māori as Treaty partners, and identified it as a breach of the Treaty principle of partnership.

The Tribunal also found that the Government had failed to make a reasonable and informed decision by rushing the process to fit ministerial timeframes without allowing for adequate consideration of Māori views, in a breach of the duty to act in good faith.

The Tribunal found that the Government's prioritisation of its political agenda over the desires of Māori for dedicated political representation at the local level breaches the Crown's duty to actively protect the rights and interests of Māori.

The Tribunal consider that the poll provisions are inequitable and discriminatory and a barrier for Māori representation in local government.

The Tribunal found that removing the option for Māori voters to choose whether to be represented by general or Māori ward councillors to be a breach of the Treaty principle of options.

The Tribunal's recommendation was that the Crown should stop the Bill process to allow for proper consultation between the Treaty partners with a view to agreeing how Māori can exercise the guarantee of tino rangatiratanga in Article 2 to determine their own dedicated representation in local government. They also recommended that the process for establishing Māori wards be more closely aligned with sections 19H and 19I of the LEA, which deal with the standard representation review process.

Councillors should be trusted to make decisions on behalf of their communities

56. 1,150 submissions, including Local Government New Zealand, the body representing elected members on most local authorities, submitted that removing this decision-making power from councils represents an overreach on local decision-making and undermines councils and communities to make their own decisions.
57. Local Government New Zealand and a large number of other councils also submitted that decisions about Māori wards are best made at the council level, as councillors are best positioned to make informed decisions about their ward systems, in collaboration with iwi and local communities.

⁴ Waitangi Tribunal, [The Māori wards and constituencies urgency inquiry report](#) – Wai 3365, May 2024.

58. Local Government New Zealand further submitted that “polls are a poor substitute for holistic decision making”, and suggested that polls undermine the ability of councils to consider representation holistically and balance a range of interests when making decisions. They stated that the poll mechanism was a binary choice that does not support dialogue with communities, and that decisions about Māori wards are more appropriately made by councillors, through a deliberative and consultative process that takes into account the needs and preferences of their communities and responsibilities under te Tiriti o Waitangi/the Treaty of Waitangi.
59. The New Zealand Law Society submitted that the current provisions of the LEA provide a framework for councils to determine their own representation arrangements, in consultation with their communities, and that introducing changes inconsistent with this framework, such as the poll provisions, overrides these local democratic processes without prior public consultation or engagement.

It is inequitable that Māori wards are the only type of wards subject to polls

60. 1,496 submitters pointed out that the Māori wards would be the only type of ward subject to a poll, and there was no requirement to hold polls on other types of wards.
61. Local Government New Zealand recommended that Māori wards be treated like all other wards, with decisions around them being made at the local level in partnership with iwi and communities. It submitted that the current law enables good community engagement and principles-based decision-making for representation arrangements.
62. Taituarā, the industry representative body for professionals working in local government, and a number of councils, submitted that requiring polls only for Māori wards adds unnecessary costs and imposes a higher procedural standard on Māori wards compared to other electoral areas.
63. Ngati Kahungunu Iwi Inc. submitted that singling out Māori wards for polls was specifically targeting Māori and perpetuating a long history of discrimination and marginalisation, continuing a process of historic exclusion from decision-making processes.
64. The New Zealand Taxpayers Union noted that they would be comfortable with polls on all types of wards or constituencies.
65. A number of submissions suggested the process for establishing Māori wards should be fully aligned with the process for establishing other types of wards, including referral to the Local Government Commission for determinations.

Departmental comment

Making all representation decisions subject to polls would be significantly less efficient and practical than the current representation review process.

The option of having the Local Government Commission have final decision-making powers about Māori wards was considered at the time of the 2021 changes. It was not recommended at the time as it would take the decision about Māori representation out of the hands of the local community and put it into the hands of a government-appointed panel.

Any such proposal would need careful consideration of the proper role of the Local Government Commission in these decisions, the criteria for decision-making and how to build the capability of the Commission to be able to form a view on these complex questions involving important local relationships.

The poll process itself and the wider conversation that accompanies it is divisive.

66. 1,564 submitters pointed out that prior to the 2021 changes, council resolutions to establish Māori wards were often acrimonious and divisive. In oral submissions, Dr Sandra des Forges stated that these resolutions were usually followed by campaigns by well-resourced outside interest groups who mobilised to drop leaflets against Māori wards into mailboxes, take out newspaper ads, and hold community group meetings.
67. The Manawatu District Council submitted that “each time a conversation around Māori wards has arisen, it has caused major friction within our community and between the Council and iwi.”
68. The Human Rights Commission raised concerns that the polls would “risk providing a platform for inflaming racist rhetoric and hate speech that will damage social cohesion, communities and harmonious relations in New Zealand.”
69. Pou Taiao, the environmental branch of the National Iwi Chairs Forum, submitted that the polls “operated as a disincentive to councils seeking to establish Māori wards due to concerns that any referendum may damage relationships within communities... including relationships with iwi/Māori.”

Māori wards have benefits not just for Māori, but for councils and wider communities.

70. 1,952 submissions discussed the benefits for councils and wider communities of having Māori wards. The New Zealand Māori Council submitted that Māori representatives bring historical knowledge of the environment and the perspective of inter-generational responsibilities.
71. Dr Sandra des Forges submitted that Māori wards support relationships with mana whenua,⁵ who have a deep relationship with their natural environment, and generations of local knowledge and expertise that can enhance decision-making in land use and conservation practices.
72. Te Rūnanga o Ngāti Awa submitted that Māori ward councillors help to foster understanding between Māori and local government officials, leading to clearer recognition and more meaningful provision for Māori relationships, culture, and traditions with ancestral taonga.
73. In oral submissions, Northland Regional Council stated that their Māori ward had been key in managing climate crisis responses, and had been first responders in major weather events, providing shelter and resources.

⁵ An iwi or hapū who are recognised as the group of people who have authority over an area of land.

74. Jonathon Sylvester, a barrister working predominantly in the local government and resource management areas, noted that “a significant body of case law is the result of being left out of decision-making when it matters” and that planning processes that do not take the extent of the impacts on tangata whenua into account may lead to litigation. In oral submissions, Te Maruata, Local Government New Zealand’s network of Māori elected members, also referred to a high level of litigation around council decision-making prior to implementing Māori wards.
75. A number of councils, including Whangarei District Council, Northland District Council, and submitters who work with councils, such as Hugh Loughnan during oral submissions, submitted on the benefits they had seen from having Māori wards, which included more engagement with Māori on planning processes; better links between council and mana whenua groups, which has led to reduced time for council consenting processes.

Departmental comment

The Bill does not remove Māori wards. Instead, it returns the final decision about whether a council should have Māori wards to the wider community.

The Bill does not comply with domestic and international human rights obligations.

76. A number of submitters, including Local Government New Zealand, raised issues around the Bill’s compliance with domestic human rights obligations under the Bill of Rights Act 1990 (BORA).
77. Several submitters in both written and oral submissions, including Amnesty International, and lecturers Luke Fitzmaurice-Brown and Eddie Clark, raised concerns about the Bill’s compliance with a range of international human rights obligations, including the International Covenant on Civil and Political Rights, International Convention on the Elimination of All Forms of Racial Discrimination, and the United Nations Declaration on the Rights of Indigenous People.
78. The New Zealand Council for Civil Liberties “believes that the stated purpose of the Bill is trivial in comparison to the inconsistencies it creates with our commitments.”
79. Pou Taiao submitted that subjecting the representation of an indigenous minority to a popular vote violates principles of human rights and equality which are recognised in international declarations.
80. The New Zealand Law Society submitted that the United Nations Human Rights Council has previously raised concerns about Māori representation in local government and asked New Zealand to take steps to address these concerns.

Departmental comment

The Ministry of Justice's vetting process found the Bill to be consistent with the BORA. This advice is available on the Ministry of Justice website.⁶

Information relating to New Zealand's international obligations is included in the Departmental Disclosure Statement of the Bill.

Other recommendations for changes to poll mechanisms

81. Local Government New Zealand, with the support of a number of other councils, suggested changes to the poll provisions. These included:
- 81.1 increasing the percentage of signatures required to trigger a poll from 5% to 10%, to align it with the threshold in the Citizens Initiated Referenda Act 1993;
 - 81.2 narrowing eligibility to vote on the poll to electors on the Māori electoral roll, to ensure those most impacted were making the decision; and
 - 81.3 making the polls non-binding, but require councils to consider the results when making Māori wards decisions, so the poll still has weight but is not the only factor involved in making a decision.

Departmental comment

Increasing the threshold for a petition would make it more difficult to gather sufficient signatures to trigger a poll, but would also require a broader level of interest in a change from across the community before councils are required to invest the time, cost and resource of a poll.

Limiting voting in polls to only those on the Māori electoral roll would ensure that only those most affected by the decision had a say in it, and may be more consistent with the concept of tino rangatiratanga in Article 2 of the Treaty and the principle of options as mentioned by the Waitangi Tribunal.

Non-binding polls that a council would be required to consider when making a decision would make the Māori wards decision more consistent with other representation review decisions, but would increase costs to councils. There is a risk that residents opposed to Māori wards would not see this as a genuine opportunity to influence the council's decision.

82. Auckland Council submitted that being required to hold a poll imposed significant costs on councils, citing an approximate cost of \$3.5 million for its Council to hold a single standalone poll, compared to an estimated cost of \$155,000 for a poll held alongside an election. They recommended that if the poll provisions were restored, polls should only be able to be held alongside an election to keep costs low.

⁶ Ministry of Justice, *Consistency with the New Zealand Bill of Rights Act 1990: Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Bill*, 15 May 2024, para 23

Departmental comment

As New Zealand's largest council, Auckland Council's electoral costs are high. The figures provided by the Council also suggest that the difference between the cost of a standalone poll and a poll run alongside triennial elections is much greater for that Council. This may mean that these comments are not necessarily generalisable to other councils. (See the information in **Appendix A** with some estimated cost information).

Councils that initiate their own poll on Māori wards can decide when to hold the poll, and some have chosen to run these alongside triennial elections in the past to reduce cost and/or in the hope that this will provide greater turnout for the poll.

If the poll is initiated by a petition, the Council has less control over the timing. If a petition is received by the statutory deadline set out in the Local Electoral Act (approximately two years before the triennial elections) the council has to hold the poll before the next triennial elections so that the results can apply in the upcoming election. If the petition is received after the statutory deadline the council has more flexibility about when it holds the poll.

Holding a poll alongside an election can also have drawbacks, such as the potential to overshadow other election issues. This is discussed more in Section 4 of this report under the heading *Timing of the mandatory polls?*

83. Auckland Council also requested changes be made to the Bill to allow for dedicated Māori seats on local boards. The Local Electoral Act only provides for specific Māori representation for wards and constituencies.

Departmental comment

The intention of the role of local boards in the Local Government (Auckland Council) Act 2009 was to provide governance at the local level, given the size of Auckland means that Auckland's ward councillors each represent almost 87,000 people, which is larger than the total population of many councils. Auckland's local board members each represent around 10,000 to 20,000 people. Auckland Council's relationship to its local boards is broadly similar to the relationship of a regional council to the district councils within its boundaries.

Other recommendations

84. Waikato Regional Council recommended that the availability of census data be aligned with the timing of representation reviews to ensure accurate and fair representation in local body elections.

Departmental comment

The representation review cycle is every six years, and the census is every five years. Councils may use estimated population data in their representation reviews.

Section 4 Transitional provisions for Group 1 and Group 2 councils

Overview

85. The Bill proposes to require councils to hold a poll at the 2025 local elections if they established Māori wards or Māori constituencies, since 2020, without one. The outcome of the poll will take effect at the 2028 local elections.
86. This Bill proposes to allow councils who established Māori wards or Māori constituencies for the first time at the 2022 local elections (described as “Group 1” councils) to resolve to disestablish their Māori wards or Māori constituencies for the 2025 local elections. If they do so, these councils would not be required to hold a poll at the 2025 local elections.
87. Councils who have resolved to establish Māori wards for the 2025 local elections (described as “Group 2” councils) would have the option to rescind their resolution before the 2025 local elections. If they take this option, these councils would not be required to hold a poll at the 2025 local elections.
88. Clause 17 inserts new Part 3 of Schedule 1 of the LEA to separate councils into groups based on whether they have established Māori wards (Group 1) or, have resolved to establish Māori wards, without a binding poll since 2020 (Group 2).
89. Key themes in submissions include:
- providing an opportunity to revisit recent Māori ward decisions
 - whether or not the Bill is an overreach by central government
 - the impact on Māori representation in local government
 - the timing and process for decisions to rescind or disestablish
 - whether or not the transitional provisions should apply, or just the standard process
 - timing of the mandatory polls
 - whether or not four specific councils should be excluded from the transitional provisions
 - the costs and other implementation demands for councils in conducting the 2025 polls or an out-of-cycle representation review.
90. This section is ordered thematically.

Revisiting recent decisions made by councils

91. 148 submitters supported the transitional provisions because they considered it would give communities more say on recent decisions by 45 councils to establish Māori wards. The Katikati-Waihi Beach Residents and Ratepayers Association and Omokoroa Residents and Ratepayers Association
92. 208 submitters supported the transitional measures because they considered this would restore the position of councils prior to the 2021 amendments.

93. In a form submission, a number of submitters commented that “I know you have heard from a number of mayors and councillors who are of the absurd view that allowing local voters to have a referendum on Māori Wards takes decision making away from local communities. You should reject this ridiculous argument, allowing local residents and ratepayers to voice their view via a referendum is the closest thing to localism”.
94. A number of submitters considered that the transitional measures were a detrimental backward step. Te Rūnanga o Ngāti Ruanui Trust submitted this does more than just set up a binding poll, but also actively undermines the wider positive benefits of equity in decision making and the many flourishing partnership agreements that have emerged since 2022 between local government and Māori.

Overreach by central government

95. In addition to the arguments made about “overreach” as summarised in the previous section, 1303 submitters cited the transitional provisions as being an overreach by central government. These submitters argued this would undermine decisions made by local elected representatives in the last two local government terms. The Human Rights Commission commented that it has concerns about the Bill empowering central government to undo decision-making by democratically elected officials at the local level, carried out in consultation with their communities.
96. Te Maruata submitted it is concerned that if the Bill goes ahead there will be ongoing negative impacts for the relationships that councils have established with iwi, and that have been enhanced through Māori representation – replacing the trust that has been built up between councils and iwi with a mistrust in the local government decision-making system.
97. A number of councils outlined the community consultation processes they had undertaken prior to making decisions to establish Māori wards. Taranaki Regional Council submitted that prior to the decision the Council went through a robust community consultation process, providing the opportunity for individuals and groups from across the region to present their views.
98. Some councils, and Local Government New Zealand, noted that the transitional provisions go beyond the reinstated “standard” poll provisions by mandating that polls must be held without any petition threshold. Local Government New Zealand submitted “This also sets a concerning precedent in terms of retrospectively applying additional requirements to previous decisions of councils. This is bad practice and undermines decisions made with widespread engagement and input from communities/iwi as required by the Local Government Act”. This issue is discussed further below on the question of mandatory polls vs polls on demand.

