

Hon Kieran McAnulty
Minister of Local Government

Hon Ginny Andersen
Minister of Justice

Proactive release: Cabinet decisions relating to reducing the voting age

Date of issue: 21 August 2023

These documents have been proactively released.

Additional Item: Supreme Court Decision on Voting Age

Cabinet Minute CAB – 22- MIN-0529

Cabinet Office

21 November 2022

Further policy decisions on the Electoral (Voting Age) Legislation Bill

Cabinet Paper

Office of the Minister of Justice

28 November 2022

Further Policy Decisions on the Electoral (Voting Age) Legislation Bill

Cabinet Minute CAB-22-MIN- 0055

28 November 2022

Further Policy Decisions on the Electoral (Voting Age) Legislation Bill

Cabinet Minute CAB-22-MIN- 0553

5 December 2022

Lowering the voting age for local elections: differentiated age limits

Cabinet Paper

Office of the Minister of Justice

Office of the Minister of Local Government

17 May 2023

Lowering the Voting Age for Local Elections: Differentiated Age Limits

Cabinet Minute SWC-23-MIN- 0055

Cabinet Office

17 May 2023

Electoral (Lowering Voting Age for Local Elections and Polls) Legislation Bill: cross- party consultation draft and additional policy approvals

Cabinet Paper

Office of the Minister of Justice
Office of the Minister of Local Government
21 June 2023

NOTE: Appendix A to this Cabinet paper (the draft Bill) and Appendix B (the Regulatory Impact Statement) are not released here. The Bill as introduced can be found here: [Electoral \(Lowering Voting Age for Local Elections and Polls\) Legislation Bill](#). The Regulatory Impact Statement can be found here: [Regulatory Impact Statements - dia.govt.nz](#)

Electoral (Lowering Voting Age for Local Elections and Polls) Legislation Bill: cross- party consultation draft and additional policy approvals

Cabinet Minute SWC-23-MIN- 0068
Cabinet Office
21 June 2023

Government Response to the Declaration of Inconsistency: Voting age in the Electoral Act 1993 and the Local Electoral Act 2001

Cabinet Paper
Office of the Minister of Justice
Office of the Minister of Local Government
27 July 2023

NOTE: This paper attached the draft Government response, which is not released here. The final Government response can be found here: [Government response](#).

Government Response to the Declaration of Inconsistency: Voting age in the Electoral Act 1993 and the Local Electoral Act 2001

Cabinet Minute LEG-23-MIN- 0124
Cabinet Office
27 July 2023

Electoral (Lowering Voting Age for Local Elections and Polls) Legislation Bill: Approval for Introduction

Cabinet Paper
Office of the Minister of Local Government
27 July 2023

NOTE: This Cabinet paper had the Bill and Departmental Disclosure Statement attached. Both of these documents are not being released here. The Bill as introduced can be found here [Electoral \(Lowering Voting Age for Local Elections and Polls\) Legislation Bill](#). The Departmental Disclosure Statement can be found here: [NZ Legislation Disclosures](#)

Electoral (Lowering Voting Age for Local Elections and Polls) Legislation Bill: Approval for Introduction

Cabinet Minute LEG-23-MIN- 0125
Cabinet Office
27 July 2023

Some information has been withheld on the basis that it would not, if requested under the Official Information Act 1982 (OIA), be released. Where that is the case, the relevant section of the OIA has been noted and no public interest has been identified that would outweigh the reasons for withholding it.

Key to Redaction or Withholding Codes:

Section 9(2)(f)(iv) to maintain the constitutional conventions for the time being which protects the confidentiality of advice tendered by Ministers of the Crown and officials.

Section 9(2)(g)(i) to maintain the effective conduct of public affairs through the free and frank expression of opinions by or between or to Ministers of the Crown.

Section 9(2)(h) to maintain legal professional privilege.

Section 18(d) information requested will soon become publicly available.

Additional Cabinet decision relating to reducing the voting age.

On 13 March 2023, Cabinet agreed that, given the changed context, including the need to respond to a national emergency, the Government would focus its legislative response to the Declaration of Inconsistency on lowering the voting age for local elections only [CAB-23-MIN-0080]. This Cabinet paper is in the name of the Prime Minister and may be proactively released separately by the Department of the Prime Minister and Cabinet.



Cabinet

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Additional Item: Supreme Court Decision on Voting Age

Portfolio

Justice

On 21 November 2022, the Cabinet:

- 1 **noted** the 21 November declaration of the Supreme Court stating that the provisions of the Electoral Act 1993 and of the Local Electoral Act 2001 which provide for a minimum voting age of 18 years are inconsistent with the right in s 19 of the New Zealand Bill of Rights Act 1990 to be free from discrimination on the basis of age;
- 2 **noted** that a change to the minimum voting age requires changes to the legislation referred to in paragraph 1 above;
- 3 **agreed** that legislation be prepared lowering the voting age from 18 years to 16 years, for Parliament's consideration;
- 4 **invited** the Minister of Justice to issue drafting instructions to the Parliamentary Counsel Office to give effect to the above decision.

Rachel Hayward
Secretary of the Cabinet

In Confidence

Office of the Minister of Justice

Cabinet

Further policy decisions on the Electoral (Voting Age) Legislation Bill

Proposal

- 1 This paper seeks decisions on some further detailed policy settings, following Cabinet's decision on Monday 21 November to introduce a Bill to lower the voting age to 16 for parliamentary and local elections.

Relation to government priorities

- 2 This paper directly progresses policy contained in the Labour Party's 2020 Election Manifesto, and the New Zealand Labour Party and Green Party of Aotearoa New Zealand Cooperation Agreement.¹

Executive Summary

- 3 On Monday 21 November 2022, the Supreme Court granted two Declarations of Inconsistency (DOIs). The Court declared that the provisions in the Electoral Act 1993 and the Local Electoral Act 2001 setting the voting age at 18 have yet to be justified against the New Zealand Bill of Rights Act protection from age discrimination for persons 16 years and older.
- 4 Later that same day, Cabinet agreed to introduce a Bill that would lower the voting age to 16 for parliamentary and local elections, to take effect after the 2023 General Election.
- 5 This paper seeks agreement to:
 - 5.1 changes to the voting age for local elections and parliamentary elections being considered separately;
 - 5.2 a commencement date for the Bill;
 - 5.3 lowering the age for all types of local elections, except licencing trusts;
 - 5.4 retaining the current age of 18 years for standing as a candidate in an election and sitting on a jury; and
 - 5.5 retaining the current age of 18 years for voting in and standing as a candidate for alcohol licencing trust elections.
- 6 The proposals in this paper have significant financial implications that are currently unmet, for both the Electoral Commission and for local councils (in respect of local elections). Officials will work through these costings and I will report back further on this when seeking approval to introduce the Bill.

¹ The Manifesto notes that the Labour Party will continue to protect the integrity of New Zealand elections and voters' access to the polls. The Cooperation Agreement signals an interest in working with parties from across Parliament on issues that affect our democracy.

Background

- 7 On Monday 21 November 2022, the Supreme Court issued its judgment in *Make It 16 Incorporated v Attorney General*.² The Court declared that the provisions of the Electoral Act and the Local Electoral Act, which provide for a minimum voting age of 18 years, are inconsistent with the right to be free from age discrimination for persons 16 years and older.
- 8 The Court held that the inconsistency with section 19 of the New Zealand Bill of Rights Act had not been justified, leaving open the question of whether the minimum voting age of 18 could be justified in the future.

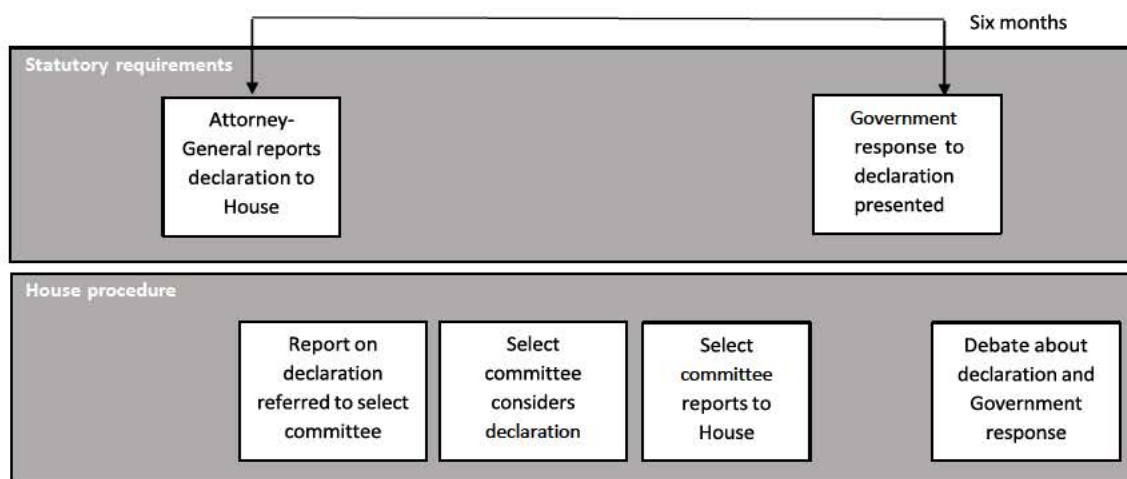
Parliamentary process for addressing Declarations of Inconsistency

- 9 These are the first DOIs issued since the *New Zealand Bill of Rights (Declarations of Inconsistency) Amendment Act 2022* came into effect. The Bill of Rights and sessional orders outline the procedure for the Government and Parliament to respond to the DOIs as set out below:
 - 9.1 The Attorney-General must notify the House of Representatives of a DOI within six sitting days of the DOI becoming final;
 - 9.2 The DOI is referred to a select committee allocated by the Clerk of the House;
 - 9.3 The select committee is required to consider, and report on, the declaration within four months (unless the Business Committee determines a different deadline);
 - 9.4 The Minister responsible for the administration of the relevant enactment must present a Government Response to the DOI to the House; this Government Response must be presented within six months of the Attorney-General notifying the House of the DOI, unless an earlier or later date for the Response is resolved or determined by the House; and
 - 9.5 A debate is held in the House on the declaration, the select committee report, and the Government's response to the declaration, upon presentation of the latter.

² [2022] NZSC 134, *Make it 16 Inc v AG*, 21 November 2022

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Figure 1: Procedure for responding to a declaration of inconsistency



- 10 The Attorney-General is required to notify the House about the DOIs by Thursday 8 December. I understand the DOIs will then be referred to the Justice Committee the same day. Unless the House resolves otherwise, the Minister of Local Government and I will be required to present Government Responses to the DOIs relating to the voting age for local elections and parliamentary elections respectively by Thursday 8 June 2023 at the latest.