Departmental comment

The Bill does not have retrospective effect as it grants powers and obligations prospectively, and does not affect the legal validity of past decisions. An example of retrospectivity in the context of the Bill would be if the Bill voided past decisions to create Māori wards and changed the membership of councils for the remainder of the 2022-2025 term to reflect voting results as if the Māori ward had never been established.

99. Te Whakakitenga o Waikato Incorporated (on behalf of Waikato-Tainui) noted the particular impact on the Waikato region where 9 of the 12 councils have recently established, or resolved to establish, Māori wards. “The effect on Waikato-Tainui and other Māori living within the Waikato region is significant and threatens to undermine decades of work by Waikato-Tainui and others to secure Māori representation in local government”.
100. The Taxpayers’ Union submitted that rather than this Bill being an overreach, the reverse is true – that the 2021 amendments to the Local Electoral Act “represented a serious overstep by central government”. Democracy Action Inc submitted that all Māori wards and constituencies that have been established without a poll should be disestablished.
101. New Plymouth District Council submitted that the Bill’s proposal for binding polls in 2025 risks locking communities into representation arrangements devoid of Māori wards until 2034 despite the dynamic political, legal and social landscape.

Impact on Māori representation

102. A summary of available data on Māori representation in local government is included at [Appendix B](#).
103. Many submitters commented on the progress since 2020 on improving Māori representation and the likely negative impact the transitional provisions will have.
104. Ngai Tamahaua Trust submitted they have seen the evidence from Whakatane District Council which recently adopted Māori wards. The Trust considered it had become a celebration of community cohesiveness and empowers local communities to move forward together for the benefit of the community.
105. Submitters referred to the comments by the Waitangi Tribunal and in the Ministry of Justice’s report on the consistency of the Bill with the New Zealand Bill of Rights Act 1990 that the Bill appears likely to result in a reduction in the representation of Māori, in local authorities, as a specific community of interest.⁷ Peter Fletcher-Dobson submitted that the transitional option for councils to disestablish Māori wards “would reverse the positive trend observed since the 2021 Amendment Act, which saw a substantial increase in the number of councils with Māori wards”.

Timing and process for rescind/disestablish decisions

106. The Bill provides that, after enactment, the 44 affected councils have until 6 September 2024 to decide whether to disestablish their Māori wards (31 Group 1 councils) or rescind their decisions to establish Māori wards (13 Group 2 councils). By the same deadline these councils would need to decide how they will implement the decision to rescind or disestablish using the processes options set out in the Bill.

⁷ Ministry of Justice, [Consistency with the New Zealand Bill of Rights Act 1990: Local Government \(Electoral Legislation and Māori Wards and Māori Constituencies\) Amendment Bill](#), 15 May 2024, para 23; Waitangi Tribunal, [The Māori wards and constituencies urgency inquiry report](#) – Wai 3365, May 2024, pg 51.

107. 14 submitters were concerned that there may not be enough time for councils to undertake proper consultation on these decisions.
108. The New Zealand Law Society suggested providing a longer timeframe for these decisions in order to enable authorities to meet their obligations under this legislation and the wider legislative framework. The Law Society also noted that local authorities' Standing Orders are likely to include provisions relating to revoking and altering previous provisions. "The provisions in the Bill do not recognise the application of those Standing Orders, and cut across the wider requirements around local government decision-making".
109. Kapiti Coast District Council submitted that the Council feels stuck between a rock and a hard place due to the timing of the Bill, when the Council is currently preparing for its representation review as required by the existing legislation. "Council will either have to rescind its decision to establish a Māori ward which will confuse our communities of interest most affected due to the timing of just finishing preliminary community engagement, or our community will be asked to elect a Māori ward councillor ... while at the same time being polled on the future of the Māori ward".
110. Horizons Regional Council commented that the speed of the legislative process limits the Council's ability to properly engage with communities to the desired level.

Departmental comment

6 September 2024 deadline for council decisions to rescind/disestablish

There are three timing considerations for setting the deadline for councils to make a decision:

- The Bill is unlikely to be enacted until late July 2024
- To provide a reasonable time for public input into the council's representation arrangements, the council needs a minimum of 15 weeks to complete its representation review.
- Local Government Commission determinations on appeals and objections need to be completed by the existing statutory timeframe of 11 April 2025 to allow pre-election processes to begin in April (especially since the Bill's changes to election year timeframes will be shifting some election steps earlier).

For a representation review the council must:

- agree and publish an initial proposal,
- receive submissions,
- consider submissions,
- agree and publish a final proposal,
- receive any appeals or objections,
- forward appeals and objections and supporting material to the Local Government Commission).

The timeframes for some of these steps have had to be shortened from the standard timeframes for the transitional provisions. Any further shortening could undermine the opportunity for community input or the appeals process.

Consultation on rescind/disestablish decisions

The Local Government Act 2002 contains a number of requirements on councils when making a decision (including a decision not to take action). These are set out in sections 77-82 of the Local Government Act 2002. The Department acknowledges that the 6 September 2024 deadline for council decisions will make it challenging for councils to fulfil their consultation and council decision-making requirements. Councils may need to seek legal advice on how to best satisfy these requirements in the time allowed.

Due to the time constraints on preparing this report the Department has not been able to undertake consultation with councils about the interaction between any council standing orders on revoking provisions, and the Bill provisions. We note that councils may temporarily suspend standing orders during a meeting by a vote of not less than 75% of the members present.

Mandatory polls or polls on demand?

111. Several councils, and Local Government New Zealand recommended that if the pre-2021 poll provisions are to be reinstated, then that should be the mechanism to require a poll, rather than the transitional provisions in the Bill. Under this approach polls could be demanded for the Group 1 councils and Tauranga City Council during the 2025-2028 term, and the outcome would apply on the same timeframe as under the Bill (from 2028). Polls could be demanded for the 13 Group 2 councils in the following term.
112. Graeme Edgeler suggested setting a date in the current term for electors to lodge a petition demanding a poll at the 2025 local elections (rather than mandatory polls).
113. Taranaki Regional Council commented that the requirement to either disestablish Māori wards or hold a poll is more “draconian” than the standard process, and submitted that Group 1 and Group 2 local councils are effectively being penalised for “doing nothing more than making a decision that they were entitled to make under the relevant statutory provisions”. The Council suggested that an alternative approach could be to require all Group 1 and Group 2 councils to make a “fresh decision” on Māori wards in the 2025-2028 term and complete a representation review. This would provide an opportunity for a poll to be demanded via a valid petition, and the outcome could apply to the 2028 local elections.

Departmental comment

Under the Bill the outcome of the mandatory 2025 polls will apply from the 2028 local elections. There is time within the 2025-2028 term when a poll could be demanded and held, and the outcome would still be able to apply to the 2028 local elections.

Timing of the mandatory polls?

114. A number of submitters suggested that the mandatory polls should be required to be held in November 2024 so that the outcome could be applied to the 2025 local elections. The Omokoroa Residents and Ratepayers Association Inc submitted “This would enable the legislation to reinstate ratepayers democratic rights to what they were before the previous Government extinguished ratepayers rights to demand citizens initiated referendums on the establishment of a Māori ward or wards and also ensure that Māori wards are not established and then disestablished”.
115. Graeme Edgeler supported the decision not to rush polls in advance of the 2025 local elections.
116. Hobson’s Pledge submitted that if councils have resolved to establish Māori wards for 2025, the Bill should require them to hold a referendum at the 2025 local elections and defer the creation of Māori wards until 2028, subject to the poll outcome.

117. A number of councils, and Local Government New Zealand, raised concerns about the Māori wards polls overshadowing the 2025 elections and distracting from other matters that should be the focus of public debate. Local Government New Zealand submitted that “Elections are critical opportunities for communities to debate important issues for their areas, and this will be particularly true for the 2025 local body elections. However, these referenda are likely to crowd out debate of more important issues”.
118. 72 submitters were concerned that holding the polls at the same time as the 2025 local elections will take the focus away from other important local government issues.
119. A number of submitters also mentioned the potential for voter confusion if the polls are held at the 2025 elections, even though the outcome cannot apply until 2028.
120. Local Government New Zealand submitted that the mandatory polls have the potential to unfairly impact on Māori ward councillors (and presumably other candidates), particularly if they are standing for re-election and simultaneously facing a poll on whether the ward or constituency they are standing for should exist. “During the next term, Māori ward or constituency councillors will be in an unenviable situation if they are elected to a seat that a majority of voters has voted to disestablish”. Te Maruata also commented that Māori ward councillors may have to play a significant role in promoting the importance and value of Māori wards during the 2025 local elections at the same time as campaigning for re-election.
121. The Taxpayers’ Union recommended that Tauranga City Council be required to hold a poll on Māori wards at the same time as other councils are holding their local elections in 2025, but that the outcome should still apply from 2028 (as is proposed in the Bill).

Departmental comment

The option for polls in 2024

The Department provided advice to Cabinet on the option to require the mandatory polls to be held in 2024, so that the outcome could apply to the 2025 local elections (analysis is summarised under Option Two in section 2B of the Department’s Regulatory Impact Statement for the Bill dated 14 March 2024).

There were three key timing considerations for this option:

- The Bill is unlikely to be enacted until late July 2024
- It takes approximately three months to complete all the processes required to conduct a poll
- If the outcome of the poll was against Māori wards, councils would then need to complete a full review of their representation arrangements with final determinations made by the end of March 2025 (so that councils can start their pre-election processes in April).

The Department considered the only feasible way to achieve these timeframes would be to remove the role of the Local Government Commission from the representation review process. The council's decisions on representation arrangements would be final and the public would have no ability to appeal to the Local Government Commission.

This option was also more expensive for councils as standalone polls cost significantly more than polls conducted alongside triennial elections.

The Department did not support this Option in part because it would remove an important 'check and balance' on councils configuring their own representation arrangements.

Cabinet also considered this option and preferred the timing proposed in the Bill.

Holding the polls after the 2025 local elections

Under the Bill the outcome of the mandatory 2025 polls will apply from the 2028 local elections. As noted above, there is time within the 2025-2028 term when a poll could be held, and the outcome would still be able to apply to the 2028 local elections.

Standalone polls are more expensive than polls conducted alongside local elections. Standalone polls are also more expensive per elector for smaller councils because of the baseline costs associated with running any election or poll. (The additional costs of adding a poll onto an existing district-wide or region-wide election is more like a "per elector" additional charge). See [Appendix A](#) for more information on costs.

Timing of the Tauranga City Council poll

If the Bill is enacted in late July 2024 as the Government intends, Tauranga City Council's next triennial local election will be in October 2028. The timing proposed in the Bill gives the Council the flexibility (if the council does not exercise the option to disestablish its Māori ward) to decide to hold the poll at any time between the Bill's enactment and the end of November 2026.

Excluding four councils from the transitional provisions?

122. Four councils – Gisborne District Council, New Plymouth District Council, Ruapehu District Council and South Taranaki District Council (the Four Councils) – submitted that they should not be included in the Group 1 councils that are subject to the transitional provisions. Local Government New Zealand and Taituarā support this view.
123. The Four Councils are part of a group of nine councils that resolved to establish Māori wards in 2020 under the law as it stood before the 2021 amendments, and before the previous Government announced proposed changes to the Māori wards process. Under the law at the time, electors had until 21 February 2021 to demand a poll (using a petition) to be held before the 2022 local elections.

124. Of the nine councils, five received a valid petition by 21 February 2021 and therefore would have been required to hold a poll were it not for the 2021 amendments. However, the Four Councils did not receive a valid demand for a poll by the statutory deadline. For example, both Ruapehu District Council and South Taranaki District Council noted that signatures were gathered to demand a poll but the 5% elector threshold was not reached.
125. Ruapehu District Council submitted that it established its Māori wards fully within the legal framework of the existing legislation at the time of its 28 October 2020 decision. "...the Council hereby requests exemption from the need to hold a binding poll at the 2025 election in the same way as Bay of Plenty Regional Council, Waikato Regional Council, Ōpōtiki District Council, and Wairoa District Council are exempted". Similar arguments are made by the other three councils.

Departmental comment

Timeline of key dates:

July 2020 – New Plymouth District Council resolves to establish Māori wards

October 2020 – Gisborne District Council and Ruapehu District Council resolve to establish Māori wards

November 2020 – South Taranaki District Council resolves to establish Māori wards (before the statutory deadline)

23 November 2020 – Statutory deadline for councils to make decisions to establish Māori wards if the decision is to apply to the 2022 local elections

1 February 2021 – Public announcements about the specifics of the Bill including transitional arrangements

5 February 2021 – Bill introduced

9 February 2021 – First reading

15 February 2021 – Select committee report presented to the House

21 February 2021 – Statutory deadline for valid petitions to be lodged requiring a poll to be held before the 2022 local elections

23 February 2021 – Second reading, Committee of the whole House stage, Third reading

1 March 2021 – Royal assent

2 March 2021 – Amendment Act came into effect

Arguments that the Four Councils should be excluded from the councils in the Bill that are subject to the transitional provisions are that in 2020-early 2021 their electors had the opportunity to lodge a demand for a poll and did not lodge a valid demand.

Arguments that the Four Councils should be included in the councils in the Bill that are subject to the transitional provisions are that, up until 21 February 2021, they could technically have still received a valid demand for a poll. However, following Government policy announcements on 1 February 2021 it was clear that the law would soon change, which would invalidate any petition.

Several other councils are not affected by the transitional provisions of the Bill and the Government’s rationale for the exemptions is set out below:

- Bay of Plenty Regional Council as its Māori constituency mechanism is empowered by a local Act and has never been subject to the poll provisions
- Wairoa District Council and Waikato Regional Council because their Māori wards were established under the pre 2021 legislation when poll was able to be demanded
- Ōpōtiki District Council because the Council held a (non-binding) poll before deciding to establish Māori wards, and the poll was in favour of establishment.

Implementation demands for councils

126. A summary of council implementation cost estimates for the Bill is included at **Appendix A**.
127. **1019** submitters commented that they thought the transitional provisions were an unnecessary cost on councils and ratepayers. Many submitters thought that central government should pay for, or contribute to, this additional cost burden.
128. A number of councils, particularly those in cyclone recovery areas, commented on the time and resource required to implement the transitional provisions in a short space of time. Central Hawke’s Bay District Council submitted “As a Cyclone affected District, the legislation is a distraction from our most pressing recovery and service challenges and priorities that we face. This is a time when we have more to do than ever, when things are costing more than ever”.
129. Most councils that submitted also commented on the cost burden for either conducting a poll, or for conducting an out-of-cycle and unbudgeted representation review. Horizons Regional Council submitted that if it was to resolve to disestablish its Māori constituency an early representation review would be required. “Unfortunately, this new expense would be unbudgeted and will draw on other areas of funding and resourcing such as freshwater, climate change, biodiversity and making our data and information accessible to our communities”.
130. Northland Regional Council submitted that it would be unreasonable for central government to impose such extra costs on local government without providing funding for this purpose. “We see no provisions in this Bill to cover these costs, and therefore do not support the proposals for the shortened representation review in early 2025”.
131. Kelly Stratford, Deputy Mayor of Far North District Council commented in her oral submission that the Council does not have the resources to provide detailed neutral information packs on Māori wards to electors and that this makes it difficult to combat misinformation circulated by particular groups.

132. Te Pae Tāwhiti Rōpū (a rōpū made up of Māori Ward Councillors from the Horizons Region) also noted that “The responsibility of educating the community on Māori wards will naturally fall to iwi to lead and coordinate without guaranteed resources or support”.

Other recommendations from submissions

133. Clause 51 of the Schedule - The New Zealand Law Society suggested clarifying the intended effect of the factors and considerations that the Local Government Commission will be required to identify in guidance.

Departmental comment

This temporary clause mirrors the language in existing section 19ZI of the Local Electoral Act 2001. The Local Government Commission has advised that there have been no issues with the interpretation of section 19ZI in the past.

Section 5 Statutory timeframes for the local elections process

Overview

134. Under the Local Electoral Act 2001 there is a 22.5-day voting period for postal voting in local elections. Under the Local Electoral Regulations 2001, all postal voting papers must be delivered in the first six days of the voting period. Responsibility for meeting this statutory requirement sits with local electoral officers. NZ Post provides almost all the postal services for local elections.
135. NZ Post has informed the Department of Internal Affairs that it will take up to two weeks to complete nationwide delivery of voting papers for local elections for the 2025 and future local elections. This creates a risk that some voters will not have a reasonable opportunity to cast their vote.
136. The Bill proposes to amend the Local Electoral Act 2001 and Local Electoral Regulations 2001 to:
- 136.1 extend the voting period to 32.5 days by bringing forward the start of the voting period;
 - 136.2 extend the delivery window at the start of the voting period to 14 days;
 - 136.3 make adjustments to other statutory dates as necessary to accommodate the extended voting period and address other time pressures in the local electoral cycle for triennial elections, by-elections and polls.
137. Of the 330 submissions that were received on this theme, 271 supported the proposal, including 14 local authorities who submitted on this theme. There were 59 submissions which did not support the proposal.
138. This section of the report is organised by submissions in favour of amending the statutory timeframes for local elections, followed by submissions against; then sub-organised by submitter type.

Support for amending the statutory timeframes for local elections

139. Key themes in support included that it will:
- give people a reasonable opportunity to receive and cast their vote; and
 - enable those who live remotely to receive their vote in time.

Submission from New Zealand Post

140. NZ Post supports the proposal in the Bill to adjust the statutory timeframes for local elections to give more time for the postal delivery of voting papers. NZ Post submitted that they struggle to deliver voting packs within the required six day window as three million voter packs need to be delivered within six days, every three years. This timeframe has remained the same since the 1980s while the number of voting packs required has increased.

141. NZ Post submitted that mail volumes have reduced since the Local Electoral Act was passed and continues to be in a state of irreversible decline. Local election mail volumes represent an increasingly large variation from normal day-to-day mail volumes and can no longer be absorbed by NZ post's regular operations. NZ Post predicts that it will require up to two weeks to complete nationwide delivery of voting papers for local elections in the future.
142. NZ Post also commented that the 2025 local elections will be more challenging than previous elections due to:
- Māori ward polls will add more complexity to the voting pack production process for councils involved; and
 - feedback from councils suggest that more will use other delivery networks for voter pack delivery in the future. This will add complexity to voter pack production, ensuring that voter packs are accurately and efficiently lodged into both NZ Post and other delivery postal networks.

Submissions from the public

143. Roger Parkinson supports the changes as it will allow more time for rural votes to make their way through the mailing system. Quinton McDonald also supported the changes as postal voting is a positive feature of local elections and we should take this opportunity to make it work better for everybody.
144. Kaimahi Kuka supports the adjustments to the statutory timeframes but submitted it is crucial to recognise the evolving nature of communication and electoral participation and adopt online voting options to enhance accessibility and convenience for all voters, particularly in remote and rural areas.

Submissions from organisations

145. Taituarā welcomes the changes to the electoral timetable but sees them as a “stop-gap” measure. Taituarā supports online voting in principle, subject to sufficient public confidence in the security and accuracy of the system. Taituarā acknowledges that online voting is more of a tool for making the act of voting more convenient for those that have decided to cast a vote; it is not a substitute for engaging the public and persuading them to vote.
146. Taituarā does not see any issue with an earlier nomination period but acknowledges that the formation of the roll is complex and several departments are involved in the process. They recommend that there is appropriate communication and resourcing for the work to be prioritised by Stats NZ, LINZ, and the electoral Commission in the shortened time.
147. Local Government New Zealand supports fixing the timeframes to ensure the voting system functions for the upcoming elections. Local Government New Zealand agreed with the submission made by Taituarā that these moves are a stop gap measure and there is need for wider changes in the way in which people participate in local body elections, especially with the decline of the postal system.
148. The Human Rights Commission supports the clauses related to extending the postal timeframes as it will improve access to and participation in local democracy.

149. The New Zealand Taxpayers' Union is supportive of efforts to increase the fairness of the electoral process and voter turnout but submitted that sufficient consultation should have been undertaken on reforms to the timeframes for postal voting to ensure they meet these objectives.
150. Taumata-o-te-rā Marae support the changes to provide more time for the postal delivery of voting papers and consider it a valid improvement to the Act due to the issues evidenced in the previous local election. Te Kahu o Taonui (Te Tai Tokerau Iwi Chairs Forum) is also supportive of the changes to the timelines.
151. Waikato-Tainui said it makes practical sense for the postal voting timeframes for local elections to be extended but that it should be split from the Bill and passed through the House while the Māori wards aspect is paused for further policy and impact analysis and consultation.

Submissions from local authorities

152. Horizons Regional Council support the changes to the statutory timeframes for the postal delivery of voting papers for local elections as does Nelson City Council due to the changes in postal services which has increased challenges to participation across the country. Ruapehu District Council also supports the changes as they have had issues in the past due to the limited availability of post offices branches and post boxes within the district.
153. During oral hearings on the Bill, Marlborough District Council said it supported the changes especially for those isolated communities that rely on weather dependent boat delivery of voting papers. Auckland Council also supports the changes that minimise risk to the declining postal system.
154. Several councils⁸ supported amending the timeframes for local elections but also recognised it as a temporary solution. Councils submitted that with the decline in postal services there needs to be broader discussions on future electoral processes, including looking at online voting provided there is public confidence in the system's security and accuracy.
155. Wellington City Council suggested that overseas voters could be used to trial alternatives in the future including electronic return of voting documents.
156. Greater Wellington Regional Council sees the extension of timeframes for local elections as necessary but they consider these extensions may negatively impact voter turnout. Greater Wellington Regional Council also urged the Committee to recommend to the Government that it initiates urgent work to explore other broader options, including online voting.

Departmental comment

⁸ Gisborne District Council, Waikato Regional Council, Selwyn District Council, New Plymouth District Council, Christchurch City Council

The Department acknowledges that any potential option to address the postal delivery timing issues may be a temporary solution as postal voting faces sustainability issues in the long-term. However, a solution needed to be found to ensure the 2025 and 2028 local elections can be delivered to a high enough standard. The Government has accepted the recommendations of the Justice Inquiry into the 2022 local elections to consider broader electoral reforms which the Government will continue to engage those conversations.

Opposition to amending the statutory timeframes for local elections

157. Key themes in opposition included:

- It should not be part of this Bill when the substance of the Bill is unrelated to postal issues.
- Opposed the changes to timeframes because they oppose the whole Bill.
- Postal voting should be removed altogether.

158. Colin Feslier opposed extending the timeframes for local elections because he considered a 14-day period for delivery undercuts the important word-of-mouth promotion of participation and a 32 and a half day period for the return of papers would send a strong “this is not urgent” message.

159. N KS opposed the changes because it complicates the electoral process and this added complexity can lead to voter confusion, lower turnout, and reduced trust in the electoral system.

160. Jack Ruri commended allowing more time for postal delivery of voting papers but questioned whether adjusting statutory timeframes is the most effective solution. Jack submitted that online voting should be promoted instead.

161. Democracy Action submitted on what they saw as flaws in the postal voting method and that the current practices are not robust enough to ensure all votes are cast legitimately. These concerns included the inability to identify who completed the voting documents, and voting papers being delivered to the wrong address allowing someone else to vote.

Departmental comment

Whilst the risk of fraud is always present, part 7 of the Local Electoral Act 2001 does set out a number of offences under the Act, many of which involve fraudulent actions. These include (among other offences):

- voting more than once in the same election or poll;
- obtaining or possessing a voting document not issued to the person in question for the purpose of recording a vote;
- voting in the name of another person;
- interfering with voting documents; and
- fraudulently marking a voting document or other official document used an election or poll.

Upon conviction, many of the offences under part 7 carry a sentence of imprisonment.

Section 6 Out of scope submissions

162. This section covers submissions and recommendations which were outside the scope of the Bill. No recommendations are made in respect of these submissions.
163. Out of scope comments noted were:
- 163.1 Māori electorates for parliamentary elections should be removed;
 - 163.2 concerns about residential address verification when voters enrol through the Electoral Commission;
 - 163.3 support for a wider review of local electoral law;
 - 163.4 requirements for councils to consult with Iwi should be removed;
 - 163.5 the Canterbury Regional Council (Ngāi Tahu Representation) Act 2022 should/should not be repealed;
 - 163.6 support and opposition for repealing section 7AA of the Oranga Tamariki Act;
 - 163.7 Māori rights to the foreshore and seabed should be removed;
 - 163.8 the Treaty of Waitangi should be replaced; and
 - 163.9 the Waitangi Tribunal should be disbanded.
164. There were some other submissions on topics that may technically be within the scope of the Bill, but do not relate to Māori wards or timeframes. The Department can provide the Committee with more information on these topics if you wish. These submissions were that:
- 164.1 First-past-the-post should be the only voting system available to councils;
 - 164.2 the timing of council representation review should be aligned with the availability of census data;
 - 164.3 there should be fewer councils and councillors;
 - 164.4 electronic voting should be available for overseas voters; and
 - 164.5 the ratepayer roll should be disestablished.

Appendix A: Cost implications for councils

Reinstating the poll provisions on an ongoing basis

The main costs from reinstating the pre-2021 polling provisions are from:

- checking petitions validity and conducting elector-demanded polls (mandatory for the council if a valid demand is received); and
- conducting council-initiated polls (optional for the council).

These polls may occur alongside other elections, or as a standalone poll. Elector-demanded polls are usually standalone polls.

Standalone polls

Costs include:

- election service provider contracts (printing and postage fees, vote processing etc)
- council staff time
- publicity and public information produced by councils about the polls.

Standalone polls, or polls conducted alongside by-elections, are more expensive the polls conducted alongside triennial local elections.

Cost estimates provided through submissions:

Council	Electoral population (2022-rounded)	Estimated cost*
Auckland	1,150,000	\$3,500,000
Northland Regional	132,000	\$420,000 +GST

* It was not clear exactly what these cost estimates encompassed. Some may not include staff time and/or public information costs.

Polls alongside triennial elections

Costs include:

- electoral service provider contracts (additional per-electore charge for including the poll on the ballot paper, information in the candidate booklet and for poll vote processing – there are higher costs if the council chooses to include a separate 1pg information slip with the voting documents)
- council staff time
- publicity and public information produced by councils about the polls.

Cost estimates provided through submissions:

Council	Electoral population (2022)	Estimated cost	Notes
Auckland	1,150,000	\$155,000	
Hastings District	58,000	\$100,000	
Horowhenua District	26,000	\$175,000	
Manuwatu District	22,000	\$35,000	
Marlborough District	35,000	\$60,000	
Northland Regional	132,000	\$14-28,000 +GST	Not specified
Porirua City	42,000	\$45,000	Not including staff costs
Rangitikei District	11,000	\$25,000	
South Taranaki District	19,000	\$60,000	Minimum cost
Waipa District	39,000	\$50,000	Minimum cost
Wellington City	160,000	\$260,000	Direct costs of \$160,000, and indirect costs of \$100,000
Wellington Regional	39,2000	\$350,000+GST	

* It was not always clear exactly what these cost estimates encompassed. We have added notes where available. Some estimates may not include staff time and/or public information costs.

Transitional mechanism – rescind/disestablish option

Under the transitional mechanism, some councils will be able to choose to:

- revert back to their pre 2021 representation arrangements (for councils that established Māori wards for the 2022 elections - Group 1 - and opt to disestablish); or
- continue to use their existing representation arrangements (for councils that have not yet established Māori wards - Group 2 - and opt to rescind their decision).

Any other council that chooses to rescind their decision to establish, or to disestablish, will be required to complete a representation review by the end of 2024.

For Group 2 councils this will require an out-of-cycle representation review. The cost of representation review can be affected by the complexity of the council arrangements – e.g. whether there are community boards. Typically it is more expensive per capita for smaller councils.

Cost estimates provided through submissions:

Council	Electoral population (2022)	Estimated cost	Notes
Hastings District	58,000	\$100,000	
Horizons (Manawatū-Whanganui) Regional	174,000	\$60,000	Not including staff costs
Horowhenua District	26,000	\$170,000	Not including staff costs

* It was not always clear exactly what these cost estimates encompassed. The Hastings figure may or may not include staff costs.

For Group 1 councils, they will have already budgeted for and commenced work on a representation review this year that would incorporate the new Māori wards. Their costs for the representation review under the transitional mechanism are likely to be less than the cost of a full repeat but they will have to consider a number of matters afresh.

Transitional mechanism – mandatory polls by default

Any Group 1 or Group 2 that does not rescind their resolution to establish Māori wards or disestablish them, will be required to hold a poll at the 2025 local elections.

The cost estimates are the same as noted for “Polls alongside triennial elections” above.

Tauranga City Council would be required to hold a standalone poll

Changes to election timeframes for postal voting

Altering some of the timeframes for postal voting in local elections does not have a significant cost impact on councils.

The main cost the Department has identified is because special voting facilities will need to be available over a 32.5 day period (rather than 22.5 days).

The cost per council will vary depending on the number and scale of their special voting services. In the Regulatory Impact Statement the Department estimated the total cost for all councils nationwide as being between \$390,000 and \$546,000.

Appendix B: LGNZ survey data on Māori representation

General comment on information available

There is no comprehensive national collection of demographic details of candidates or elected members.

We have reliable information on the increase in the number of Māori ward/constituency positions.

The best source of information about trends in Māori representation is surveys conducted by LGNZ after each election since 1998. The survey is based on questionnaires sent to elected members and there are a number of caveats.

Increase in number of Māori ward or Māori constituency positions

The information in the table below has been collated from election results and data provided by the Local Government Commission.