Purpose of introducing a Bill

- 11 On Monday 21 November, Cabinet resolved to introduce a Bill to lower the voting age to 16 for both parliamentary and local elections. Cabinet considered that introducing a Bill early next year will provide the House with a legislative vehicle to respond to these DOIs, should it wish to do so.
- 12 The steps the Government has taken to introduce this Bill will form the main part of the Government response to the DOIs, in due course.
- 13 In addition, I note that the Terms of Reference for the Independent Review of Electoral Law also include consideration of the voting age for Parliamentary elections [CAB-22-MIN- 0159.01]. The Review Panel is due to publish an interim report for public consultation in May 2023 and provide its final report in November 2023. That provides another opportunity for the Government to consider the voting age at parliamentary elections, if it is recommended.

Timeline

- 14 The below timeframe shows the proposed timeframe for the Bill, and how it relates to the timeframe for responding to the DOIs:

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Timeline for DOIs and the Bill

Date	DOIs	Bill
8 December 2022	Attorney-General notification to the House and referral to Justice Committee	
20 February 2023		Cabinet approval to introduce the Bill
23 February 2023		First reading and referral to select committee
6 April 2023	Select committee report back on DOIs (four months after notification)	
8 June 2023	Minister of Justice and Minister of Local Government to present Government response to the DOIs (six months after notification)	
23 June 2023		Select committee report back on the Bill (four-month period)
28 June 2023		Second reading
29 June 2023	Debate under sessional orders (no later than six sitting days after Government response)	

- 15 I intend to write to the Justice Committee informing them of the Government's intention to introduce the Bill in the new year, and to encourage the Committee to start hearing submissions on the voting age across both parliamentary and local elections.

Policy

- 16 I am seeking policy decisions on a number of matters in relation to the Bill.

The changes to the voting age for local elections and parliamentary elections should be considered separately

- 17 The Minister of Local Government and I believe it is important that the House is free to consider the issue of the appropriate voting age for local and parliamentary elections as separately as possible.
- 18 I propose that the changes be drafted in such a way as to allow the voting age to be lowered to 16 for local elections, even if it remains at 18 for parliamentary elections.
- 19 Changing the voting age for **parliamentary elections** would trigger two reserved provisions in the Electoral Act, requiring 75 percent majority in the House, or a majority in a referendum. The two reserved provisions are the definition of 'adult' in section 3(1), and section 60(f) relating to members of the Defence Force who are outside of New Zealand who are over the age of 18.

- 20 The voting age for **local elections** is currently derived from the voting age in the Electoral Act. To be eligible to vote as a residential or ratepayer elector in local elections an elector must be registered as a parliamentary elector and living within the local government area; this means the voting age for local elections is also 18. However, the voting age for local elections is not a reserved provision, and so could be changed through legislative amendment requiring only a simple majority in the House.³
- 21 As a general principle, the rules for local and parliamentary elections are aligned as much as possible, as this makes it simpler for electors to understand the enrolment rules and eligibility requirements, and for the Electoral Commission to maintain a single set of rolls that apply to both types of election.
- 22 However, I have consulted with the Minister of Local Government and we agree that there is no practical reason why the voting age could not be reduced to 16 for local elections, even if the age for parliamentary elections remains at 18.
- 23 I also note that the Review into the Future for Local Government's draft report, released on 28 October 2022 *He mata whāriki, he matawhānui*, notes that the Panel "*strongly supports lowering the eligible voting age for local body elections to 16...(and) sees fundamental value in ensuring our youth are represented in local democracy*". The Report includes a (draft) recommendation that the voting age for local elections be lowered to 16.⁴
- 24 I seek your agreement for the draft Bill to be shared with Local Government New Zealand and Taituarā – Local Government Professionals (their Electoral Reference Group) to confirm the workability of the proposed changes and to help estimate the cost implications. The draft would be shared in accordance with the Attorney-General's Protocol for Release of Draft Government Legislation outside the Crown.

The Bill should not include a referendum clause as an alternative to a 75% majority in the House

- 25 I have considered, but do not recommend, that a referendum clause is included in the Bill. As noted above, changing the voting age for parliamentary elections would trigger the reserved provisions in the Electoral Act, requiring 75 percent majority in the House, or a majority in a referendum.
- 26 The Bill could contain a commencement clause that would be triggered either by reaching the 75 percent majority, or by a referendum passed by a majority

³ Officials are still working through the implications for the definition of Māori electoral population in the Local Electoral Act if the voting age is only lowered for local elections. This definition impacts on the calculation of Māori wards.

⁴ [Draft report – He mata whāriki, he matawhānui \(futureforlocalgovernment.govt.nz\)](https://futureforlocalgovernment.govt.nz). The Panel is currently consulting on its draft report and will provide its final report to the Minister of Local Government in June 2023.

of electors responding in favour of the Bill in a binding referendum.⁵ This means the Bill would remain “live” even if it fails to receive the 75 percent support from the House. The commencement clause could expire in a certain time period, if a referendum has not been held (for example it could be sun-setted in five years).

- 27 I note that including a referendum clause within the commencement provisions does not mean that a referendum must be held. A separate referendum Bill would still be required to actually trigger a referendum, and provide for the mechanics of holding the referendum, and set out the referendum question. The referendum bill would only need a simple majority to pass.⁶
- 28 A binding referendum to lower the voting age for parliamentary elections could only be for currently eligible voters to vote in (i.e., 18 years and older, not 16- or 17-year-olds), under the reserved provision requirements in the Electoral Act.
- 29 A referendum would also have significant funding implications for the Electoral Commission.

The Bill should commence on 1 January 2025

- 30 Cabinet has agreed that any changes to the voting age will not come into effect until after the 2023 General Election. I propose a single commencement date of 1 January 2025 that would apply to local elections and parliamentary elections (including by-elections).
- 31 A commencement date of 1 January 2025 means that if the voting age is lowered for local elections, 16- and 17-year-olds will be able to vote in the 2025 local elections.
- 32 If the voting age is also lowered for parliamentary elections, this commencement date will mean that 16- and 17-year-olds will also be able to vote in any parliamentary by-elections from 1 January 2025.⁷

Lowering the age for all types of local elections, except for licencing trusts

- 33 “Local elections” encapsulates local government elections, licencing trust elections, and elections to certain charitable trusts and other entities. These

⁵ This was the approach taken to the commencement of the End of Life Choice Act 2019, which came into force only after receiving majority support in the End-of-Life Choice referendum held alongside the 2020 General Election.

⁶ Such a clause would open a pathway in the future for the Government, or Member of Parliament (though a Members’ bill), to put the question of the voting age to a referendum, as the alternative pathway to change envisaged by the reserved provisions.

⁷ It would be operationally complex for the Electoral Commission to manage separate commencement dates for local and parliamentary elections with 16- and 17-year-olds voting in the 2025 local election but not voting in any parliamentary by-elections leading up to the subsequent general election.

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other elections are run at the same time as the local government elections and on the same ballot paper.

- 34 I am seeking Cabinet's agreement in principle that the lower voting age applies to voting and standing in all local elections, with one exception relating to licencing trusts.
- 35 In the time available it has not been possible to look into the implications for the other smaller entities or undertake any consultation about the lower voting age applying to those elections. Department of Internal Affairs officials will consult with the relevant local authorities and other entities on these matters in the next few weeks. I will report back to the Cabinet Legislation Committee with further advice on this when seeking approval to introduce the Bill.
- 36 Licencing trusts set limits on the sale and supply of alcohol. I consider that as 16- and 17-year-olds cannot purchase alcohol, the voting age for these elections should remain at 18. This will, however, create an age-based distinction though, which will need to be fully assessed against the freedom from discrimination on the basis of age in the NZBORA.
- 37 I note having a different voting age for the licencing trust elections against the other local elections will make administration of local elections more complex. Officials will need to work with local electoral officers on how this can be managed. I also note that some amendments will be required to the Sale and Supply of Alcohol Act 2012 to support this change.

The age for standing as a candidate and jury service should remain at 18

- 38 While not within scope of the DOIs, lowering the voting age requires consideration of whether 16- and 17-year-old citizens should also be able to stand as candidates for parliament and local body positions and sit on juries.
- 39 Section 47 of the Electoral Act provides that any registered elector who is a New Zealand citizen is eligible to be elected as a member of Parliament. Section 25 of the Local Electoral Act provides that parliamentary electors who are also citizens can qualify as a candidate for local elections (including alcohol licencing trusts).
- 40 I consider that the age for standing as a candidate in parliamentary, local government and alcohol licencing trust elections should remain at 18. This reflects that fact that serving as an MP or local elected official carries a different level of on-going responsibility and expectation than voting.
- 41 Section 6 of the Juries Act 1981 states that any person eligible as an elector is also eligible as a juror. I consider maintaining the age for jury service at 18 is necessary to minimise disruption to schooling for 16- and 17-year-olds and the potential harm of exposing young people the types of matters disclosed in criminal trials.

- 42 I note that of all comparable jurisdictions where the voting age is 16, there is a higher age for standing as a candidate or sitting on a jury.⁸
- 43 I also note that introducing amendments which retain a minimum age of 18 for candidates and jurors does create an age-based distinction. This will need to be fully assessed against the freedom from discrimination on the basis of age in the NZBORA. I will report back to the Cabinet Legislation Committee with further advice on whether this distinction can be justified when seeking approval to introduce the Bill to next year.

Consequential changes

- 44 Lowering the voting age will require a number of consequential changes. The following changes will apply even if the voting age is only lowered for local elections:
- 44.1 Enrolment is currently compulsory. Failure to register could result in a fine of \$100 for the first offence and \$200 for subsequent offences. This offence will apply to 16- and 17-year-olds if the voting age is lowered;
 - 44.2 Currently 17-year-olds are able to enrol in advance of becoming eligible to vote at 18. The Bill will lower the age at which people can enrol to 15 years of age;
 - 44.3 The age at which people can nominate candidates is currently aligned to the voting age, and will also be lowered to 16; and
 - 44.4 Officials are still finalising potential changes to accommodate voting conditions for people under 18 who have been sentenced; these changes will aim to broadly replicate the current rules that apply to people aged over 18 who are sentenced to less than three years' imprisonment and are eligible to vote.
- 45 If the voting age is also lowered for parliamentary elections, in addition to the changes noted above, there will be consequential amendments to, or flow-on impacts on, other electoral law, including the Citizens Initiated Referenda Act 1993 and the Referenda (Postal Voting) Act 2000. This will apply the lower voting age so that 16- and 17-year-olds can both present or sign a petition for a citizens-initiated referendum (which are always indicative referendums), and vote in future referendums held under these Acts.
- 46 I will update Cabinet on any further operational implications and minor and technical amendments, when I bring the Bill to Cabinet for approval to introduce next year.

Independent Review of Electoral Law

- 47 As you will be aware, an Independent Review of Electoral law is currently underway. The Review Panel recently completed its first stage of engagement. In May 2023, the Panel will produce an interim report with its draft

⁸ For example, Wales and Austria have not retained a minimum age of 18 for candidates and jurors, despite lowering their voting age to 16; Scotland is currently considering lowering the age for candidacy.

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recommendations, followed by a second round of public engagement. The Panel is expected to provide its final recommendations to the Government in November 2023.

- 48 I draw Cabinet's attention to the fact that voting age is within the Review's Terms of Reference and the interim report will be published shortly before Parliament is due to debate the DOI and the Bill (scheduled for late June 2023).

Implementation

- 49 The Electoral Commission will be responsible for implementing a lower voting age. The Commission will need to update the roll to include eligible people in this age group. There will be more complex administrative changes if the voting age is only lowered for local and not parliamentary elections.

Financial Implications

- 50 The proposals in this paper have significant financial implications that are currently unmet, for both the Electoral Commission and for local councils (in respect of local elections).

- 51 The Electoral Commission has not had time to develop detailed costings for both the implementation of any changes, and ongoing costs associated with an increased electoral roll size, and enrolment and other promotional activities targeted to the 15- to 17-year-old demographic. Section (9)(2)(f)(iv)

- 52 Local authorities fund the costs of local elections from their own budgets. Due to the time constraints, we have not sought information from local authorities about the cost implications of these changes. However, we note that adding extra electors will slightly increase administration costs for councils (such as costs for producing voting papers, postage, and counting votes). Those councils with the means to may also wish to undertake promotional activities which are targeted to the 16- and 17-year-old demographic at extra cost as well.

- 53 The Ministry of Justice will engage with the Electoral Commission and Treasury on the financial implications. I will update Cabinet Legislation Committee on these financial implications when I seek approval to introduce the Bill in February.

Legislative Implications

- 54 The Bill will amend the Electoral Act and the Local Electoral Act, as well as other statutes that use the definition of electors set out in the Electoral Act.

- 55 I am proposing that the Bill be included in the 2023 Legislation Programme with a category of Priority 3 (to be passed if possible before the 2023 general election).
- 56 If Cabinet agrees that the House should be able to consider the voting age for local and parliamentary elections separately, this may mean the introduction of two cognate Bills to reflect a dual pathway; the first will lower the voting age for both parliamentary and local elections, and the second will lower the voting age for local elections only. Officials are still working through the best way to draft the changes with Parliamentary Counsel Office.

Impact Analysis

Regulatory Impact Statement

- 57 Cabinet's impact analysis requirements apply to the proposal to lower the voting age for general and local elections to 16, but there is no accompanying Regulatory Impact Statement and the Treasury has not exempted the proposal from the impact analysis requirements. Therefore, it does not meet Cabinet's requirements for regulatory proposals.
- 58 On behalf of respective Ministers, the Regulatory Impact Analysis team at the Treasury and the Ministry of Justice have agreed that supplementary analysis will be provided when approval for introduction is sought next year.

Climate Implications of Policy Assessment

- 59 The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to this proposal as the threshold for significance is not met.

Te Tiriti o Waitangi / Treaty of Waitangi Implications

- 60 The proposals in this paper have no impacts relating to Te Tiriti o Waitangi / the Treaty of Waitangi beyond the impacts on all eligible 16- and 17-year-olds. The proposal will increase the population eligible to enrol on the Māori roll through the Māori Electoral Option.

Population Implications

- 61 The proposals in this paper have impacts on the 16- and 17-year-old population. Statistics New Zealand estimates for the third quarter of 2022 show there are approximately 126,530 16- and 17-year-olds living in New Zealand. Not all of these will necessarily meet the other voter eligibility criteria (such as being a New Zealand citizen or permanent resident), but the majority likely will.
- 62 The Māori population is younger on average than the general population; Stats NZ latest data from June 2022 estimates that 32,790 16- and 17-year-olds are of Māori descent; this is approximately 25% of the total 16- and 17-year-old New Zealand resident population.

- 63 In addition, some 16- and 17-year-olds living overseas may also qualify; officials have not been able to estimate the size of this population in the time available.

Human rights

- 64 This Bill is intended to be considered alongside the DOIs relating to the New Zealand Bill of Rights Act. Officials consider the proposal to keep the eligibility age for candidacy and jury service at 18 will require justification with respect to section 19 of the Bill of Rights.
- 65 Officials are still working through the privacy implications arising from the Privacy Act 2020 associated with personal information of 16- and 17-year-olds being publicly available on the electoral roll.

Consultation

- 66 The Electoral Commission, the Department of Internal Affairs, Treasury, and the Department of Prime Minister and Cabinet have been consulted.

Treasury comment

- 67 Treasury has not been provided sufficient time to consider the proposal but notes that agreeing to policy decisions with potentially significant financial implications when these have not yet been costed or funded creates a fiscal risk that will need to be managed.

Department of Internal Affairs comment

- 68 The Department of Internal Affairs is not convinced that a strong argument has yet been made for the age for candidacy to remain at 18. This distinction would need to be justified as a limitation on the right to be free from age discrimination. Assessments of “responsibility” are not applied to people from other age groups that wish to stand as candidates, and our preliminary view is that this assessment is best made by voters. However, we note that due to the time constraints there has not been robust analysis of this point.

Publicity

- 69 I intend to issue a media release when the Bill is introduced.

Proactive Release

- 70 I propose to release this Cabinet paper and related Minute with any necessary redactions in accordance with Cabinet Office Circular CO (18) 4, following the introduction of the Bill in the House.


Recommendations

- 71 The Minister of Justice recommends that Cabinet:
- 1 **note** that changing the voting age for parliamentary elections would trigger two reserved provisions in the Electoral Act, requiring 75 percent majority in the House, or a majority in a referendum;

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- 2 **note** that the voting age for local elections is not a reserved provision, and so could be changed through legislative amendment requiring only a simple majority in the House;
- 3 **agree** that changing the voting age for local elections could pass independently because changes to the voting age for parliamentary elections will trigger the reserved provisions of the Electoral Act, meaning that 16- and 17-year-olds may be able to vote in local elections but not parliamentary elections;
- 4 **note** that agreeing to the above recommendation may require the changes to be introduced in two (cognate) Bills;
- 5 **agree** that the Bill should commence on 1 January 2025;
- 6 **agree** that the voting age for alcohol licensing trust elections be kept at 18;
- 7 **agree** that, in principle, in addition to applying to local government elections the lowered voting age will apply to all other entities that are part of local elections;
- 8 **authorise** the Minister of Justice and Minister of Local Government to make further policy decisions, if required following consultation, relating to voting eligibility rules for entities, other than local government and alcohol licensing trusts, that are part of local elections;
- 9 **agree** that the age of standing as a candidate for parliamentary and local elections remain at 18;
- 10 **agree** that the age of serving on a jury remain at 18;

Financial implications

- 11 **note** that the proposals to lower the voting age have financial implications that are currently unmet, for both the Electoral Commission and for local councils (in respect of local elections);
- 12 Section (9)(2)(f)(iv)

- 13 **note** that I will report back on the financial implications of these proposals at Cabinet Legislation Committee;
- 14 **note** that supplementary regulatory analysis will be provided when approval for introducing the Bill is sought next year;

Legislative drafting

- 15 **agree** that the Bill be included in the 2023 Legislation Programme with a category of Priority 3 (to be passed if possible before the 2023 general election);

I N C O N F I D E N C E

- 16 **invite** the Minister of Justice to issue drafting instructions to give effect to the decisions in these recommendations;
- 17 **authorise** the Minister of Justice to make minor and consequential policy decisions that may arise during the drafting process;
- 18 **note** that the Parliamentary Counsel Office will make any technical or consequential amendments that may be necessary; and
- 19 **agree** that the draft Bill can be shared with Local Government New Zealand and Taituarā – Local Government Professionals on terms consistent with the Attorney-General Protocol for Release of Draft Government Legislation outside the Crown.

Authorised for lodging

Hon Kiri Allan
Minister of Justice



Cabinet Business Committee

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Further Policy Decisions on the Electoral (Voting Age) Legislation Bill

Portfolio

Justice

On 28 November 2022, the Cabinet Business Committee: **referred** the submission under CBC-22-MIN-0055 to Cabinet on 5 December 2022, revised as appropriate given discussion at the meeting.

Rachel Clarke
Committee Secretary

Present:

Rt Hon Jacinda Ardern (Chair)
Hon Grant Robertson
Hon Kelvin Davis
Hon Dr Megan Woods
Hon Carmel Sepuloni
Hon Andrew Little
Hon David Parker
Hon Nanaia Mahuta
Hon Stuart Nash
Hon Michael Wood
Hon Kiri Allan

Officials present from:

Office of the Prime Minister
Department of the Prime Minister and Cabinet



Cabinet

Minute of Decision

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Further Policy Decisions on the Electoral (Voting Age) Legislation Bill

Portfolio

Justice

On 5 December 2022, following reference from the Cabinet Business Committee, Cabinet:

- 1 **noted** that:
 - 1.1 on 21 November 2022, Cabinet agreed that legislation be prepared lowering the voting age from 18 to 16 years, for Parliament's consideration (the Bill) [CAB-22-MIN-0529];
 - 1.2 changing the voting age for parliamentary elections would trigger two reserved provisions in the Electoral Act 1993, requiring 75 percent majority in the House or a majority in a referendum;
- 2 **noted** that the voting age for local elections is not a reserved provision, and so could be changed through legislative amendment requiring only a simple majority in the House;
- 3 **agreed** that changing the voting age for local elections could pass independently because changes to the voting age for parliamentary elections will trigger the reserved provisions of the Electoral Act 1993, meaning that 16- and 17-year-olds may be able to vote in local elections but not parliamentary elections;
- 4 **noted** that agreeing to the above recommendation may require the changes to be introduced in two (cognate) bills;
- 5 **agreed** that the commencement date for the Bill should be 1 January 2025;
- 6 **agreed** that the voting age for alcohol licensing trust elections be kept at 18;
- 7 **agreed in principle, subject to** paragraph 8 below, that in addition to applying to local government elections, the lowered voting age will apply to all other entities that are part of local elections;
- 8 **authorised** the Minister of Justice and Minister of Local Government to make further policy decisions, if required following consultation, relating to voting eligibility rules for entities, other than local government and alcohol licensing trusts, that are part of local elections;
- 9 **agreed** that the age of standing as a candidate for parliamentary and local elections remain at 18;
- 10 **agreed** that the age of serving on a jury remain at 18;

Financial implications

- 11 **noted** that the above proposals to lower the voting age have financial implications that are currently unmet, for both the Electoral Commission and for local councils (in respect of local elections);
- 12 **noted** that the Minister of Justice intends to report back on the financial implications of the above proposals at the Cabinet Legislation Committee;
- 13 **noted** that supplementary regulatory analysis will be provided when approval for introducing the Bill is sought in 2023;

Legislative drafting

- 14 **agreed** that the Bill be included in the 2023 Legislation Programme with a Category 3 Priority (to be passed if possible before the 2023 general election);
- 15 **invited** the Minister of Justice to issue drafting instructions to Parliamentary Counsel Office to give effect to the above decisions;
- 16 **authorised** the Minister of Justice to make minor and consequential policy decisions that may arise during the drafting process;
- 17 **noted** that the Parliamentary Counsel Office will make any technical or consequential amendments that may be necessary;
- 18 **agreed** that the draft Bill be shared with Local Government New Zealand and Taituarā – Local Government Professionals on terms consistent with the Attorney-General Protocol for Release of Draft Government Legislation outside the Crown.