Year	No. of councils with Māori wards/constituencies	# of Māori ward/constituency councillor positions
2004	1	3
2007	1	3
2010	1	3
2013	2	5
2016	2	5
2019	3	8
2022	34	67

While Māori ward/constituency candidates do not need to be Māori, or on the Māori electoral roll, we are not aware of any Māori ward or Māori constituency councillors who are non-Māori.

LGNZ election surveys

Parameters/reliability of survey information

2022 election survey:

- 411 of 1607 questionnaires were returned (25%). The response rate was approximately half the response rate of previous surveys.
- The results have a confidence level of 95% and a margin of error of plus/minus 4%.
- LGNZ notes: “There is a strong alignment between the type of elected body that respondents represent, and the overall distribution of elected members...which means that there is little to no systemic bias in the sample”.

2019 election survey:

- 810 of 1605 questionnaires were returned (50%).
- The results have a confidence level of 95% and a margin of error of plus/minus 2.5%.
- LGNZ notes: “The mix of respondents is generally close to their proportion in the overall population of elected members.”

General parameters for the LGNZ surveys:

- The surveys use the same definition of Māori as used in the New Zealand census, namely, members with Māori whakapapa and members who identify as Māori.
- Data prior to 2010 is limited to councillors and mayors. Since 2010, local board and community board members have been included in the survey.
- Survey results for 2013 are unavailable.

LGNZ Elected Members' Census 2022

21.6% of elected members identify as Māori

Figure 7 below shows the trend over time (but note the change in 2010 to include local board and community board members in the figures).

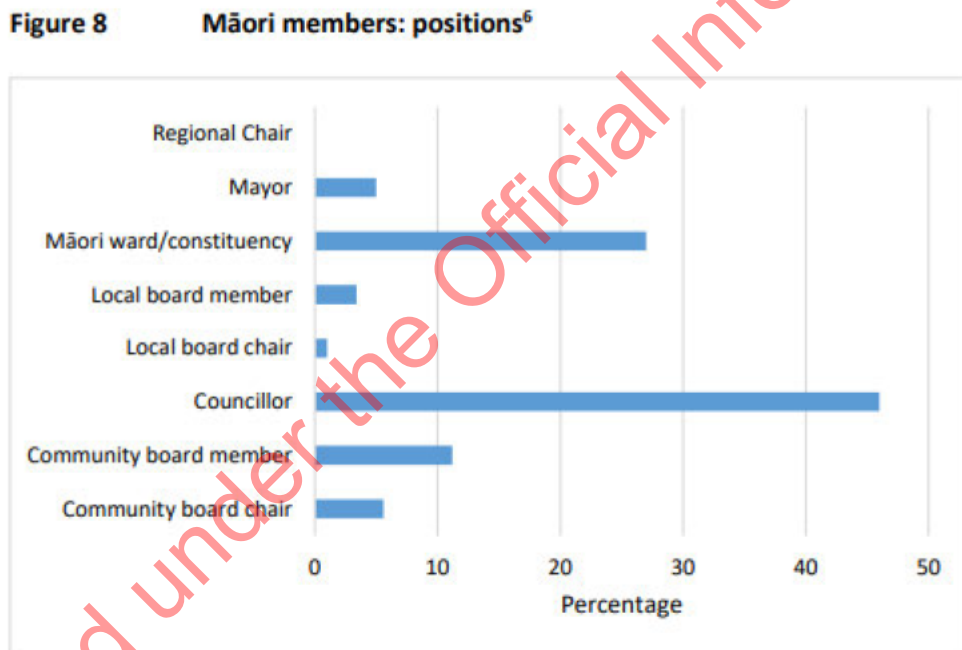
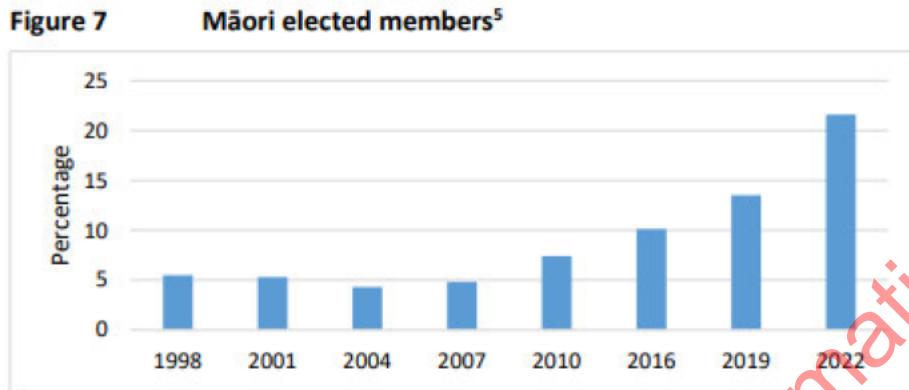


Figure 8 above shows that:

- 27% of elected members that identify as Māori were elected to Māori wards or constituencies.
- 46% of elected members that identify as Māori were elected to other councillor positions (wards/constituencies in councils without Māori wards/constituencies, general wards/constituencies, or elected at-large).

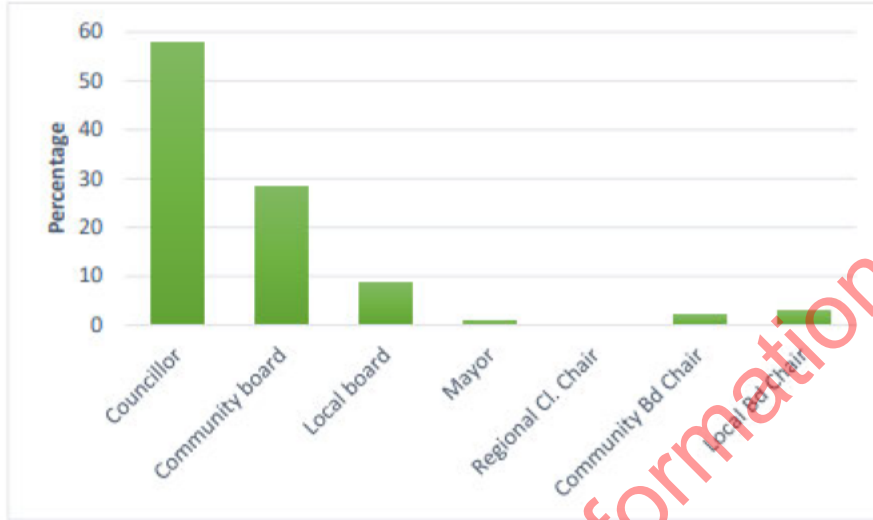
Caveat from LGNZ - With a margin of error of 4%, positions that have a small number of incumbents might not be accurately represented. For example, NZ has 11 regional council chairs, at least two of whom identify as Māori, but are not reflected in the sample.

Released under the Official Information Act 1982

LGNZ - 2019 – Elected members’ profile

13.5% of elected members identify as Māori

Figure 12 Māori members by type of local body



Source: LGNZ

Figure 12 above shows that approximately 58% of elected members that identified as Māori were councillors, but the survey did not distinguish between Māori ward/constituency councillors and other types of councillors.



Local Government briefing

Hon Simeon Brown
Minister of Local Government

Title: **Electoral Omnibus Bill: Approval of Draft Select Committee Initial Briefing**

Date: 23 May 2024

Key issues

This briefing seeks your approval for the draft of the Department's initial briefing to the Justice Committee on the Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Bill.

We will provide you with a briefing and talking points to support you if you are invited to appear before the Committee.

Action sought

Agree that the Department provides the initial briefing to the Committee;
Note that we have provided the initial briefing to the Parliamentary Counsel Office for consultation and will notify you of any substantial changes; and
Note that we will provide you with a briefing and talking points if you are invited to appear before the Justice Committee.

Timeframe

By Monday 27 May 2024

Contact for telephone discussions (if required)

Name	Position	Contact Number	Suggested 1 st contact
Rowan Burns	Policy Manager	9(2)(a)	✓
Lisa Mackay	Senior Policy Analyst		

Return electronic document to: william.spear@dia.govt.nz, William Spear

Cohesion document reference: TWCXRRFFVDW2E-1255692133-35

Ministerial database reference: LG20242344

Purpose

1. This briefing provides you with our initial briefing to the Justice Committee on the Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Bill (**Appendix A**).

Context

2. The Bill had its first reading today (23 May 2024). It was referred to the Committee for report back by 21 June 2024.

The Department's initial briefing is attached

3. Our initial briefing is organised thematically based on the main topics of the Bill. The key messages are that:
 - 3.1 the Bill will enable electors to take part in their local elections and decisions about their council's representation arrangements;
 - 3.2 statutory timeframes for local electoral processes are being adjusted to enable a longer period of postal voting paper delivery at the 2025 local elections and subsequent elections and polls;
 - 3.3 the Bill reinstates provisions that were in place before changes in 2021, including the ability for 5 percent of a councils electors to demand a binding poll on council decisions on the establishment of Māori wards;
 - 3.4 councils that have, or resolved to have Māori wards will be required to hold a binding poll at the 2025 local elections if they did not hold a binding poll when establishing their Māori wards since 2020; and
 - 3.5 a transitional mechanism is provided to councils that would be required to hold a binding poll at the 2025 local elections. This mechanism allows them to disestablish any current Māori wards, or rescind decisions to establish Māori wards to avoid holding a poll at the 2025 local elections.

The Committee may invite you to appear before it

4. The Committee may invite you to appear before it and speak on the Bill. You would likely be expected to speak for 5-10 minutes followed by 10 minutes of questions from Committee members. You are not required to accept an invitation to present.
5. If you accept an invitation from the Committee, we will be available to meet with you and support your appearance preparation. We will also provide you with a further briefing noting Select Committee timeframes once confirmed and suggested talking points if you choose to appear.

Next steps

6. We will provide the Committee with the initial briefing on 28 May 2024, and are likely to present it at the Committee's meeting on 30 May 2024.
7. To allow the provisions of the Bill that affect council decisions and processes before the 2025 local elections to take effect, the Bill is scheduled to be reported back to the House by 21 June 2024 and pass all remaining House stages before 31 July 2024.

Recommendations

8. We recommend that you:

- | | Yes/No |
|--|---------------|
| a) Agree that the Department provides the initial briefing to the Committee; | |
| b) Note that we have provided the initial briefing to the Parliamentary Counsel Office for consultation and will notify you of any substantial changes; and | |
| c) Note that we will provide you with a briefing and talking points if you are invited to appear before the Justice Committee. | |



Rowan Burns
Policy Manager

Hon Simeon Brown
Minister of Local Government

_____/_____/_____

Released under the Official Information Act 1982

Appendix A: Draft Select Committee Initial Briefing

See separate attachment.

Released under the Official Information Act 1982



Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Bill

Initial Briefing

XX May 2024

Released under the Official Information Act 1982

DRAFT

Introduction

1. This paper provides an overview of the Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Bill (the Bill):

Section 1:	Overview and purpose of the Bill
Section 2:	Adjusting statutory timeframes for local elections
Section 3:	Current Māori representation processes and arrangements
Section 4:	Reinstatement of binding polls on Māori wards and Māori constituencies
Section 5:	Binding poll at the 2025 local elections and transitional mechanism
Section 6:	Next steps / Transition and implementation
Appendix A:	Guide to the key provisions in the Bill
Appendix B:	Flowchart of transitional arrangements

Terminology, abbreviations, and acronyms

2. Below are acronyms, abbreviations and common terms used throughout this document:

Full text	Abbreviation and acronyms
Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Bill	The Bill
Local Electoral Act 2001	LEA
Local Electoral Regulations 2001	The Regulations

3. New Zealand has 78 local authorities broken into regional councils and territorial authorities (city and district councils), this document refers to them all as “councils”.
4. Electoral divisions for electors on the Māori roll are known as “Māori wards” at territorial authorities and “Māori constituencies” at regional councils. For simplicity, this document uses the term “Māori ward” to refer to them both.
5. The Bill also describes local body elections held for councils every three years as “triennial general elections”, to simplify this, the document refers to them as “local elections”.
6. **Clause 7** of the Bill includes amendments to the LEA which clarify that powers to establish Māori wards also include powers to disestablish them. Throughout this document, when referring to a council’s decision to establish Māori wards or Māori constituencies and any subsequent processes, these also apply to any decisions to disestablish them. For example, elector-initiated polls may also be demanded after a council resolves to disestablish its Māori wards.

Section 1: Overview and purpose of the Bill

7. The Bill is an omnibus Bill that amends the LEA and the Local Government Electoral Legislation Act 2023. It also makes consequential amendments to the Regulations.
8. The purpose of the Bill is to enable electors to take part in their local elections and decisions about their council's representation arrangements. The Bill will do this by:
 - 8.1 Adjusting the statutory timeframes for local elections to give more time for the postal delivery of voting papers; and
 - 8.2 Reinstating the mechanism for polls on Māori wards.
9. The Bill also provides transitional provisions for councils that have established, or resolved to establish, Māori wards without a binding poll since 2020. Under the Bill these councils would be required to hold a binding poll at the 2025 local elections. Alternatively, these councils would have the option to reverse their Māori wards decisions to avoid a poll at the 2025 local elections.
10. This briefing deals with each aspect of the Bill thematically.
11. Because law drafting conventions require that amendments be shown in the order in which they appear in each Act amended, it can be difficult to identify key provisions in the Bill and their connection to consequential and supporting amendments. A guide to the key provisions in the Bill is attached as **Appendix A**.

Section 2: Adjusting statutory timeframes for local elections

12. Since 1995, all councils in New Zealand have used postal voting to conduct their local elections and while booth voting is an option available to councils, no councils have opted for this. New Zealand Post (NZ Post) is the primary provider of local election voting paper delivery services. In recent local elections some councils have opted to use alternative providers like DX Mail, but DX Mail is not currently able to service the whole country for a national event.
13. Under the Regulations, all postal voting papers must be delivered within the first 6 days of the voting period. NZ Post has advised the Department that it will not be able to deliver voting papers inside the statutory timeframes for the 2025 and future local elections.
14. Concerns by NZ Post with its ability to deliver within the statutory timeframes for local elections stems from a wider decline in letter volumes since the LEA was passed, while courier demand has increased. This has led to reduced staff and postal infrastructure. A failure to deliver voting papers in time risks some voters not having a reasonable opportunity to cast their vote.
15. **Clause 4(2)** changes the definition of "voting period" to extend it by ten days. The total voting period for local elections will be 32 and a half days following the extension.
16. **Clauses 34 and 35** amend the period for delivery of postal voting papers, extending it from 6 days to 14 days.
17. Consequential amendments will be made to other statutory dates in the local electoral timeframe to enable the voting and delivery period timing changes.

18. The Bill proposes that all changes made to postal voting provisions come into force on 1 April 2025 and will therefore apply to the October 2025 local elections and subsequent local elections.