Rachel Hayward
Secretary of the Cabinet

In confidence

Offices of the Minister of Justice and the Minister of Local Government
Cabinet Social Wellbeing Committee

Lowering the voting age for local elections: differentiated age limits

Proposal

- 1 Previously Cabinet decided that legislation to lower the voting age for local elections would also establish differentiated eligibility ages for certain aspects of local elections. This decision was subject to further advice from the Minister of Justice on whether the age distinctions could be justified under the New Zealand Bill of Rights Act 1990 (NZBORA).
- 2 This paper seeks your decisions on whether to confirm or alter those previous decisions.

Relation to government priorities

- 3 This paper progresses policy contained in the Labour Party's 2020 Election Manifesto, and the New Zealand Labour Party and Green Party of Aotearoa New Zealand Cooperation Agreement.¹

Executive summary

- 4 Cabinet has previously decided to lower the voting age for most local elections to 16, but keep the eligibility age at 18 for [CBC-22-MIN-0553]:
 - 4.1 voting in alcohol licensing trust elections; and
 - 4.2 standing as a candidate in local elections (including alcohol licensing trust elections).
- 5 At that time the Minister of Justice undertook to report back to the Cabinet Legislation Committee with further advice on whether the distinction could be justified once it had been fully assessed against the freedom from discrimination provisions in section 19 of NZBORA.
- 6 These age differentiations will introduce new age discrimination into the relevant Acts. Officials have not been able to identify evidential or policy arguments that are sufficient to justify, under section 5 of the NZBORA, the limits on the right to be free from age discrimination. Section (9)(2)(f)(iv)

¹ The Manifesto notes that the Labour Party will continue to protect the integrity of New Zealand elections and voters' access to the polls. The Cooperation Agreement signals an interest in working with parties from across Parliament on issues that affect our democracy.

- 7 The arguments in favour of a single eligibility age (ie. age 16) for all aspects of local elections are:
- 7.1 it would not place limits on the right to freedom from age discrimination;
 - 7.2 it would be administratively simpler and cost local authorities less; and
 - 7.3 it would be less confusing for voters and candidates to understand when they can vote and stand.
- 8 The arguments in favour of a higher age for voting for alcohol licensing trusts, standing as a candidate in local elections (including alcohol licensing trusts), and being appointed to an alcohol licensing trust are:
- 8.1 some New Zealanders may have concerns about the possibility that 16- and 17-year-olds could be elected or appointed to local government or other representative positions, and may lack the competence to perform their functions; and
 - 8.2 some New Zealanders may consider it is unusual for 16- and 17-year-olds to be alcohol licensing trust members when they are not old enough to purchase alcohol.
- 9 The Government can choose to introduce a Bill even though it is inconsistent with NZBORA. Section 9 (2)(g)(i)
- 10 We seek a decision from Cabinet on whether to retain the differentiated ages as previously agreed, or change some or all of the ages to 16 to match the voting eligibility age.

Background

- 11 Currently the Local Electoral Act 2001 has a single age of eligibility (18 years) that applies to voting, candidacy, nominating a candidate, and being a scrutineer.
- 12 On 5 December 2022, Cabinet agreed that legislation be introduced to lower the voting age for parliamentary and local elections from 18 years to 16 years [CBC-22-MIN-0553]. Subsequently, on 13 March 2023, Cabinet agreed to change the focus for legislative change to local elections only [CAB-23-MIN-0800].
- 13 On 5 December 2022, Cabinet also agreed² that:
- 13.1 the voting age for alcohol licensing trust elections would remain at 18 years; and

² On 5 December 2022, Cabinet also agreed that the age for jury service, and for standing as a parliamentary candidate, should remain at 18. The Minister of Justice noted that this was also an age-based distinction. These ages are derived from the definition of electors as set out in the Electoral Act. Since Cabinet agreed to refocus on local elections, there will be no change to the definition of electors in the Electoral Act, and these ages will remain at 18.

- 13.2 the age for standing as a candidate in local elections (including alcohol licensing trust elections) would remain at 18.
- 14 In that Cabinet paper, the Minister of Justice noted that introducing amendments which retain a minimum age of 18 for candidates, and for voting in alcohol licensing trust elections, creates new age-based distinctions in the legislation. The Minister of Justice undertook to report back to the Cabinet Legislation Committee with further advice on whether the distinction could be justified once it had been fully assessed against the freedom from discrimination provisions in section 19 of NZBORA.
- 15 Alcohol licensing trusts are community-owned trusts that sell alcohol and provide other hospitality-related services in their area. They then distribute their profits back to their communities and are accountable through the election of their trustees/members. Licensing trusts were first established in the 1940s as part of the relaxing of prohibition in New Zealand. They were a new way of licensing the sale and consumption of alcohol. They were promoted as a more responsible and accountable alternative to the private licensed sale of alcohol.

NZBORA analysis

Officials have not been able to justify the age-based distinctions under NZBORA

- 16 The Department of Internal Affairs, the Ministry of Justice and Crown Law have considered the current draft Bill to lower the voting age for local elections (the Bill) against NZBORA.
- 17 The draft Bill introduces new age “tiers” where previously there was a single age of eligibility for all aspects of elections. This places new limits on the right to be free from discrimination on the basis of age (protected by section 19 of NZBORA). It introduces differential treatment between people aged 18 years and older, and people aged 16- or 17-years-old, in relation to voting in alcohol licensing trust elections and candidacy for local elections.
- 18 The Ministry of Justice and the Department of Internal Affairs consider that, based on the evidence and policy justifications currently available, the limits in the Bill on the right to freedom from age discrimination have not been justified. A brief summary of the analysis is attached as **Appendix A**.
- 19 In the *Make it 16*³ proceedings the Supreme Court did not consider the age for candidacy, because this had not been raised by Make It 16 incorporated. However, when considering discrimination in respect of voting rights, the Court noted evidence dated 24 August 2020 provided by the then Children’s Commissioner, in response to a request from the High Court. The Commissioner’s report referred to a study of over 5,000 people aged between 10 and 30 years across 11 countries which:

³ *Make It 16 Incorporated v Attorney-General* [2022] NZSC 134

... identified that when situations call for deliberation in the absence of high levels of emotion (cold cognition), such as voting, granting consent for research participation, and making autonomous medical decisions, the ability of an individual to reason and consider alternative courses of action reaches adult levels during the mid-teen years. When situations that involve emotionally-charged situations where time for deliberation and self-restraint is unlikely or difficult (hot cognition), such as driving, consuming alcohol, and criminal behaviour, impulse choices are more likely and mental processes are slower to develop, reaching adult levels into adulthood.

28. The ... study advocates for two different legal age boundaries. One for decisions typically made with deliberation, with a suggested designation at 16 years of age, and a second for decisions made in emotionally-charged situations in which psychosocial immaturity may compromise judgement, with a suggested designation at 18 years or older.

- 20 For the local government candidacy age, and voting in alcohol licensing trust elections, there is not a rational evidence-based connection between the limit on the right and the objective of the right-limiting measure. For both of these instances of age differentiation, and for standing (or being appointed) as a member of an alcohol licensing trust, there are alternatives that would achieve the objective with a lesser impairment of the right.

Section (9)(2)(f)(iv)

Section (9)(2)(f)(iv), Section 9(2)(h)

Section (9)(2)(f)(iv)

Other analysis

The public may have concerns about the potential for very young elected members

- 24 On 5 December 2022, Cabinet agreed that the lower voting age would not apply to standing as a candidate in all local government elections [CAB-22-MIN-0553].
- 25 We note that allowing 16-year-olds to stand as candidates for local government and alcohol licensing trusts will be criticised by some.

- 26 However, it is a feature of our electoral system that we leave it to voters to determine who is best to represent them. New Zealand has a very narrow range of grounds for disqualification from standing for both parliamentary and local elections.⁴

The public may consider that voting and candidacy rights for alcohol licensing trusts should match the purchasing age

- 27 As noted above, Cabinet agreed that the age of voting in licensing trusts would remain at 18, because 16- and 17-year-olds cannot purchase alcohol [CAB-22-MIN-0553].
- 28 However, age limits on consuming and purchasing alcohol are set based on the potential for harm to the young person. Those harms do not arise from voting and candidacy.

Introducing age differentiation makes local elections more complicated and adds cost

- 29 Having different eligibility ages for local and parliamentary elections is going to make it more confusing for people to know which elections they are entitled to vote in. Having differentiated ages within the local elections will exacerbate the potential for confusion. Clear communications by the Electoral Commission and local authorities will be key to managing this.
- 30 We also note that having differentiated ages of eligibility adds an extra layer of administrative complexity to local elections. For example:
- 30.1 when the Electoral Commission provides elector information to local electoral officers, they need to identify which electors are under 18 (youth markers);
 - 30.2 extra steps are required to remove the youth markers in most cases when electoral rolls are made publicly available (to minimise safety and privacy risks for youth);
 - 30.3 local authorities that have licensing trusts will need to prepare additional permutations of their voting papers, including for each special voting location, adding to the cost and logistics for the elections;
 - 30.4 voters who turn 18 in the three months before polling day will need to cast a special vote for an alcohol licensing trust election if they live in a trust area (they will be posted their other voting papers); and
 - 30.5 local authorities will need to provide additional support to voters and candidates to understand their entitlements.

⁴ Non-citizens cannot stand as candidates in parliamentary or local elections. People in high-ranking electoral administration positions cannot stand as candidates in parliamentary elections. Someone who has an interest in a contract with a council valued at more than \$25,000 in a financial year cannot stand as a candidate for that council. Everyone else who is able to register to vote, can stand as a candidate.

Options for how to proceed

Cabinet could wait for the final vet of the Bill, but this may delay introduction

- 31 The final vet of the Bill for consistency with NZBORA will be undertaken by Crown Law. Although Crown Law will review drafts of the Bill, the final vet will not take place until two weeks before we seek the Cabinet Legislation Committee's approval to introduce the Bill. On the current timeline, this means the final vet will be completed in late July, after cross-party consultation.
- 32 If the Attorney-General determines that the Bill requires a section 7 report, and Cabinet wishes to make changes to the Bill at that point to address this, there will not be sufficient time to re-draft the Bill and still introduce the Bill within this parliamentary term.
- 33 On balance, because we do not expect the analysis to change, we recommend making a decision now on whether to address the NZBORA inconsistency.

Cabinet could proceed with the Bill despite the NZBORA inconsistency

- 34 The Government has the option to proceed to introduce the Bill despite the NZBORA inconsistency and any section 7 report. Likewise, Parliament can also choose to enact the legislation regardless.

We recommend you consider whether to alter any of the previous decisions on differentiated voting ages

- 35 We seek Cabinet decisions on whether to either lower the minimum age to 16-years-old, or retain the 18-year-old age limit, for each of the following:
 - 35.1 standing as a candidate in local elections (other than alcohol licensing trust elections);
 - 35.2 standing as a candidate in alcohol licensing trust elections, or being appointed to an alcohol licensing trust; and
 - 35.3 voting in alcohol licensing trust elections.
- 36 A single age of 16 for participation in all aspects of local elections would be consistent with the current single age of eligibility for local (and parliamentary) elections, and address each instance of the NZBORA inconsistency.

Next steps

- 37 The current timing planned for this Bill is:
 - 37.1 21 June 2023 - Cabinet Social Wellbeing Committee meeting – providing an update on implementation timing and seeking approval to undertake cross-party consultation on the draft Bill;

- 37.2 27 June – 6 July 2023 – cross-party consultation on the draft Bill;
- 37.3 27 July 2023 – Cabinet Legislation Committee meeting – seeking approval to introduce the Bill and to table the Government response to the Supreme Court’s declaration of inconsistency;
- 37.4 2 August 2023 – Bill introduced and Government response tabled; and
- 37.5 between 15-23 August 2023 – first reading.

Implementation

- 38 The Electoral Commission will be responsible for implementing enrolment for a lower voting age. Local electoral officers are responsible for administering the local elections.
- 39 Having a single age of eligibility will make the voting age change somewhat easier for local electoral officers to implement because it will avoid the additional complexity outlined in paragraph 30.

Financial Implications

- 40 The financial implications of lowering the voting age for local elections have not been estimated. The Electoral Commission has been implementing the recent changes to the Māori Electoral Option and preparing for the general election. Consequently, they have not been able to dedicate resources to estimating the cost of the change. In our June 2023 report back to Cabinet we will update you on timing and next steps for implementation costing work.

Section (9)(2)(f)(iv)

Legislative Implications

- 42 The Bill will amend the Local Electoral Act 2001, and will contain consequential amendments to the Electoral Act 1993, the Local Electoral Regulations 2001, the Local Government Act 2002, and the Sale and Supply of Alcohol Act 2012. The Bill will also require amendments to some local Acts.
- 43 The Minister of Local Government has submitted a legislative bid for the 2023 Legislation Programme with a category of Priority 4 (to be referred to select committee before the 2023 general election).
- 44 The Bill is likely to have a six-month consideration at select committee, and return to the House in 2024, subject to decisions on reinstatement following the general election.

Impact Analysis

Regulatory Impact Statement

- 45 Cabinet's impact analysis requirements apply to the proposal to lower the voting age for general and local elections to 16, but a Regulatory Impact Statement was not prepared for the November and December 2022 Cabinet decisions, due to the time constraints. The Treasury has not exempted the proposal from the impact analysis requirements.
- 46 On behalf of respective Ministers, the Regulatory Impact Analysis team at the Treasury and the Ministry of Justice previously agreed that supplementary analysis will be provided when approval for introduction is sought later this year.

Climate Implications of Policy Assessment

- 47 The Climate Implications of Policy Assessment (CIPA) team was consulted on the December 2022 policy decisions and confirmed that the CIPA requirements do not apply to these proposals as the threshold for significance is not met.

Te Tiriti o Waitangi/Treaty of Waitangi Implications

- 48 The proposals in this paper have no impacts relating to Te Tiriti o Waitangi/the Treaty of Waitangi beyond the impacts on all eligible 16- and 17-year-olds. However, we note there is a higher proportion of Māori in the 16- and 17-year-old age group, compared to older population groupings. Therefore, the changes in this paper would provide for slightly more accurate electoral participation through voting and candidacy. It would support the Crown's obligation to provide for equal treatment for Māori and non-Māori under Ko te Tuatoru/Article 3.

Population Implications

- 49 The proposals in this paper have impacts on the 16- and 17-year-old population. Statistics New Zealand estimates as at 31 December 2022 show there are approximately 127,220 16- and 17-year-olds living in New Zealand. Not all of these will necessarily meet other candidate eligibility criteria (such as being a New Zealand citizen) or other voter eligibility criteria (such as being a New Zealand citizen or permanent resident). However, the majority likely will.
- 50 The Māori population is younger on average than the general population. Statistics NZ latest data from June 2022 estimates that 32,790 16- and 17-year-olds are of Māori descent. This is approximately 26% of the total 16- and 17-year-old New Zealand resident population.

Human Rights

- 51 The human rights implications of these policy decisions are outlined in this paper.

Consultation

- 52 Crown Law has been consulted on this paper. Treasury and the Department of the Prime Minister and Cabinet (Policy Advisory Group) have been informed.

Communications

- 53 We do not propose to issue any proactive communications on the matters in this paper.

Proactive Release

- 54 We propose to release this Cabinet paper and the related Minute with any necessary redactions in accordance with Cabinet Office Circular CO (18) 4, following the introduction of the Bill in the House.

Recommendations

- 55 The Minister of Local Government and the Minister of Justice recommend that the Committee:
- 1 **note** that Cabinet has previously agreed to introduce legislation to lower the voting age for local elections (other than alcohol licensing trust elections) to 16-years-old [CAB-22-MIN-0529 and CBC-22-MIN-0553];
 - 2 **note** that Cabinet also agreed that differentiated age limits would be added to existing legislation so that [CBC-22-MIN-0553]:
 - 2.1 the voting age for alcohol licensing trust elections would remain at 18 years; and
 - 2.2 the age for standing as a candidate in local elections (including alcohol licensing trust elections) would remain at 18;
 - 3 **note** that the new differentiated age limits would limit the right to be free from discrimination on the basis of age in a way that has not been able to be justified, under section 5 of the New Zealand Bill of Rights Act 1990, based on current known evidence and policy justifications;
 - 4 **agree** that the minimum age for standing as a candidate in local elections (other than alcohol licensing trust elections) will be:

EITHER

 - 4.1 lowered to 16-years-old;

OR

 - 4.2 separated from the voting age to remain at 18-years-old;

IN CONFIDENCE

- 5 **agree** that the minimum age for standing as a candidate in alcohol licensing trust elections, or being appointed to an alcohol licensing trust will be:
- EITHER**
- 5.1 lowered to 16-years-old;
- OR**
- 5.2 separated from the voting age to remain at 18-years-old;
- 6 **agree** that the minimum age for voting in alcohol licensing trust elections will be:
- EITHER**
- 6.1 lowered to 16-years-old;
- OR**
- 6.2 separated from the voting age for other local elections, and remain at 18-years-old;
- 7 **note** that the Minister of Local Government and the Minister of Justice will report back to the Cabinet Social Wellbeing Committee in June 2023 with an update on implementation costings and timing, and seeking approval to undertake cross party consultation on the draft Bill; and
- 8 **note** that the Minister of Local Government and the Minister of Justice will report back to the Cabinet Legislation Committee in late July 2023 seeking approval to introduce the Bill within this Parliament term.

Authorised for lodgement

Hon Kiri Allan

Minister of Justice

Hon Kieran McAnulty

Minister of Local Government

Appendix A – Summary of NZBORA analysis to date

The assessment considered the following questions:

- Is the objective for the differential treatment sufficiently important?
- Is there a rational connection between the limit and the objective?
- Does the limit impair the right no more than reasonably necessary to achieve the objective?
- Is the limit in due proportion to the importance of the objective?
- Conclusion – is there an unjustified limit on the right?

Below is a short summary of the NZBORA analysis. It briefly summarises the key arguments.

Standing as a local government candidate

There is no clear evidence that the age of 18 is a suitable or necessary proxy for competence to stand as a candidate.

The role of a local councillor may, at times, involve more emotionally-charged situations, where time for deliberation or self-restraint is more difficult, such as during public campaign meetings. However, the examples of emotionally-charged situations provided in the Report of the then Children's Commissioner⁵ included driving and criminal behaviour. We think there is a stronger argument that the role of a local councillor is more closely aligned with deliberation in the absence of high levels of emotion, such as voting or making autonomous medical decisions.

A 16-year-old may have slightly less life experience than an 18-year-old (for example, knowledge of how tax works, how legislation is passed, or how councils work) but they are both likely to need to learn about this if they stand as a candidate (as are many older candidates).

Standing as a candidate for, or being appointed⁶ to, an alcohol licensing trust

The analysis for standing as a candidate for an alcohol licensing trust is similar to that for local government candidates. There is no requirement in the legislation for elected or appointed members to have particular skills or competencies.

One difference is that 16- and 17-year-olds may be unable to effectively carry out the role if they cannot legally enter some licensed premises because of their age. However, this can be addressed through amendments to allow trust members to enter those restricted premises while carrying out their functions.

⁵ An excerpt from the Children's Commissioner's report is noted in *Make It 16 Incorporated v Attorney-General* [2022] NZSC 134, paragraph 52.

⁶ The Governor-General may appoint as many members of a licensing trust as are required if at any election of members for the trust, fewer than the required number of members are elected. If a vacancy occurs less than 12 months before a triennial local election the trust can choose to appoint a replacement.

Therefore, the proposed 18+ age limit is not the least restrictive means to achieve the objective.

Voting in alcohol licensing trust elections

The Supreme Court in *Make It 16* considered that the evidence before the Court did not support the proposition that 16- and 17-year-olds lack competence to vote.