Section 3: Current Māori representation processes and arrangements

19. The LEA provides uniform rules about overarching matters of law while allowing diversity through local decision-making for specific features of the local electoral system.¹ One of the areas subject to local decision-making is the regular review of representation arrangements for councils known as a representation review.²
20. Councils must complete a representation review at least once every 2 terms. These processes are completed managed by the councils themselves, with oversight by the Local Government Commission. The Local Government Commission makes determinations on any objections or appeals to council representation arrangements, particularly considering whether a council's representation arrangements meet the requirements for "fair and effective representation" as set out in the LEA.
21. In a representation review, councils consider how they can best provide "fair and effective" representation of the individuals and communities in their areas. They choose the number of members of the council and its local/community boards, and how members are elected. Electoral divisions at local government are called "wards" at district and city councils and "constituencies" at regional councils. We use "ward" in the next two paragraphs to refer to both "ward" and "constituency".
22. "Fair representation" is defined as requiring that the ratio of councillors to constituents of each ward to be no more than 10 per cent greater or smaller than the representation ratio of in every other ward across the council area (known as the +/- 10% rule). The broad intention of this provision is to ensure that the value of a vote in any given ward is approximately the same as a vote in any other ward in a council area.
23. "Effective representation" means communities of interest should be represented by the same councillor or councillors, rather than being divided between multiple wards. Disparate communities of interest should generally not be grouped together in a single ward.
24. The LEA provides for exceptions to the requirement for fair representation if compliance with the 10 percent threshold would significantly reduce the effective representation of communities of interest. This may occur if the ratio would require dividing a community of interest into two or more wards. Exceptions are also permitted, if required, to effectively represent an isolated community. Any proposals that do not comply must be referred to the Local Government Commission for review.
25. Since 2002, councils have been able to provide specific representation of electors on the Māori electoral roll through Māori wards. These wards and constituencies are local

¹ Section 3(Purpose), Local Electoral Act 2001

² Part 1A (Representation arrangements for elections, etc.), Local Electoral Act 2001

government equivalents of Parliament's Māori electorates. Councils may optionally consider Māori wards before undertaking a representation review. If a council establishes Māori wards then the electoral divisions for voters on the general electoral roll are called general wards and general constituencies.

26. The Government of the 53rd New Zealand Parliament began reforming Māori wards processes in late 2020. The Local Electoral (Māori wards and Māori constituencies) Amendment Act 2021 was passed in February 2021. This Act removed all mechanisms for binding polls on councils' decisions to introduce new Māori wards.

Repeal of representation review provisions that would come into effect on 12 October 2025

27. The Local Government Electoral Legislation Act 2023 contains provisions that would come into force on 12 October 2025 and amend the Local Government Act 2001. The provisions would require councils that do not have Māori wards to:
 - 27.1 make an active decision about whether to have Māori wards as a part of their representation review process every 6 years; and
 - 27.2 consult with Māori and other communities before making a resolution on whether to include specific Māori representation in their representation arrangements.
28. Clauses 19 to 28 of the Bill would repeal these provisions of the Local Government Electoral Legislation Act 2023 that would come into force on 12 October 2025. This repeal would maintain the status quo and enable (but not require) councils to continue to make decisions on whether to have Māori wards or Māori constituencies prior to their representation reviews.
29. The Bill proposes that the repeal clauses come into force on the day after the date of Royal assent.

Section 4: Reinstatement of binding polls on Māori wards and Māori constituencies

30. The Bill will reinstate provisions that existed before the 2021 changes that enable a portion of a council's electors to call for a binding poll on decisions made regarding the establishment of Māori wards. It will also reinstate the ability for councils to initiate binding polls.
31. Under clause 7 of the Bill, once a council has made a resolution on Māori wards it will be required to provide a public notice to its local community of its decision and the right to demand a poll on the issue.
32. Once a public notice has been given, 5 percent or more of electors on a council's roll at the last local elections may petition their council to demand a poll on the council's resolution (clause 7, new sections 19ZB and 19ZC).³ A petition signed by less than 5

³ Anyone that has signed the petition and does not reside within the area of the council, or is not a registered elector, will not be counted against the 5 percent of electors required for the demand to be valid.

percent of a councils electors is not valid and does not meet the 5 percent threshold for a poll to be called.

33. The outcome of a poll is binding for two terms. Councils cannot resolve to hold a poll on whether to establish Māori wards if the result of an elector-initiated poll took effect at either the previous local election, or if it takes effect at the next local election (clause 7, new section 19ZE).
34. These changes will apply from immediately after the 2025 local elections.

Process following valid demand of a poll and the effect of the poll

35. Clause 7 reinstates the settings of the LEA that were in place before 2021 and provides the process for a poll of electors following a valid demand and the effect of such polls. Sections under clause 7 include:
 - 35.1 that if 2 or more valid written notices demanding a poll are given to a council, it may combine them under one poll if practicable;
 - 35.2 that the outcome of polls held alongside a local election or by 14 March in the year before the next election will apply for the next 2 local elections and any other local elections in that time;
 - 35.3 confirmation that local councils must follow the outcomes of any binding poll on the establishment of Māori wards in its area.
36. Clause 5 amends section 9 of the LEA and reinstates provisions in the same form as they were prior to amendments made in 2021. Section 9 enables a council to direct their electoral officer to conduct a referendum on any matter related to the activities or objectives of the council or the well-being of its area.

Section 5: Transitional provisions – Binding polls at the 2025 local elections and reversal option

37. If a council has established Māori wards since 2020 without holding a poll, they will be required to hold a binding poll on the issue at the 2025 local elections.
38. The outcome of a binding poll at the 2025 local election would take effect at the 2028 local election and apply for 2 local elections.
39. If a council does not wish to hold a binding poll on the establishment of Māori wards at the 2025 local elections, they may choose to disestablish their Māori wards, or rescind their decision to establish, and will have transitional arrangement options available following such decisions.

An alternative mechanism is available for councils that do not wish to undertake a binding poll at the 2025 local elections

40. The Bill inserts a new **Part 3 to Schedule 1** of the LEA that will come into force on the day after the date of Royal assent. This provides a mechanism for councils that have either established, or resolved to establish Māori wards, without polls since provisions of the Local Electoral (Māori Wards and Māori Constituencies) Act 2021 came into force on 2 March 2021.

41. A flowchart of the transitional arrangements for council groups is attached as **Appendix B**.
42. There are different requirements for councils depending on when whether their Māori wards are currently in place. There are 2 council groups:
 - 42.1 Group 1 – 31 councils that had Māori wards for the first time at the 2022 elections, where Māori wards are currently in place; and
 - 42.2 Group 2 – 13 Councils that have resolved to create Māori wards without holding a poll, and would have their first election with Māori wards at the 2025 local elections.
43. A list of councils in group 1 and group 2 can be found in Part 3, Clause 10(2) of the Bill.
44. Group 1 councils have the option to disestablish their existing Māori wards. Group 2 councils have the option to rescind their decision to create their Māori wards. If councils in either of these groups do not make the decision to disestablish or rescind by 6 September 2024, they will be required to hold a binding poll at the 2025 local election.
45. Tauranga City Council, as it is currently governed by commissioners and will hold its elections on 20 July 2024, is treated separately. Tauranga City Council will be offered the option to resolve to disestablish its Māori ward by 30 November 2026, or hold a poll by March 2027, with the outcome to take effect from the 2028 local elections.

Transitional arrangements for councils that have established Māori wards without a poll since 2020 (Group 1)

46. The Bill will give group 1 councils the option to resolve to disestablish their Māori wards via a council resolution. Doing so will enable the council to avoid a binding poll at the 2025 local elections.
47. Councils in group 1 will not be required to follow the special consultative procedure under Section 83 of the Local Government Act 2002 when resolving to disestablish their Māori wards.⁴ This is due to the very short window councils have to make these decisions and put new representation arrangements in place before the 2025 local elections. This section does not prevent the council from engaging with their communities or requesting and considering comment or advice from a council officer or any other persons views on the proposal.
48. Councils in group 1 that choose to disestablish their Māori wards must then decide on their representation arrangements for the 2025 election. The councils may:

⁴ A special consultative procedure under section 83 of the Local Government Act 2002 requires a council to prepare a statement of proposal and make information publicly available, the council must then provide reasonable opportunity for persons to present their views on the issue.

- 48.1 Resolve to revert to their representation arrangements that applied at the 2019 local elections (“pre-2020 representation arrangements”) if the pre-2020 arrangements satisfy the requirements for fair and effective representation (Schedule, clause 15); or
- 48.2 resolve to undertake a shortened representation review process in 2024 (Schedule, clauses 21 to 28).
49. Group 1 councils either choosing to revert to pre-2020 representation arrangements or undertaking a shortened representation review process will not have Māori wards for the 2025 or 2028 local elections. If any group 1 councils instead choose to have a binding poll at the 2025 local elections, the outcome of the poll will come into force at the 2028 local elections and apply for 6 years.

Group 1 council resolves to revert to pre-2020 representation arrangements

50. Councils may only revert to their pre-2020 arrangements after disestablishing their Māori wards if those arrangements meet the fair and effect representation requirements.
51. Councils that have undergone substantial population shifts or growth may no longer be able to meet these requirements. Councils in this situation must resolve to undertake a shortened representation review process in 2024. If a council has already received an exception from compliance during the council’s most recent representation review by the Local Government Commission, this exception continues to apply and does not require referring to the Local Government Commission again.
52. Councils that disestablish their Māori wards and revert to pre-2020 representation arrangements must complete their next representation review in the 2025-28 local government term.

Group 1 council resolves to disestablish and do a shortened representation review process

53. **Clauses 21 to 28 of the Schedule** provide a shortened representation review process for councils that choose this option. The shortened representation review provides for all stages of the standard representation review on a slightly shortened timeframe, including resolving on the initial proposal, opening the proposal for public submissions, amending the proposal based on the public submissions and reissuing the final proposal, and receiving public appeals and objections on the final proposal. Appeals and objections are forwarded to the Local Government Commission.

Transitional arrangements for councils that have resolved to establish Māori wards without a poll since 2020 (Group 2)

54. Under **clause 29(1) of the Schedule**, a group 2 council would have until 6 September 2024 to consider resolving to rescind its resolution (decision) to establish Māori wards. The outcome of a decision to rescind a council’s resolution would apply at the 2025 local election. Unlike group 1 councils, councils who choose to rescind their decisions before the 2025 elections can reconsider the issue of Māori wards for the 2028 local elections.

55. If a group 2 council does not resolve to rescind its decision to establish Māori wards by 6 September 2024, it will be required to hold a binding poll at the 2025 local elections. Māori wards will be in place for the 2025-2028 term.
56. Similarly to group 1, the special consultative procedure under section 83 of the Local Government Act 2002 will not apply to group 2 councils if they resolve to rescind their decision to establish Māori wards.
57. Group 2 councils that resolve to rescind their decision on Māori wards have different options depending on the date of their most recent representation review. As councils are required to complete a representation review at least every 2 terms, group 2 councils who have completed a representation review since 2019 still have another electoral term to go before they would normally be required to carry out another representation review. There are three councils in this situation.
58. The options available for these councils include:
- 58.1 not being required to, but may, complete a shortened representation review process in 2024; or
 - 58.2 continuing with their current representation arrangements into the 2025 local elections.
59. If a group 2 council resolves to complete a shortened representation review process, that process must be completed in accordance with **clauses 22 to 28**.
60. **Clause 34 of the Schedule** provides representation arrangement options for group 2 councils that have not completed a representation review since the 2019 local elections. A group 2 council in this situation must:
- 60.1 Resolve to continue its existing representation arrangements if the requirements for fair and effective representation are met; or
 - 60.2 Resolve to undertake a shortened representation review process in 2024 in accordance with requirements under **clauses 22-28 of the Schedule**.
61. A group 2 council that resolves to continue its existing representation arrangements will be required to carry out a representation review in the 2025-28 electoral term.
62. In the case that a group 2 council does not meet the requirements for fair and effective representation, it may not continue its existing representation arrangements and must undertake a shortened representation review process.

Arrangements for Tauranga City Council prior to, and following, its 2024 local election

63. Tauranga City Council is currently governed by Crown appointed Commissioners.⁵ The council will return to elected representation following a local election in July 2024.

⁵ Part 10, Sections 258F–258L (Minister may appoint Commission), Local Government Act 2002

64. The Commissioners resolved last term to establish a Māori ward which will take effect from the 2024 local election. The newly elected Council will be able to resolve, by 30 November 2026, whether to disestablish its Māori ward or not. If the Council does not choose to disestablish its Māori ward, it will be required to hold a binding poll by 28 March 2027 in which its electors may participate in the determination of whether the Council should continue with its current Māori ward(s).

Section 6: Next steps

Next steps

65. The Committee is required to report the Bill back to the House by 21 June 2024.

Transition and implementation

66. The intention is for the Bill to be enacted by 31 July 2024 as this is the due date for councils to resolve on their initial representation arrangement proposals. The Bill contains provisions that extend the due date for group 2 councils' decisions on an their initial proposal for representation arrangements (in recognition of the proposed changes to Māori wards they must now consider) to 6 September 2024. This extension is only available if the Bill comes into effect by 31 July 2024.
67. The Bill will come into force in different stages:
- 67.1 The general provisions relating to the reinstatement of polls on Māori wards come into force on 12 October 2025.
- 67.2 The provisions repealing the requirement for councils to actively consider Māori representation as part of their representation review will come into force on the day after the date of Royal assent.
- 67.3 The provisions requiring councils to hold a binding poll at the 2025 local elections if they established Māori wards since 2020 without holding a poll, as well as the provisions enabling councils to resolve to reverse their recent decisions to have a Māori wards, come into force on the day after the date of Royal assent.
- 67.4 The provisions relating to the new statutory timeframes for local elections will come into force on 1 April 2025 to apply for the 2025 local elections and subsequent local elections.

Appendix A: Guide to the key provisions in the Bill

Policy Objective	Key Provision(s)
Reinstate ability for electors to demand a poll on Māori wards and Māori constituencies	Clause 7 inserts new sections 19ZA-19ZG into the LEA in the same form as in force before 2 March 2021 (the date on which they were repealed). This reinstates the ability for electors to be notified of and demand polls, on Māori wards and constituencies, and how these polls have effect.
Provides a transitional mechanism for councils to disestablish or rescind decisions on Māori wards and Māori constituencies	Clause 17 inserts new Part 3 of Schedule 1 of the LEA to separate councils into groups based on whether they have established Māori wards (Group 1) or, have resolved to establish Māori wards, without a binding poll since 2020 (Group 2).
Repeal requirement for local authorities to make an active decision regarding Māori wards	Clauses 19 to 28 repeal provisions of the Local Electoral Legislation Act 2023 that would amend the LEA on 12 October were they to come into force on that date. The provisions would have required local authorities to make an active decision regarding whether to have Māori wards as part of their representation process.
Adjustment of statutory timeframes for postal delivery of voting papers	Clauses 4, 8, 9, and 10-15 of the LEA and clauses 30-35 of the Local Electoral Regulations 2001 are amended to extend the voting period to 32 and a half days and extend the delivery of postal voting papers from 6 days to 14 days for elections and polls.
Representation options for Tauranga City Council as its governance structure transitions after July 2024	Clauses 45-50 of the Schedule require Tauranga City Council to resolve, by 30 November 2026, to disestablish its Māori ward and, if it does not, require the council to hold a binding poll by 28 March 2027 on the question whether its district should be divided into 1 or more Māori wards.
Local Government Commission must provide guidelines for councils making resolutions under Part 3	Clause 51 of the Schedule requires the Local Government Commission to issue guidelines identifying factors and considerations for group 1 and group 2 local authorities to take into account when passing resolutions and making determinations referred to in new Part 3.