Voting for alcohol licensing trust members is about voting for representation and governance within the community. Although there are strong arguments about harm to young people from consuming alcohol, this does not indicate that 16- and 17-year-olds' safety and wellbeing will be harmed if they vote in alcohol licensing trust elections.

There is no evidence that 18 is a suitable or necessary proxy for competence to vote in these elections.



Cabinet Social Wellbeing Committee

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Lowering the Voting Age for Local Elections: Differentiated Age Limits

Portfolio

Justice / Local Government

On 17 May 2023, the Cabinet Social Wellbeing Committee (SWC):

- 1 **noted** that in 2022, Cabinet agreed to introduce legislation to lower the voting age for local elections (other than alcohol licensing trust elections) to 16-years-old [CAB-22-MIN-0529, CAB-22-MIN-0553];
- 2 **noted** that Cabinet also agreed that differentiated age limits would be added to existing legislation so that:
 - 2.1 the voting age for alcohol licensing trust elections would remain at 18 years; and
 - 2.2 the age for standing as a candidate in local elections (including alcohol licensing trust elections) would remain at 18;[CAB-22-MIN-0553]
- 3 **noted** that the new differentiated age limits would limit the right to be free from discrimination on the basis of age in a way that has not been able to be justified, under section 5 of the New Zealand Bill of Rights Act 1990, based on current known evidence and policy justifications;
- 4 **agreed** that the minimum age for standing as a candidate in local elections (other than alcohol licensing trust elections) will be lowered to 16-years-old;
- 5 **agreed** that the minimum age for standing as a candidate in alcohol licensing trust elections, or being appointed to an alcohol licensing trust will be separated from the voting age and remain at 18-years-old;
- 6 **agreed** that the minimum age for voting in alcohol licensing trust elections will be separated from the voting age for other local elections, and remain at 18-years-old;
- 7 **noted** that the Minister of Local Government and the Minister of Justice intend to report back to SWC in June 2023 with an update on implementation costings and timing, and seeking approval to undertake cross party consultation on the draft Bill;

- 8 **noted** that the Minister of Local Government and the Minister of Justice intend to report back to the Cabinet Legislation Committee by 31 July 2023 seeking approval to introduce the Bill within this Parliamentary term.

Rachel Clarke
Committee Secretary

Present:

Rt Hon Chris Hipkins
Hon Carmel Sepuloni (Chair)
Hon Kelvin Davis
Hon Grant Robertson
Hon Dr Megan Woods
Hon Jan Tinetti
Hon Dr Ayesha Verrall
Hon Willie Jackson
Hon Kiri Allan
Hon Peeni Henare
Hon Priyanca Radhakrishnan
Hon Kieran McAnulty
Hon Barbara Edmonds
Hon Rino Tirikatene
Hon Jo Luxton

Officials present from:

Office of the Prime Minister
Office of the Chair
Officials Committee for SWC

In Confidence

Offices of the Minister of Justice and the Minister of Local Government

Cabinet Social Wellbeing Committee

Electoral (Lowering Voting Age for Local Elections and Polls) Legislation Bill: cross-party consultation draft and additional policy approvals

Proposal

- 1 This paper:
 - 1.1 seeks agreement to start cross-party consultation on the attached draft of the Electoral (Lowering Voting Age for Local Elections and Polls) Legislation Bill (the Bill), ahead of introduction planned for August 2023;
 - 1.2 seeks additional policy approvals on prisoner enrolment and the commencement timing for the Bill; and
 - 1.3 reports back on the financial implications of the proposals to lower the voting age.

Executive summary

Starting cross-party consultation on the draft Bill

- 2 On 13 March 2023 Cabinet invited the Minister of Justice and me to report back in June 2023 with a draft of a bill to lower the voting age for local elections, with the intention of seeking agreement to share this with other political parties prior to introduction [CAB-23-MIN-0080]. Attached to this paper is a draft of the Bill (**Appendix A**). We seek your agreement for the Minister of Local Government to commence cross-party consultation on the draft Bill.

Responsibilities for prisoner enrolment

- 3 We also seek your agreement to policy decisions on how responsibilities for supporting prisoner enrolment and providing information to the Electoral Commission, that currently sit with prisoner managers, will be managed for youth offenders. We recommend that these responsibilities either sit with prison managers, or with the Chief Executive of Oranga Tamariki, depending on whether the youth offender is located in a prison or a youth justice residence. This has been incorporated in the attached draft Bill.

Commencement timing for the Bill

- 4 In March 2023 Cabinet was provided with initial advice that it may be more feasible to implement the changes for the 2028 local elections than for 2025. It is not possible for implementation scoping and costing to be completed before October 2024. This scoping will then be followed by Budget process to fund the implementation work. Therefore, we recommend that the commencement date for the Bill will be 1 March 2028.
- 5 We also propose to include a mechanism enabling the commencement to be brought forward by up to one year, by Order in Council. If the changes can feasibly be implemented earlier this would enable 16- and 17-year-olds to vote in local government by-elections before the 2028 triennial local elections.

Cost implications for the legislative changes

- 6 There is significant administrative complexity for the Electoral Commission to design and deliver a separate but integrated electoral roll for youth electors. Additional funding will be required, but it is not possible for the Electoral Commission to undertake implementation scoping and costing work prior to the Bill's introduction, before the 2023 General Election. Section (9)(2)(f)(iv)

Background

- 7 In November 2022, Cabinet agreed that legislation be prepared lowering the voting age from 18 to 16 years for parliamentary and local elections [CAB-22-MIN-0529].
- 8 The Cabinet decision was in response to the November 2022 Supreme Court declaration that the voting age of 18 is inconsistent with the New Zealand Bill of Rights Act 1990, and the inconsistency had not been justified (the Declaration of Inconsistency).
- 9 In December 2022, Cabinet made further policy decisions needed to draft the legislation, including that [CAB-22-MIN-0553]:
 - 9.1 the voting age for alcohol licensing trust elections would remain at 18;
 - 9.2 the lowered voting age will apply to all other entities that are part of local elections¹;
 - 9.3 the age for standing as an election candidate would remain at 18;
 - 9.4 the age for jury service would remain at 18; and
 - 9.5 the legislation would commence on 1 January 2025.

¹ "Local elections" encapsulates local government elections, licencing trust elections, and elections to certain charitable trusts and other entities.

- 10 In March 2023, Cabinet agreed that, given the changed context, including the need to respond to a national emergency, the Government would focus its legislative response to the Declaration of Inconsistency on lowering the voting age for local elections only [CAB-23-MIN-0080]. Cabinet also invited the Ministers of Local Government and Justice to report back to Cabinet in June 2023 with a draft of the Bill with the intention of seeking agreement to share this with other political parties prior to introduction.
- 11 In May 2023 Cabinet agreed that the minimum age for standing as a candidate in local elections (other than alcohol licensing trust elections) will be lowered to 16 years old also [CAB-23-MIN-0182]. This amends the decision mentioned at paragraph 9.3 above. Cabinet agreed that the minimum ages for voting for, standing as a candidate for, or being appointed to, an alcohol licensing trust would remain at 18.

A draft of the Bill is attached for cross-party consultation

Overview of the Bill

- 12 The Bill is an omnibus bill that makes changes primarily to the Local Electoral Act 2001 to allow 16- and 17-year-olds to vote in local elections (except for alcohol licensing trust elections). The Bill consequentially amends a number of other Acts, including the Electoral Act 1993. The Bill is in the name of the Minister of Local Government.
- 13 The draft Bill:
- 13.1 creates a new type of elector - “youth electors” who are of or over the age of 16 but under the age of 18, and a new youth electoral roll (which will be administered by the Electoral Commission);
 - 13.2 creates a requirement to register as a youth elector, and an offence for failing to do so;²
 - 13.3 makes amendments so that relevant provisions of the Electoral Act apply to youth electors and the youth electoral roll;
 - 13.4 amends the Juries Act 1981 and the Sale and Supply of Alcohol Act 2012 to ensure the relevant ages remains at 18; and
 - 13.5 makes a number of amendments to other Acts that are required as a consequence of reducing the voting age to 16 for local elections.

Seeking agreement to commence cross-party consultation

- 14 We are seeking agreement to circulate the draft Bill for cross-party consultation. The draft Bill includes the additional policy matters outlined in paragraphs 16-20 below.

² It is an offence under section 82 of the Electoral Act 1993 for an eligible person to knowingly or willingly fail to enrol. Failure to enrol could result in a fine of \$100 for the first offence and \$200 for subsequent offences.

- 15 The Minister of Local Government will write to the leader of each of the other political parties in Parliament on approximately 27 June 2023, providing a copy of the draft Bill and an explainer note, and seek any feedback by 6 July 2023.

Additional policy decisions to be included in the Bill

Enrolment and disqualification for juvenile offenders

- 16 Currently under the Electoral Act 1993, a prison manager must inform the Electoral Commission of prisoners who are disqualified for registration. They must also facilitate the enrolment of prisoners who:
- 16.1 when received into a prison, are 18 years or older and who are serving a sentence of imprisonment for a term of less than three years; or
 - 16.2 turn 18 while serving a sentence of less than three years; or
 - 16.3 are released after serving a sentence of more than three years.
- 17 Further work has identified the changes that need to be made in relation to enrolment for juvenile offenders. We propose that the Bill will match the current process for prisoners who are 18 years old or older, as far as possible. The only notable difference is that the responsibilities mentioned in paragraph 16 above will sit with either the prison manager, or the Chief Executive of Oranga Tamariki, depending on whether the 16- or 17-year-old is being held in prison or in a youth justice residence.
- 18 The Electoral Act requires prison managers to communicate with a prisoner in a way that the prisoner can reasonably be expected to understand, when explaining electoral rights and collecting information for enrolment. The same requirement will apply to both prison managers and the Chief Executive of Oranga Tamariki when they are assisting youth electors.

Later commencement date

- 19 After discussions between officials and the Electoral Commission on implementation timing, we do not consider it is feasible to implement the changes in the Bill in time for the 2025 local elections. To achieve that goal, all system changes would need to be operational by 1 March 2025. This does not allow enough time for implementation scoping and design, budget processes to secure funding, and delivery (this is discussed further below at paragraphs 23-24, and 32-34).
- 20 We are now seeking your agreement for the Bill to commence on 1 March 2028 in time for the 2028 local elections. We are conscious that such a long lead-in time will be criticised by some. Therefore, we also recommend you agree to a mechanism in the Bill to bring the commencement date forward, via Order in Council, if the changes are able to be implemented earlier. The earliest commencement date would be 1 March 2027. This mechanism would enable the changes to be first used in local by-elections, before the full rollout at the triennial local elections. It would also demonstrate the Government's intent to have the changes in place as soon as we are operationally ready.