Released under the Official Information Act 1982



Local Government briefing

Hon Simeon Brown
Minister of Local Government

Title: **Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Bill: First reading speech and related documents**

Date: 16 May 2024

Key issues

The *Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Bill: approval for introduction* Cabinet paper was lodged today.

The Cabinet paper and Bill will be considered by Cabinet on Monday 20 May 2024 and talking points for Cabinet are provided.

First reading for the Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Bill is scheduled for 23 May 2024. This briefing provides you with the first reading speech and legislative statement for your consideration.

Action sought

Review the attached talking points for Cabinet on Monday 20 May.

Review the attached first reading speech and legislative statement.

Agree to circulate the legislative statement to the Clerk of the House and to the leader, whip, or relevant spokesperson of each party by 11am on 23 May 2024.

Timeframe

By 20 May 2024

By 22 May 2024

By 11am, 23 May 2024

Contact for telephone discussions (if required)

Name	Position	Contact Number	Suggested 1 st contact
Rowan Burns	Policy Manager	9(2)(a)	✓
Jack Webb	Policy Analyst		

Return electronic document to:	Jack Webb Jack.Webb@dia.govt.nz
Cohesion document reference	3W2DU3RAJ5R2-1792698455-4621
Ministerial database reference	LG20242179

Purpose

1. This briefing provides you with talking points for Cabinet on Monday 20 May. This briefing also provides you with a first reading speech and legislative statement for the Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Bill (the Bill).

Approval to introduce the Bill at Cabinet

2. The Bill and Cabinet paper were lodged today, to go straight to Cabinet on Monday 20 May. Talking points for the Cabinet meeting on Monday 20 May are attached as **Appendix A**.
3. There is currently an urgent Waitangi Tribunal inquiry taking place on the proposed changes to Māori wards. The Tribunal is expected to issue their report late on Friday 17 May 2024. We will provide further talking points to your office if required when we know the outcome of the report.

First reading

4. Should Cabinet agree, the Bill will be introduced into the House on Monday 20 May 2024 and will be available to have its first reading on Thursday 23 May. A draft first reading speech is attached as **Appendix B**.
5. The Bill must complete its first reading by Thursday 23 May 2024 to have the best opportunity to be passed by the end of July 2024. Enactment by the end of July 2024 is necessary because local authorities that have resolved to establish Māori wards in the current term are required to adopt their initial proposals for their new representation arrangements by 31 July 2024.

Legislative statement

6. A draft legislative statement, to be presented to the House at first reading, is provided at **Appendix C** for your consideration.
7. The legislative statement must be circulated to the Clerk of the House of Representatives and to the leader, whip, or relevant spokesperson of each party by 11am on the day that the Bill has its first reading.

Recommendations

8. We recommend that you:

- a) **review** the attached talking points for Cabinet on Monday 20 May;
- b) **review** the attached first reading speech and legislative statement;
and
- c) **circulate** the legislative statement by no later than 11am on the day **Yes/No**
the Bill has its first reading.



Rowan Burns
Policy Manager

Hon Simeon Brown
Minister of Local Government

Released under the Official Information Act 1982

Appendix A: First reading speech – Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Bill

(Separate attachment)

Released under the Official Information Act 1982

Appendix B: Legislative statement – Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Bill

(Separate attachment)

Withheld under section 18(d) of the Official Information Act 1982

Released under the Official Information Act 1982

Appendix C: Talking points for Cabinet paper – Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Bill – Approval for introduction

(Separate attachment)

Released under the Official Information Act 1982

First Reading Speech – Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Bill

Legislative statement

I present a legislative statement on the Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Bill.

Process

I move, that the Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Bill be now read a first time.

I nominate the Justice Committee to consider the Bill.

At the appropriate time I intend to move that the Bill be reported to the House by **19 June 2024** and that the committee have authority to meet at any time while the House is sitting (except during oral questions), during any evening on a day on which there has been a sitting of the House, and on a Friday in a week in which there has been a sitting of the House, despite Standing Orders 193 and 196(1)(b) and (c).

Introduction to the Bill

Mr Speaker, I am pleased to be here today with this local electoral Bill. This Bill will contribute to further strengthening our local democracy by:

- Reintroducing polls on the establishment of Māori wards;
- Requiring councils to hold a poll at the 2025 local elections if they did not hold a poll previously; and
- Making changes to the local electoral calendar to enable the 2025 local elections to be delivered.

Giving voice and choice back to local communities

In 2021 the previous Government removed the binding polls that councils had to hold if they received a valid petition to decide on whether Māori wards would be established in their constituencies. By doing so, they also silenced local voices who overwhelmingly voted against it when consulted.

We opposed the Bill because we supported the idea that local people in their local communities should be the ones who make the decisions about how they want to be represented.

What this Bill does

Mr Speaker, this Government is committed to local democracy.

We are not removing the right to establish Māori wards; however, we want each community to decide whether they want one, or not. This is a decision for local people in local communities to make about their local representation.

Under this Bill, councils will again be able to resolve to hold binding polls on Māori wards, and communities will be able to petition their council to hold one. Binding polls will be restored with the same policy settings as they were before 2021, including:

- A petition from 5% of electors on a council's roll at the last local elections will require the council to hold a binding poll;
- Any person on the electoral roll for a council will be able to vote;
- A simple majority will bind a council to an outcome; and
- The outcome of the poll will be binding on a council for the next two local government terms.

The Bill will also remove the requirement under the Local Government Electoral Legislation Act 2023 for councils to consider Māori wards every six years during their representation reviews if they have not yet established Māori wards.

Requiring councils to hold a polls if Māori wards were established without one

Since removing the binding poll mechanism in 2021, 45 councils decided to establish a Māori ward without holding a poll. That is 45 councils whose electors did not get a direct say on whether they wanted Māori wards or not.

This Bill gives those local authorities the choice between two options: the councillors can choose themselves to un-make the ward; or they can hold a binding poll at the upcoming 2025 local elections.

These options will give councils the opportunity to avoid the additional costs and workload associated with holding a poll, if they consider that is the right choice for their communities.

The result of these polls will take effect at the 2028 local elections.

The exception to this timeframe is Tauranga City Council, which is holding their elections on July 20th, less than two months away and before this Bill will be passed.

Tauranga City Council will instead be given the same options as other councils: to either hold a poll before the 2028 elections, or disestablish their Māori ward for the 2028 elections.

Other ways Māori can participate in local democracy

We want Māori voices to be heard and represented. We also know Māori wards are not the only way to give Māori a voice in New Zealand.

In fact Mr Speaker, you may recall that the Kaikōura council unanimously voted no to establishing a Māori ward and instead decided to continue to work in partnership with mana whenua to investigate other opportunities of greater inclusion in council decision-making.

The Local Government Act also requires local authorities to have processes in place for consulting with Māori in accordance with the principle of consultation under the Act.

We expect that local authorities will continue to engage with Māori as they have previously when it comes to matters that affect them.

Changes to postal delivery timeframes for the 2025 local elections

Lastly, the Bill makes a key change to support participation in the 2025 local elections.

Mr Speaker, as you know, all councils use postal voting for local elections and have done so since 1995. NZ Post provides almost all of the postal services for local elections.

As postal volumes have declined, it has become harder to deliver voting papers within the current six-day window. NZ Post has informed me that it could take up to two weeks to complete nationwide delivery of voting papers for the 2025 local elections and beyond. This creates a risk that some voters will not have a reasonable opportunity to have their voices heard.

I propose to adjust the statutory timeframes for how long voting papers can be sent out.

Under the Local Electoral Act there are just over 22 days for postal voting in local elections. All voting papers must be delivered in the first six days of the voting period. Responsibility for meeting this requirement sits with local electoral officers.

This Bill will extend the delivery period for voting papers from six days to 14 days. To accommodate this, the voting period will also be extended by ten days.

This means that those people in remote areas, especially in our rural communities, will have a greater opportunity to receive their vote and be able to return it in time.

The need for broader electoral reforms

Unfortunately, the local electoral system is not in good health and we want to begin the work as soon as possible to start fixing it.

There are bigger questions about the future of postal voting and whether local elections can be run more efficiently.

Once this current Bill is completed, we will consider whether any broader electoral reforms are needed to further strengthen our local democracy.

Why the need for a short select committee?

Mr Speaker, we have a lot of work to do, and with local elections coming up next year, we want to give certainty to all councils across New Zealand.

A shorter select committee process will enable the Bill to be reported back to the House by 19 June so all remaining stages can be completed by the end of July.

This will enable councils to start making decisions and to start planning for the 2025 local elections.

I commend this Bill to the House.

Instruction to select Committee

I move,

- that the Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Bill be reported back to the House by **19 June 2024**, and
- that the Committee have authority to meet at any time while the House is sitting (except during oral questions), during any evening on a day which there has been a sitting of the House, and on a Friday in a week in which there has been a sitting of the House, despite Standing Orders 193(1)(b) and (c).

Optional if debate on the motion is required:

Mr Speaker, I acknowledge that this Bill is proceeding at pace. However, the Bill must proceed quickly so that:

- the changes can apply for the 2025 local elections,
- councils and communities can decide on whether they want to hold a poll in 2025 and will have certainty about what will happen,
- election service providers can start preparing for the new local electoral timeframes and communicate these to local authorities.

Despite the speed at which the Bill needs to be passed, the Government values hearing from all New Zealanders about the proposed changes. That is why we are proposing that the Select Committee process takes place, but given the circumstances I respectfully ask the Justice Select Committee to consider the Bill thoroughly and report back to the House by 19 June.

Giving the Committee additional authority to meet outside the usual hours will support it to meet this timeframe and I invite the House to support this motion.

Talking points for Cabinet 20 May 2024

Cabinet paper: *Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Bill: Approval for Introduction*

Key messages

- This Bill has come direct to Cabinet because the Parliamentary Counsel Office needed as much time as possible to draft the Bill.
- The Bill contains policy agreed to by Cabinet previously which will require 44 councils to hold polls on Māori wards at the 2025 local elections unless they decide to rescind their decision to establish a Māori ward or disestablish their Māori ward before then.
- Should Cabinet agree, the Bill will be introduced today to enable the first reading to take place on Thursday 23 May.
- There was an urgent Waitangi Tribunal claim made on the proposals to Māori wards and their report was released late on Friday afternoon.
- The Attorney-General may have an update on the vet on the Bill for consistency with the New Zealand Bill of Rights Act 1990.
- The Bill will have a short select committee so the Bill can be reported back to the House by 19 June so the Bill can pass by the end of July to enable councils to make their final representation arrangements.

Released under the Official Information Act 1982

Detail on key components of the paper

Overview

- The Bill implements the Government's coalition commitments to changes to Māori ward processes.
- The Bill also addresses issues with the postal delivery timeframes for local elections.
- The Bill:
 - Reinstates polls on Māori wards and Māori constituencies;
 - Requires 44 councils to hold a binding poll at the 2025 local elections if they established Māori wards since 2021 and did not hold a binding poll;¹
 - Allows councils to avoid holding a binding poll if they instead choose to rescind their Māori wards decision or disestablish Māori wards; and
 - Adjusts the statutory timeframes for local elections to give more time for the postal delivery of voting papers.
- Should Cabinet agree, I intend to introduce this Bill today, Monday 20 May to enable first reading to take place on 23 May 2024.
- The Bill needs to be passed before 31 July 2024 to support councils to make decisions on their representation arrangements for the 2025 local elections.

Reinstating polls on Māori wards (para 4)

- This Bill will reinstate the ability for communities to demand binding polls on council decisions to establish or disestablish Māori wards to the same policy settings as they were before 2021 including:
 - The threshold for petitioning the council (5% of electors on the council's roll);
 - The eligibility to vote (any person on the electoral roll for that council);
 - The percentage required to bind the council to the outcome (simple majority); and
 - The binding length (2 local government terms).

Requiring a poll to be held if one has not been held previously (para 5)

- The Bill will require councils to hold a binding poll at the 2025 local elections if they established Māori wards since 2020 without a poll (44 councils). Tauranga City Council will be required to hold a poll by the end of 2026. The outcome of any polls will take effect at the 2028 local elections (a list of councils can be found on the last page).
- Councils will not be required to hold a poll at the 2025 local elections if they:

¹ Plus the same requirements for Tauranga City Council, but on a slower track.

- rescind their resolution to establish Māori wards for the 2025 local elections; or
- resolve to disestablish their Māori ward for the 2025 local elections.

Local elections delivery timeframes (para 6)

- NZ Post, as the main delivery provider of local election voting papers, have said they will not be able to deliver those papers in the statutory timeframe of six days at the local elections.
- The Bill will increase the delivery period for voting papers to 14 days, and the voting period to 32-and-a-half days.
- These new timeframes will apply for the 2025 local elections and beyond before a more sustainable model can be looked into.

Some minor policy decisions have been made (paras 8 - 9)

- In the paper I seek Cabinet approval to some minor policy decisions made during the drafting of the Bill.
- **First**, if a council opts to rescind or disestablish Māori wards for 2025 councils may be able to use old representation arrangements to avoid the cost and effort of an extra representation review process. The Bill will place some limits on this. Councils will only be able to use their old arrangements if they can still meet the standard fair and effective representation requirements.
- **Second**, the detail of the shortened representation review process (following rescind/disestablish) decisions has now been worked through. The Local Government Commission will continue to consider appeals and objections to councils' representation arrangements. The public submission timeframes will be slightly shortened.
- **Third**, councils (apart from Tauranga) will have until 6 September 2024 to make any decision to rescind or disestablish Māori wards:
 - this date will be 6 September 2024;
 - this will give councils up to 6 weeks to make these decisions; on the basis that the Bill passes on the week of 22 July this year, as anticipated.
- **Fourth**, Councils that are currently establishing Māori wards for the first time will have an extension to the due date for issuing the initial proposal for representation arrangements. This is so that they can consider the option to rescind or disestablish at the same time. This extension will only be available if the Bill comes into effect by 31 July 2024.

Feedback received from departmental consultation

- Te Arawhiti, Ministry of Justice, and Te Puni Kōkiri expressed concerns that the Cabinet paper did not refer to how the proposed amendments are inconsistent with

the principles of the Treaty of Waitangi. They also expressed concerns about the lack of public, iwi and Māori consultation.

Feedback received from Ministerial and coalition partner consultation

- Crown Law via Minister Collins’ office noted the connection with the Waitangi Tribunal’s urgent inquiry, and that the Tribunal will likely make findings about whether the Crown’s actions in promoting this amendment are consistent with Te Tiriti o Waitangi and the principles of the Treaty.

Parliamentary stages

- I propose the Bill:
 - will be referred to the Justice Committee, with a report back date of 19 June 2024;
 - should be passed in time to come into effect by 31 July 2024.
- This timing is important because local authorities that have resolved to establish Māori wards in the current term must adopt initial proposals for their new representation arrangements by 31 July 2024. The Bill will extend this deadline if it comes into effect by that July date. This will help to avoid public confusion about being invited to make submissions on a decision that the council intends to reverse shortly afterwards, as well as reducing unnecessary work for councils in preparing a set of representation arrangements the council will later reverse.

Step	Date
Lodgement of Cabinet paper	16 May
Cabinet	20 May
Introduction	20 May
First reading	23 May
Select Committee report back	19 June
Second reading	26 June
Committee of the whole House	25 July
Third reading	25/30 July
Royal Assent	30 July

Q&A: Māori wards

What will the proposed changes mean for councils without Māori wards?

The only effect on these councils is that people on the electoral roll will be able to petition their councils to hold binding polls on Māori wards from the next term of local government, 2025 - 2028. These polls will follow the previous process and could take effect starting from the 2028 local elections.

Why can't the outcome of a poll be implemented immediately if it is held with the 2025 election?

Because elections, candidates and voting papers are based on the council's existing representation arrangements (number of councillors, number of wards, ward boundaries).

If the poll removes separate Māori representation then the ward structure needs to be recalculated, consulted on, and confirmed before calling for candidates for the new arrangements

How well placed are councils to undertake these polls given the other pressures they're under?

The Bill will require up to 45 councils to complete a poll process (and some will also need to complete a representation review) that they have not planned or budgeted for.

The estimated cost for a council with 150,000 electors to hold a poll is \$75-150,000. This does not include the costs of public information, engagement and communications that are likely to be managed by the councils themselves.

Will any councils even choose to hold a poll if given the option to disestablish?

It is too early to tell as councils are waiting to see the full range of proposals in the Bill. My proposals give councils the most options with how to proceed.

What are the fair and effective representation requirements in the Local Electoral Act 2001?

Fair representation relates to the number of persons represented per member. The ratio of electors to elected member in each ward or constituency is required to be within +/- 10% of the ratio for the district or region as a whole. This is designed to ensure approximate equality in representation i.e. votes of equal value.

Effective representation aims to ensure that, where possible, communities of interest are kept together.

Has the Bill been vetted against the Bill of Rights Act 1990 by the Attorney General?

The Attorney-General may like to give an update on the vet of the Bill for consistency with the New Zealand Bill of Rights Act 1990.

What about the nine councils that resolved in 2020 to establish Māori wards, before the 2021 Amendment Bill was introduced?

Some councils have queried whether they should be included in the requirement to hold a binding poll in 2025.

Of the nine councils, five² received a valid petition demanding a poll before the 2021 Amendments came into effect. The 2021 Amendments invalidated those poll demands so that the polls were not held.

However, the other four councils (Gisborne, New Plymouth, Ruapehu and South Taranaki) did not receive valid poll demands within the statutory timeframe. Even if the 2021 Amendments had not been enacted these councils would have proceeded to establish Māori wards without needing to hold a poll.

Some of these councils are suggesting that they should be excluded from the requirement to hold a poll at the 2025 local elections, because their Māori wards were put in place under the process in the “old law” before the 2021 Amendments came into effect.

In the time available it has not been possible to seek Cabinet decisions on this point. I may need to seek further decisions from Cabinet on whether or not these four councils should be included, once the select committee has completed its work. The change would be reasonably simple from a drafting perspective.

[Note - the statutory deadline for petitions to be lodged was 21 February 2021. The 2021 Amendment Act came into effect on 2 March 2021.]

Q&A: Waitangi Tribunal urgent inquiry

What is the status of the Waitangi Tribunal urgent inquiry into the Māori wards proposals?

The Waitangi Tribunal has completed an urgent inquiry into a claim that the Government’s policy to reinstate polling and petitioning powers for Māori wards are a breach of Te Tiriti o Waitangi/the Treaty of Waitangi.

[The Department will update these talking points if required when the Tribunal’s report is received on 17 May 2024].

² Kaipara, Northland Regional, Taupo, Tauranga, and Whangarei.

The Tribunal's decisions are not binding on the Crown. It is likely that the Tribunal will consider this matter again, once the Bill is enacted, via the constitutional kaupapa inquiry.

Q&A: Local elections delivery timeframes

Why does NZ Post need more time?

Letter volumes have reduced significantly since the Local Electoral Act was passed resulting in a reduction in staff and postal infrastructure.

NZ Post will soon be rolling out a new delivery model which will mean it takes up to two weeks for post to be delivered in some areas. Under the new model NZ Post will not be able to meet the statutory requirement for voting papers to be delivered within a 6 day window.

Why is NZ Post still the preferred supplier?

NZ Post can deliver across New Zealand, including rural areas. NZ Post is obligated to maintain a certain level of service under a Deed of Understanding it has signed between itself and the Crown.

Why could we not just use other postal delivery services like DX Mail?

Although DX Mail has delivered for some councils, DX Mail is unable to service the whole country simultaneously for a national event.

Why not just use booth voting?

Councils have this option but the last council to use booth voting was Lower Hutt in 1995.

The use of booth voting more widely could be considered as part of longer-term reform but it would be a significant shift for councils and for now my priority is the integrity of the 2025 and 2028 local elections.

How will the local electoral calendar be changed?

The local electoral calendar will be amended to give postal delivery services up to two weeks to deliver voting documents. Extra time will come from a slightly reduced nomination period, and shifting the cutoff date for electors to be included on the printed roll earlier.

What are the other “administrative problems” you’re trying to solve?

Datam is responsible for assembling voting pack and are a business arm of NZ Post. Datam would like more time to relieve pressure on printing and packing the voting papers in time.

Another issue is the day on which voting papers start to be sent out. Electoral officers would like the voting papers to be sent out earlier in the week so any errors picked up can be fixed up during the week and not try and fix it over the weekend.

Could we give NZ Post more funding and ask them to deliver inside the existing timeframes?

There is no guarantee that NZ Post will be able to find the staff to deliver voting papers within the existing timeframes. It is difficult for NZ Post to find and upskill the temporary staff in the time available, and not cost effective to maintain permanent excess capacity in the delivery network for the temporary peak arising from elections.

What are the cost implications for Government?

The Electoral Commission has estimated that these changes will cost about \$487,000 to implement. The costs arise from:

- having to put in place extra enrolment support (including hiring additional staff) for 3-4 weeks longer (because local elections processes will start earlier in the year)
- a longer "overlap" period for the enrolment update campaign and the Māori electoral option update campaign.

These costs are currently unfunded and will have to be absorbed by the Electoral Commission. Without additional funding through a future budget bid, this may impact on service levels for future general elections.

Will these changes interrupt councils’ other business?

No. The changes will not have a material impact on councils’ other business as the Department of Internal Affairs is working with all the operational agencies (including the Electoral Commission, Statistics New Zealand, and local electoral staff) to ensure they are well prepared for the new dates.

What about changing the close of polling to a later date?

Local elections have always been held on the second Saturday in October every three years. A change in date would also mean that in 2028 the election day would be during Labour Weekend, making voting hard for those travelling.

Changing to a later date would also put additional pressure on end of year processes for councils where there are already tight timeframes.

Does the sector support the change?

The Department has engaged with the Electoral Reference Group (made up of council officials and electoral officers, representatives from the two election service provider companies, and staff from Taituarā and Local Government New Zealand). They support the proposed new timeframes.

Could voters return their voting papers online instead?

I do not consider work on online voting to be an effective use of public resources and time when there are significant security concerns.

Released under the Official Information Act 1982

Councils that have <u>established</u> Māori wards since 2020 without a binding poll	Councils that have <u>resolved to establish</u> Māori wards since 2020 without a binding poll
<p>Far North District Council Gisborne District Council Hamilton City Council Hastings District Council Hawke’s Bay Regional Council Horowhenua District Council Kaipara District Council Manawatu District Council Manawatū-Whanganui Regional Council Marlborough District Council Masterton District Council Matamata-Piako District Council Nelson City Council New Plymouth District Council Northland Regional Council Ōtorohanga District Council Palmerston North City Council Porirua City Council Rangitikei District Council Rotorua District Council Ruapehu District Council South Taranaki District Council Stratford District Council Taranaki Regional Council Taranaki District Council Taupo District Council Tauranga City Council Waikato District Council Waipa District Council Wellington City Council Whakatane District Council Whangarei District Council</p>	<p>Central Hawke’s Bay District Council Hauraki District Council Hutt City Council Kapiti Coast District Council Kawerau District Council Napier City Council South Wairarapa District Council Tasman District Council Thames-Coromandel District Council Upper Hutt City Council Wellington Regional Council Western Bay of Plenty District Council Whanganui District Council</p>

Released under the Official Information Act 1982



Local Government briefing

Hon Simeon Brown
Minister of Local Government

Title: **Final Cabinet paper – Local Government
(Electoral Legislation and Māori Wards and Māori Constituencies)
Amendment Bill: Approval for Introduction**

Date: 14 May 2024

Key issues

This briefing attaches the final version of the Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Bill Cabinet paper, to be lodged on Thursday, 16 May for Cabinet on Monday 20 May 2024. A near final version of the Bill is also attached for your reference.

No significant changes have been made to the Cabinet paper as a result of departmental feedback.

Key dates:

- Return any final comments (if required) back to DIA: **As soon as possible**
- Lodge paper with Cabinet Office for Cabinet: **By 10am, Thursday 16 May 2024**
- Cabinet: **Monday 20 May 2024**
- Bill introduced: **Monday 20 May 2024**
- First reading: **Thursday 23 May 2024**

Action sought

Approve the final draft of the Cabinet paper for lodging.

Timeframe

As soon as possible

Contact for telephone discussions (if required)

Name	Position	Contact Number	Suggested 1 st contact
Rowan Burns	Policy Manager	9(2)(a)	✓
Michael Smith	Senior Policy Analyst		

Return electronic document to:	william.spear@dia.govt.nz , William Spear
Cohesion document reference	3W2DU3RAJ5R2-1792698455-4632
Ministerial database reference	LG20242162

Purpose

1. This briefing provides you with:
 - 1.1 a final draft of your Cabinet paper: *Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Bill: Approval for Introduction (Appendix A)*; and
 - 1.2 Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Bill (the Bill) (**Appendix B**).

This Cabinet paper will go straight to Cabinet

2. Parliamentary Counsel Office advised the Department that it needed as much time as possible to draft the Bill to an appropriate quality before introducing the Bill in the House. Your office has therefore gained approval to take the LEG paper directly to Cabinet.
3. The Bill is still undergoing final quality checks but a near final version of the Bill is attached for your reference.

Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Bill

4. The policy relating to the content of the Bill was agreed by Cabinet on 25 March 2024 [CAB-24-MIN-0089].
5. The Bill reinstates binding polls on the establishment of Māori wards and Māori constituencies (Māori wards) to the same settings as they were prior to amendments made in 2021. This includes reinstating the 5% threshold for public petitions for binding polls.
6. The Bill will require councils who established Māori wards since 2020 without a poll to hold a binding poll at the 2025 local elections. The outcome of the poll will take effect at the 2028 local elections.
7. The Bill includes transitional provisions to enable councils to resolve to disestablish their Māori ward or resolve to rescind their decision to have a Māori ward. Councils that do so will not be required to hold a poll at the 2025 local elections.
8. The Bill will also make changes to some of the statutory timeframes for the 2025 local elections and any subsequent local elections and polls. The delivery of voting papers will increase by six days to 14 days, while the voting period will extend 10 days to 32.5 days.

Consultation

9. Departmental consultation has been completed. A summary of the feedback is attached as **Appendix C**.
10. Ministerial and coalition partner consultation closes today.

Next Steps

11. Parliamentary Counsel Office (PCO) will complete their proof reading of the Bill and lodge the Bill when the Cabinet paper is lodged.

12. The Cabinet paper is scheduled to be lodged by 10am on Thursday 16 May 2024 so it can be considered by Cabinet on Monday 20 May 2024.

Timeline

Step	Date
Lodgement of Cabinet paper	16 May
Cabinet	20 May
Introduction	20 May
First reading	23 May
Select Committee report back	19 June
Second reading	26 June
Committee of the whole House	25 July
Third reading	25/30 July
Royal Assent	30 July

13. The Bill needs to be passed in time to come into effect by 31 July 2024. This timing is important because local authorities which have resolved to establish Māori wards in the current term are required to adopt their initial proposals for their new representation arrangements by 31 July 2024. The legislation will provide an extension to this deadline if the Bill comes into effect by that date.

Recommendations

14. We recommend that you:

a) approve the final draft of the Cabinet paper for lodging.

Yes/No



Rowan Burns
Policy Manager

Hon Simeon Brown
Minister of Local Government

_____/_____/_____

Appendix A: Final Cabinet paper - Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Bill: Approval for Introduction
(separate attachment)

Withheld under section 18(d) of the Official Information Act 1982

Released under the Official Information Act 1982

Appendix B: Local Government (Electoral Legislation and Māori Wards and Māori constituencies) amendment Bill

(separate attachment)

Withheld under section 18(d) of the Official Information Act 1982

Released under the Official Information Act 1982

Appendix C: Summary of feedback received from Departmental consultation

Department	Feedback received
Te Arawhiti	<p>Expressed concerns that the Bill is going to be considered by Cabinet given there has been no consultation with iwi and Māori on the proposed amendments relating to Māori wards and that the Bill may not comply with:</p> <ul style="list-style-type: none"> • The Legislation Guidelines (2021); • The principles of the Treaty of Waitangi; • The rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1990; and • Relevant international standards and obligations. <p>Supported the inclusion of these concerns in the Cabinet paper, and the references to international standards and obligations that may have compliance issues regarding the proposed changes in the Bill.</p> <p>Suggested the paper could refer to how the proposed amendments are inconsistent with the principles of the Treaty of Waitangi, specifically the principles of partnership, protection (of the exercise of Māori rangatiratanga) and equity representation (the removal of the Māori wards and the requirement for a binding poll when general wards do not have the same requirement).</p> <p>Noted the Bill is likely to receive a number of submissions opposing the Bill and a truncated select committee does not provide much time for analysis or hearing of submissions. Concerned that there is a limited opportunity for Māori engagement with a truncated select committee process.</p>
Ministry of Justice	<p>The consultation section of the Cabinet paper should also remind Ministers that because of the legislative frameworks and confidentiality requirements there has been no public consultation with iwi and Māori. This lack of engagement with Māori on the Bill is likely to be seen as a breach of Treaty/te Tiriti.</p>
Te Puni Kōkiri	<p>Concerned about lack of public, iwi and Māori consultation.</p> <p>Concerned with compliance issues outlined in the Cabinet paper relating to the principles and obligations of Te Tiriti o Waitangi. Section 4 of the Local Government Act 2002 outlines the Treaty of Waitangi provisions, of which, it considers this Bill does not appropriately take into account the principles of the Treaty of Waitangi and hinders the ability to maintain and improve opportunities for Māori to contribute to local government decision-making processes.</p>
Stats NZ	<p>Comfortable with the papers and had no specific feedback.</p>



Local Government briefing

Hon Simeon Brown
Minister of Local Government

Title: **Further policy decisions for electoral omnibus bill**

Date: 11 April 2024

Key issues

There are some outstanding policy and legislative timing issues for the electoral omnibus bill.