Change to authorisation for minor and technical changes

- 21 Cabinet previously authorised the Minister of Justice to make minor and consequential policy decisions that may arise during the drafting process [CAB-22-MIN-0553].
- 22 As the Bill will now focus on local elections, we seek your authorisation for the Minister of Local Government to approve any additional minor and technical changes to the Bill prior to introduction.

Implementation

No implementation planning has been done yet

- 23 It has not been possible for the Electoral Commission to commence implementation scoping and planning as they have been occupied this year with implementing the changes to the Māori Electoral Option and preparations for the 2023 General Election. Also, policy decisions on the changes to be implemented are still being finalised.
- 24 The proposed longer lead-in time, for implementation by 2028, will give the Electoral Commission the time to undertake the work required to design and secure funding for implementation. It will also allow enough time for local authorities and electoral service providers to carry out their implementation steps before the lower voting and candidacy ages apply for the first time.

Civics education will be required

- 25 We consider that lowering the voting age to 16 needs to be supported by relevant civics education in schools. In its submission to the Justice Committee on the Declaration of Inconsistency, the Human Rights Commission noted the intrinsic link between the right to education and the right to participation in public and political life. The Taituarā (Local Government Professionals) Electoral Reference Group also stressed the need for further, local government specific, civics education if these changes are implemented.
- 26 The Ministry of Education has a five-year programme underway to refresh the New Zealand Curriculum, aimed at ensuring all students can contribute as active citizens now and in the future. The social sciences learning area is the first learning area to be refreshed and has been released. Social sciences is the primary learning area for civics and citizenship education, however, this will also be embedded across the reset of the curriculum as the remaining learning areas are refreshed over the next two years. Section (9)(2)(f)(iv)

Various organisations will have a role in encouraging and supporting voters and candidates

- 27 In addition to civics education, implementation will need to be supported by enrolment and voting support information which is targeted to young people.
- 28 The Electoral Commission conducts an enrolment update campaign prior to the triennial local elections. The Bill expands the campaign to include 16- and 17-year-olds. Funding for this expansion, and any additional targeted efforts to encourage young people to enrol, will be included in the implementation design and costing work to be undertaken by the Electoral Commission in 2024.
- 29 Local authorities have responsibilities to promote their elections and provide voter support. Some councils may undertake targeted efforts to inform and encourage youth participation as voters and candidates, but this will depend on the resources of individual councils.

Information sharing arrangements may need to be updated

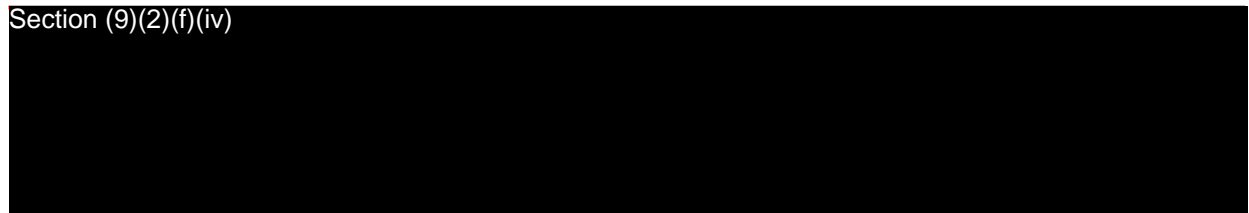
- 30 Under the Electoral Act the Electoral Commission is able to obtain personal information from the Department of Internal Affairs, Waka Kotahi, the Registrar of Motor Vehicles, Immigration New Zealand and the Ministry of Social Development, for the purposes of maintaining the parliamentary electoral roll. The Bill will extend these provisions so they apply to maintaining the youth elector roll also.
- 31 The information sharing arrangements the Electoral Commission has with these departments and agencies may need to be updated when the changes come into effect.

Financial Implications

The cost of implementing the Bill is unknown

- Se
ati
- Section (9)(2)(f)(iv)
- 33 The Bill requires establishment of a separate youth electoral roll for each district which will also need to be able to integrate with the parliamentary rolls at key points in the process (for example, enrolment update processes and transferring people to the parliamentary roll automatically on their 18th birthday). Section (9)(2)(f)(iv)

Section (9)(2)(f)(iv)



- 35 In addition to the costs outlined above, there will be additional costs for the Electoral Commission to register and maintain electors' registration information if the voting population is increased.

Section (9)(2)(f)(iv)



- 38 In order to meet the Government's objective to introduce the Bill before the 2023 general election, costing work will need to be undertaken after the Bill is introduced.

There will be ongoing costs for the Electoral Commission

- 39 In addition to the one-off implementation costs there will be additional costs for the Electoral Commission and local authorities to run local elections with a larger electoral population. The ongoing costs have also not been estimated.

There will be an increase in costs for councils for implementation, and ongoing

- 40 Lowering the voting age is estimated to increase local election costs for local authorities by a minimum of \$1,050,000 (plus GST) shared across all local authorities for implementation, and each future triennial election. This estimate is for the base costs relating to printing papers, postage and processing votes. It does not take into account increases to costs for promoting elections and supporting voter turnout. For example, some councils may wish to establish additional special voting places in schools or other youth locations.

Legislative implications

- 41 The Bill will amend the Local Electoral Act 2001, and will contain consequential amendments to the Electoral Act 1993, the Local Electoral Regulations 2001, the Local Government Act 2002 the Juries Act 1981 and the Sale and Supply of Alcohol Act 2012. The Bill will also require amendments to some local Acts.
- 42 The Minister of Local Government has submitted a legislative bid for the 2023 Legislation Programme with a category of Priority 4 (to be referred to select committee before the 2023 general election).

- 43 The Bill is likely to have a six-month consideration at select committee, and return to the House in 2024, subject to decisions on reinstatement following the General Election.

Impact Analysis

Regulatory Impact Statement

- 44 Cabinet's impact analysis requirements apply to the proposal to lower the voting age for general and local elections to 16, but a Regulatory Impact Statement was not prepared for the November and December 2022 Cabinet decisions, due to the time constraints.
- 45 A Supplementary Regulatory Impact Statement (SRIS) has been completed and is attached as **Appendix B**. A joint Ministry of Justice and Department of Internal Affairs Quality Assurance Panel (QA Panel) has reviewed the Supplementary Regulatory Impact Statement prepared by the Department of Internal Affairs. The QA Panel considers that the information and analysis summarised in the RIA partially meets the QA criteria. The QA Panel's comment is below:

As clearly documented, there are several factors which constrained the analysis. Cabinet Ministers had already made decisions defining the scope of the proposed changes before a regulatory impact analysis could be completed and Treasury officials agreed that this supplementary analysis should focus on the options agreed by Ministers. Work to assess the cost implications of lowering the voting age for local elections has not yet been completed. The process and timeframes for the decisions did not allow for public consultation, although the Panel notes there will be the usual opportunity to make submissions on the Bill through the parliamentary process.

Despite these constraints, the analysis clearly outlines the relevant arguments supporting the Supreme Court's declaration of inconsistency and assesses the likely impact of the proposed changes to the extent they can be known.

Climate Implications of Policy Assessment

- 46 The Climate Implications of Policy Assessment (CIPA) team was consulted on the December 2022 policy decisions and confirmed that the CIPA requirements do not apply to these proposals as the threshold for significance is not met.

Population implications

- 47 The proposals in this paper impact on the 16- and 17-year-old population. Statistics New Zealand estimates as at 31 December 2022 show there are approximately 127,220 16- and 17-year-olds living in New Zealand. Not all of these will necessarily meet other candidate eligibility criteria (such as being a New Zealand citizen) or other voter eligibility criteria (such as being a New Zealand citizen or permanent resident). However, the majority likely will.
- 48 The Māori population is younger on average than the general population. Statistics NZ latest data from June 2022 estimates that 32,790 16- and 17-year-olds are of Māori descent. This is approximately 26% of the total 16- and 17-year-old New Zealand resident population.

Human rights

- 49 The draft Bill includes amendments to the Sale and Supply of Alcohol Act 2012 which would retain the current 18 years minimum age for voting for, standing as a candidate for, or being appointed to, an alcohol licensing trust or community trust under that Act. The Ministry of Justice and the Department of Internal Affairs consider that, based on the evidence and policy justifications currently available, these limits in the draft Bill on the right to freedom from age discrimination have not been justified in accordance with section 5 of the New Zealand Bill of Rights Act 1990. Cabinet has considered this issue and agreed to proceed with the age distinction [CAB-23-MIN-0182].
- 50 We consider the other provisions of the Bill to be consistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993. The Crown Law Office will vet the final version of the Bill prior to introduction.
- 51 The Bill's reliance on the existing Electoral Act enrolment provisions means it has some shortcomings in terms of New Zealand's obligations under the United Nations Convention of the Rights of Persons with Disabilities. Whaikaha – Ministry of Disabled People have highlighted, for example, the need to update the legislation to reflect the current understandings of disability and supported decision-making, and to explicitly include accessible formats for application forms and processes. These are issues that should be considered in the future through a combination of legislative change (following the independent electoral review) and operational policy improvements.

Consultation

- 52 Treasury, Te Puni Kōkiri, Statistics NZ, Ministry of Education, Whaikaha - Ministry for Disabled People, Ministry for Pacific Peoples, Ministry for Women, Ministry for Ethnic Communities, Ministry of Youth Development, Oranga Tamariki, Department of Corrections and the Electoral Commission were consulted on this Cabinet paper and the draft Bill. The Department of the Prime Minister and Cabinet (Policy Advisory Group) was informed.

- 53 The Office of the Privacy Commissioner, Local Government New Zealand, and the Taituarā (Local Government Professionals) Electoral Reference Group were consulted on the draft Bill.
- 54 Immigration New Zealand, Waka Kotahi and the Ministry of Social Development have been consulted on the changes that are likely to be needed to information sharing arrangements. The Ministry for the Environment have been consulted on the proposed consequential amendments to the Soil Conservation and Rivers Control Act 1941.
- 55 Officials have commenced consultation with relevant local authorities where the Bill will make consequential amendments to local Acts. This consultation will be completed before the Bill is introduced.