We are seeking your agreement on some aspects of the transitional arrangements to be included in the draft bill. Some of these components rely on the bill being enacted by the end of July 2024.

We also need to highlight the time pressures on drafting and the legislative process for the bill, and the risks to delivery. We would like to discuss the time pressures, and possible options and trade-offs to address this.

Action sought

Agree that the following policy proposals be incorporated in the draft electoral omnibus bill, to be agreed by Cabinet at the same time as approval for introduction:

- eligibility for the roll-back option will be conditional upon previous representation arrangements allowing for fair and effective representation;
- eligibility to continue with representation arrangements that have not been reviewed since the 2019 local elections will be conditional upon the arrangements allowing for fair and effective representation; and
- shortened representation reviews will include appeals and objections to the Local Government Commission (if the bill's enactment date enables this), with other parts of the review process shortened.

Note that officials would like to discuss the legislative timing issues at our meeting with you on Monday 15 April 2024.

Timeframe

To be discussed on
15 April 2024

Contact for telephone discussions (if required)

Name	Position	Contact Number	Suggested 1 st contact
Michael Smith	Policy Manager (Acting)	9(2)(a)	✓
Michelle Walsh	Senior Policy Analyst		
Return electronic document to:	Michelle Walsh, michelle.walsh@dia.govt.nz		
Cohesion document reference	TWCXRFFVDW2E-1255692133-35		
Ministerial database reference	LG20241418		

Purpose

1. The purpose of this briefing is to seek your agreement on outstanding policy issues for the electoral omnibus bill, and to advise you on legislative timing issues.

Background

You indicated to Cabinet that further policy decisions would be needed for the bill

2. On 25 March 2024, Cabinet confirmed the paper, “Delivering on coalition agreement commitments on local government representation,” which sought agreement to begin drafting legislation to reinstate the ability for –
 - communities to petition their councils to hold a binding poll on Māori wards; and
 - councils to initiate binding polls on Māori wards.
3. The paper also sought agreement to a transitional mechanism for councils that have resolved to establish Māori wards without a binding poll since 2020.
4. In the paper, you signalled to your Cabinet colleagues that you may need to seek further policy decisions at the same time as seeking Cabinet approval to introduce the bill.

We seek your agreement to specific features of the transitional arrangements for the bill

5. This briefing summarises the main further policy decisions needed, which all relate to the transitional arrangements.
6. Due to time constraints, we have instructed the Parliamentary Counsel Office (PCO) to include the proposals set out in this paper in the first draft of the bill, while we seek your approval. With your agreement, Cabinet will have the opportunity to consider these policy and legislative timing issues when you share a draft bill with ministers next month.

Transitional arrangements for different categories of councils

7. Cabinet has agreed that councils that have established, or resolved to establish, Māori wards without holding a poll will be given the opportunity to rescind that decision or disestablish Māori wards before the 2025 local elections.

We recommend placing some limits on whether councils can roll back or continue current arrangements

8. We previously discussed with you that councils which opt to disestablish Māori wards that were established for the 2022 elections would be given two choices for implementation:
 - complete a shortened representation review; or
 - roll back to their previous, pre-Māori wards, representation arrangements.
9. We recommend that there be a limit on eligibility for the roll-back option. We propose that this option should only be available to a council if the previous representation arrangements will meet the existing statutory tests for fair and effective representation.
10. The fair representation requirement (also known as the 'plus or minus 10 per cent rule') is designed to achieve approximate equality of population representation by each member of a council or community board subdivision. Making the roll-back

option conditional addresses a concern Statistics New Zealand (StatsNZ) raised during consultation about managing the impact of significant population shifts.

11. For councils that opt to rescind their 2023 decision to establish Māori wards, we previously discussed with you that these councils would have the option to either:
 - complete a shortened representation review; or
 - continue their current existing representation arrangements, even if they had been in place since 2019 and would go beyond the usual six-year expiry.
12. We recommend that there be a similar limit for this option that councils which have not completed a representation review since 2019 can only continue to use these representation arrangements if this would meet the fair and effective representation requirements.
13. If councils cannot meet the fair and effective representation criteria, they would need to complete the shortened representation review process.
14. **Appendix A** illustrates the updated options we recommend for different categories of councils under the transitional arrangements.

Shortened representation review

15. Following Cabinet's decision that any mandatory polls this term will be held with the 2025 local elections, we have reviewed the timing for the shortened representation review process. Under this timing we consider that it should be possible to enable appeals and objections to the Local Government Commission (LGC) similar to the standard process.
16. To ensure a role for the LGC in shortened representation reviews, we propose the following adjustments to timeframes for other parts of the review process:
 - the time for public submissions will be reduced by one week, to three (rather than four) weeks;
 - the time councils have for processing submissions and amending their proposals will be reduced by two weeks, to six (rather than eight) weeks; and
 - the time for the public to submit appeals and objections on a council's final proposal will be reduced by one week, to three (rather than four) weeks.
17. We consider that this shortened process is similar enough to the standard representation review process, including LGC scrutiny, that councils should then be able to wait up to six years before reviewing their arrangements again. The previous proposal that councils under the shortened process would be required to carry out a 'full' representation review, with associated costs, next term is not necessary under this approach.

Timeline for transition

18. We have also considered the appropriate statutory deadline for councils to make decisions on whether to disestablish Māori wards, or rescind decisions to establish them. We recommend that this deadline be 6 September 2024. If the bill passes in the week of 22 July 2024 as planned, this would give councils up to six weeks to make decisions on Māori wards.
19. We expect many councils may begin to prepare for these decisions while the bill is being debated and scrutinised in the House, working alongside StatsNZ and the LGC.

However, legislative timing issues (see below) may put pressure on the 31 July enactment deadline, which could reduce the time councils have to make decisions.

Legislative timing issues

20. We have been working with your office to determine a timeline for passage of the electoral omnibus bill. The proposed timeline is:

Stage	Date
Introduction	20 May
First reading	21 May
Select committee report back	20 June
Second reading	Week of 24 June
Committee of the whole House	25/30 July
Third reading	30 July
Royal assent	30/31 July

21. We note that the proposed first reading date of 21 May 2024 will require business committee agreement or House urgency. Normally a bill has to wait three working days after it is introduced before it can have its first reading in the House. However, when a bill is dealt with under urgency, it can bypass this waiting period.

It is highly desirable for the bill to come into force before 31 July 2024

22. Under the current law, councils that are required to complete a representation review this year (including the 13 councils that have resolved to establish Māori wards) must resolve their initial proposal for their representation arrangements by 31 July 2024. If the bill and the transitional arrangements are not in effect by this date, councils will still have to comply with the existing law.
23. Therefore, we have recommended that the bill be passed before the end of July, to:
- prevent councils having to propose certain representation arrangements, even knowing they may choose to disestablish/rescind when the law changes; and
 - allow councils enough time to make the rescind/disestablish decision, followed by a shortened representation review, in time for the 2025 local elections.
24. If the bill is not passed by the end of July, councils will need to resolve their initial proposals, and publish them by 8 August 2024. Each council will need to provide an opportunity for the public to make submissions, including an opportunity to be heard by the council. This will create unnecessary work for councils and submitters if the council intends to rescind the decision, and communities may be confused by representation proposals that become invalidated by a subsequent decision to rescind.
25. Delaying enactment will also reduce the time available for councils to complete the processes required to implement any decisions to rescind or disestablish.

There is significant pressure on Cabinet and House time

26. We understand there is a significant amount of legislation set down for the last week of June and end of July, and having second reading at the end of June is considered the best way to ensure the bill is enacted by the end of July 2024.

PCO considers the timeframes are ambitious, and may not be achievable

27. PCO has advised that introduction on 20 May 2024 would require:

- drafting to be completed in four weeks (which PCO considers is too tight for a bill of this size and complexity);
- Bill of Rights Act (BORA) vetting, PCO peer review and proofread, and departmental and ministerial consultation to all be completed concurrently in nine days (less than the standard two-week period for these processes);
- approval from the Prime Minister for the bill to go straight to Cabinet; and
- introduction on the same day as Cabinet approval.

Stage	Date
PCO drafting	8 April - 6 May
BORA vetting; PCO review and proofread, departmental, ministerial; and coalition partner consultation	7 - 15 May
Lodge papers to go straight to Cabinet	16 May
Cabinet approval for introduction	20 May

28. We understand that it will be very difficult to get approval to go straight to Cabinet. The next best alternative, to still achieve introduction on 20 May 2024, is to take the bill to the Cabinet Business Committee on 13 May 2024. However, this would take an extra week out of PCO's drafting time, reducing it to three weeks.

We would like to discuss options and trade-offs with you for the legislative timing

29. The proposed timeline reduces time for select committee consideration to four weeks. Because of the time constraints on policy development and drafting, the select committee process is an important step to ensure the legislation, and particularly the transitional measures, will work as intended. Reduced time for select committee consideration of this bill introduces risks for the quality of legislation and how it impacts councils and the communities they serve. We do not recommend reducing the select committee consideration period further.

30. We would like to discuss two options (and the trade-offs) at our meeting with you on 15 April 2024, to help mitigate the timing risks for the bill:

- seeking approval for the bill to go straight to Cabinet on 20 May 2024; and/or
- enact the bill later than 31 July 2024.

Consultation

31. We have developed the proposals for the transitional arrangements, as outlined in this paper, in consultation with officials from the LGC and Stats NZ.

Recommendations

32. We recommend that you:

- a) **agree** that the following policy proposals be incorporated in the draft electoral omnibus bill, to be agreed by Cabinet at the same time as approval for introduction:
- i. eligibility for the roll-back option will be conditional upon previous representation arrangements allowing for fair and effective representation; **Yes/No**
 - ii. eligibility to continue with representation arrangements that have not been reviewed since the 2019 local elections will be conditional upon the arrangements allowing for fair and effective representation; **Yes/No**
 - iii. shortened representation reviews will include appeals and objections to the Local Government Commission (if the bill's enactment date enables this), with other parts of the review process shortened; **Yes/No**
- b) **note** that officials would like to discuss the legislative timing issues at our meeting with you on 15 April 2024.



Michael Smith
Policy Manager (Acting)

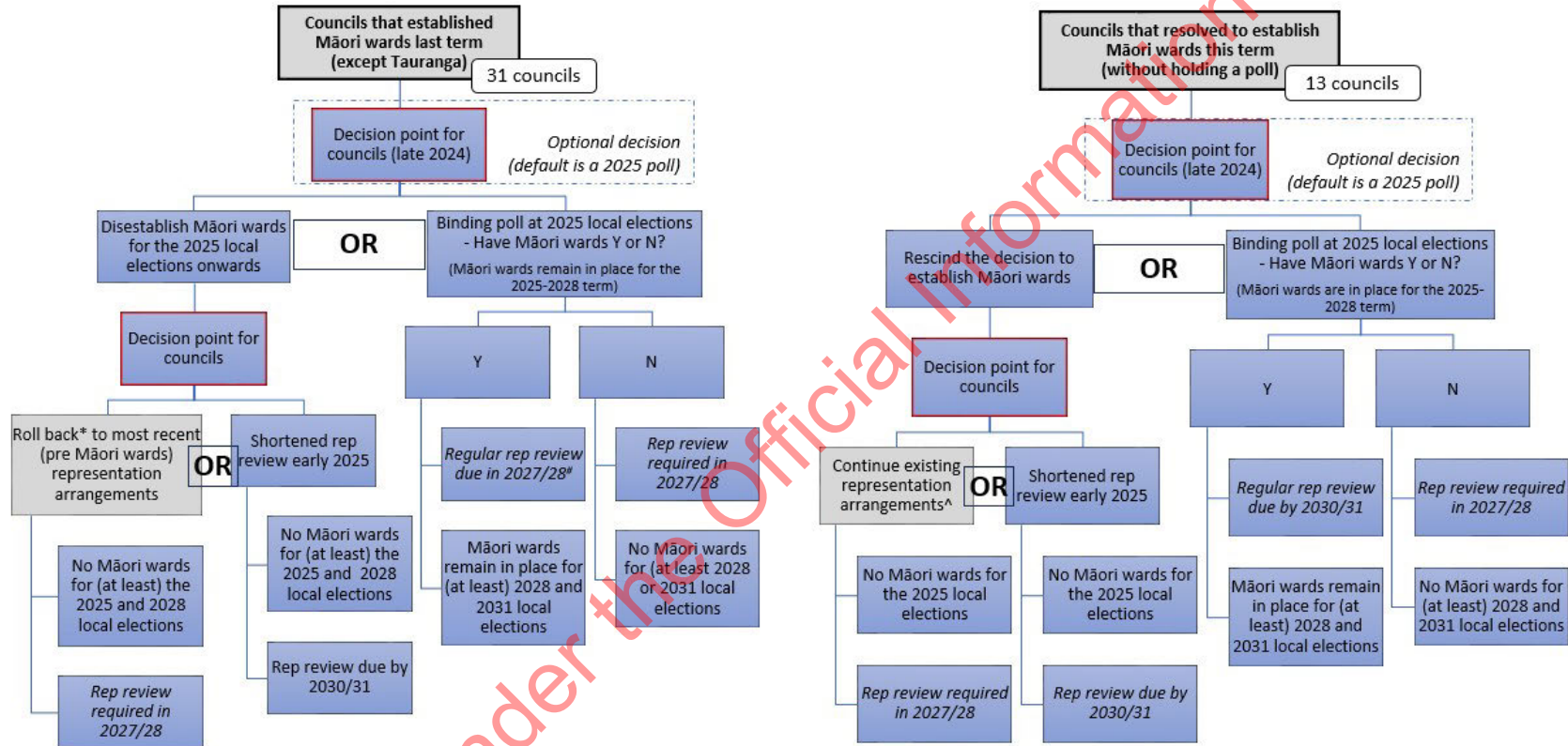
Hon Simeon Brown
Minister of Local Government

_____/_____/_____

Appendix A: Options for different categories of councils in transition

Māori wards transitional processes

Internal working document. Draft as at 25 March 2024



* Roll back option is under development and still to be confirmed. The proposal is that councils can only take this option if they would still meet the fair and representation requirements under the rolled back model.

[#] Far North District Council may not be required to complete the regular rep review until 2030/31 if it has completed a rep review in the current term

[^] Option to continue existing representation arrangements is under development and still to be confirmed. The proposal is that:

- any councils which undertook a rep review in the 2019-2022 term may use this option
- councils which last completed a rep review in the 2016-2022 term can only use this option if they can still meet the fair and effective representation requirements.