Ministry for Pacific Peoples' comment on offence for failing to enrol

- 56 The Ministry of Pacific Peoples noted concern about the offence provision and that 16- and 17-year-olds would be liable on conviction for failing to enrol to a fine of up to \$100 (or \$200 on a second or subsequent conviction). The Ministry noted that "Pacific peoples' significantly lower engagement rates for voting, coupled with the fact they are one of the most economically vulnerable groups in New Zealand, means these amendments will likely have negative and disproportionate impacts on Pacific young people. We recommend moving away from a punitive approach in favour of providing comprehensive and targeted communications and educational resources in schools and communities to encourage youth elector registration."
- 57 We understand this concern. However, because the penalties would mirror the existing penalties for everyone eligible to vote, we recommend retaining these provisions in the Bill for introduction and leaving this as a matter to be considered at select committee.
- 58 Prosecutions are rare. The Electoral Commission has not referred anyone to the Police for failing to enrol in the last 10 years. Under the Electoral Act, a person who applies for registration as an elector cannot be prosecuted for their earlier failure to do so.³ The Commission prefers to put its effort and resources into encouraging people to enrol and vote.
- 59 Finally, we note that the Independent Review of Electoral Law is considering enrolment, and offences and penalties for parliamentary elections. The Government's response to that review will provide the best place to consider offences and penalties relating to enrolment.

Communications

- 60 We do not propose to issue any proactive communications relating to commencing cross-party consultation. We will provide information on the proposed communications plan for the Bill when we seek approval for introduction.

³ Section 82(6) of the Electoral Act 1993.

Proactive Release

- 61 We propose to release this Cabinet paper and related Minute with any necessary redactions in accordance with Cabinet Office Circular CO (18) 4, following the introduction of the Bill.

Recommendations

- 62 The Minister of Justice and the Minister of Local Government recommend that the Committee:

- 1 **note** that on 13 March 2023 Cabinet invited the Ministers of Local Government and Justice to report back to Cabinet in June 2023 with a draft of a bill to lower the local election voting age to 16 years old with the intention of seeking agreement to share this with other political parties prior to introduction;

Enrolment for juvenile offenders

- 2 **agree** that the Electoral (Lowering Voting Age for Local Elections and Polls) Legislation Bill will provide for:
 - 2.1 the prison manager to have responsibility for notifying the Electoral Commission if a young person aged 16 or 17 years old, detained in a prison, is disqualified from voting because they have been sentenced to a term of imprisonment of three years or more;
 - 2.2 the Chief Executive of Oranga Tamariki to have responsibility for notifying the Electoral Commission if a young person aged 16 or 17 years old, detained in an Oranga Tamariki residence, is disqualified from voting because they have been sentenced to a term of imprisonment of three years or more;
 - 2.3 the prison manager to have responsibility to have responsibility to provide enrolment advice and assistance to a young person aged 16 or 17 years old who is detained in a prison for a sentence of less than three years; and
 - 2.4 the Chief Executive of Oranga Tamariki to have responsibility to provide enrolment advice and assistance to a young person aged 16 or 17 years old who is detained in an Oranga Tamariki residence for a sentence of less than three years;

Commencement date

- 3 **agree** that the Bill's default commencement date will be 1 March 2028;
- 4 **agree** that the Bill will contain a mechanism to bring the commencement forward, to no earlier than 1 March 2027, if the Bill is able to be implemented earlier;

Draft Bill for cross-party consultation

- 5 **agree** to cross-party consultation being undertaken on the attached draft of the Bill;

Minor and consequential policy decisions

- 6 **note** that Cabinet authorised the Minister of Justice to make minor and consequential policy decisions that may arise during the drafting process;
- 7 **agree** for the Minister of Local Government to have delegated authority to make minor and consequential policy decisions that may arise during the drafting process instead of the Minister of Justice;

Risks to implementation

- 8 **note** there is significant administrative complexity in reducing the voting age for local elections only;
- 9 **note** the cost for the Electoral Commission to implement the Bill will not be known before the Bill is introduced, but the Commission will need additional funding to implement the changes; and
- 10 **note** that, to successfully implement the Bill, updated civics education is likely to be required Section (9)(2)(f)(iv).

Authorised for lodgement

Hon Kiri Allan
Minister of Justice

Hon Kieran McAnulty
Minister of Local Government



Cabinet Social Wellbeing Committee

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Electoral (Lowering Voting Age for Local Elections and Polls) Legislation Bill: Cross-party Consultation and Additional Policy Approvals

Portfolio Justice / Local Government

On 21 June 2023, the Cabinet Social Wellbeing Committee:

Background

- 1 **noted** that on 13 March 2023, Cabinet invited the Ministers of Local Government and Justice to report back in June 2023 with a draft of a bill to lower the local election voting age to 16 years old, with the intention of seeking agreement to share this with other political parties prior to introduction [CAB-23-MIN-0080];

Enrolment for juvenile offenders

- 2 **agreed** that the Electoral (Lowering Voting Age for Local Elections and Polls) Legislation Bill will provide for:
 - 2.1 a prison manager to have responsibility for notifying the Electoral Commission if a young person aged 16 or 17 years old, detained in a prison, is disqualified from voting because they have been sentenced to a term of imprisonment of three years or more;
 - 2.2 the Chief Executive of Oranga Tamariki to have responsibility for notifying the Electoral Commission if a young person aged 16 or 17 years old, detained in an Oranga Tamariki residence, is disqualified from voting because they have been sentenced to a term of imprisonment of three years or more;
 - 2.3 a prison manager to have responsibility to have responsibility to provide enrolment advice and assistance to a young person aged 16 or 17 years old who is detained in a prison for a sentence of less than three years; and
 - 2.4 the Chief Executive of Oranga Tamariki to have responsibility to provide enrolment advice and assistance to a young person aged 16 or 17 years old who is detained in an Oranga Tamariki residence for a sentence of less than three years;

Commencement date

- 3 **noted** that the Bill holds a category four priority (to be referred to select committee before the 2023 general election) on the 2023 Legislation Programme;
- 4 **agreed** that the Bill's default commencement date will be 1 March 2028;
- 5 **agreed** that the Bill will contain a mechanism to bring the commencement forward, to no earlier than 1 March 2027, if the Bill is able to be implemented earlier;

Draft Bill for cross-party consultation

- 6 **agreed** to cross-party consultation being undertaken on the draft of the Bill attached under SWC-23-SUB-0068;

Minor and consequential policy decisions

- 7 **noted** that Cabinet previously authorised the Minister of Justice to make minor and consequential policy decisions that may arise during the drafting process [CAB-22-MIN-0553];
- 8 **authorised** the Minister of Local Government to make minor and consequential policy decisions that may arise during the drafting process instead of the Minister of Justice;

Risks to implementation

- 9 **noted** there is significant administrative complexity in reducing the voting age for local elections only;
- 10 **noted** that the cost for the Electoral Commission to implement the Bill will not be known before the Bill is introduced, but the Commission will need additional funding to implement the changes;
- 11 **noted** that to successfully implement the Bill, updated civics education is likely to be required Section (9)(2)(f)(iv).

Rachel Clarke
Committee Secretary

Present:

Hon Carmel Sepuloni (Chair)
Hon Dr Ayesha Verrall
Hon Willie Jackson
Hon Priyanca Radhakrishnan
Hon Kieran McAnulty
Hon Ginny Andersen
Hon Willow-Jean Prime
Hon Rino Tirikatene
Hon Jo Luxton

Officials present from:

Office of the Prime Minister
Office of the Chair of SWC
Officials Committee for SWC

In Confidence

Office of the Minister of Justice
Office of the Minister of Local Government

Cabinet Legislation Committee

Government Response to the Declaration of Inconsistency: Voting age in the Electoral Act 1993 and the Local Electoral Act 2001

Proposal

- 1 This paper seeks approval of the Government Response to the Declaration of Inconsistency: Voting age in the Electoral Act 1993 and the Local Electoral Act 2001.
- 2 The accompanying paper, from the Minister of Local Government seeking approval to introduce the Electoral (Lowering Voting Age for Local Elections and Polls) Legislation Bill (the Bill), forms part of the response.

Background

- 3 On Monday 21 November 2022, the Supreme Court issued its judgment in *Make It 16 Incorporated v Attorney General*.¹ The Court granted a Declaration of Inconsistency (DOI) in the following terms:

A declaration is made that the provisions of the Electoral Act 1993 and of the Local Electoral Act 2001 which provide for a minimum voting age of 18 years are inconsistent with the right in s 19 of the New Zealand Bill of Rights Act 1990 (NZBORA) to be free from discrimination on the basis of age; these inconsistencies have not been justified in terms of s 5 of the New Zealand Bill of Rights Act.

- 4 This is the first DOI issued since the New Zealand Bill of Rights (Declarations of Inconsistency) Amendment Act 2022 came into effect. NZBORA and sessional orders outline the procedure for the Government and Parliament to respond to the DOI as set out in the table below:

Step	Date	Status
The Attorney-General must notify the House of Representatives of a DOI within six sitting days of the DOI becoming final	12 December 2022	Complete

¹ [2022] NZSC 134, *Make it 16 Inc v AG*, 21 November 2022

Step	Date	Status
The DOI is referred to a select committee allocated by the Clerk of the House	13 December 2022	Complete
The select committee is required to consider, and report on, the declaration within four months	19 May 2023	Complete
The Minister responsible for the administration of the relevant enactment must present a Government Response to the House, within six months of the Attorney-General notifying the House of the DOI	By 15 August 2023	In progress (<i>note the Bill is also intended to be introduced before this deadline</i>)
A debate is held in the House on the DOI, the select committee report, and the Government Response to the DOI	Within six sitting days of the Government Response being tabled.	To be completed

Connection with the Elections (Lowering the Voting Age for Local Elections and Polls) Legislation Bill

- 5 In November and December 2022, Cabinet agreed to introduce legislation to lower the voting age to 16 for both parliamentary and local elections [CAB-22-MIN-0529 and CAB-22-MIN-0553]. Cabinet considered that introducing legislation in line with the DOI timeframes would provide the House with a legislative vehicle to respond to the DOI immediately, should it wish to do so.
- 6 In March 2023, Cabinet agreed that given the changed context (including the need to respond to a national emergency) the Government would focus its legislative response to cover local elections only [CAB-23-MIN-0080].
- 7 This paper seeks approval for the Minister of Justice and the Minister of Local Government to jointly table the attached Government Response to the DOI, noting the intention to introduce the Bill.
- 8 The accompanying Cabinet paper from the Minister of Local Government seeks approval to introduce the Bill.
- 9 We are proposing that the Bill is introduced at the same time as the Government Response is tabled (no later than 15 August 2023). This will give Parliament further opportunity to consider the Bill before the debate on the DOI must take place.

Justice Committee recommendations

- 10 The Justice Committee presented its report on the DOI to the House on 19 May 2023. The Committee recommended, by majority, that the Government:
 - 10.1 amend the Local Electoral Act 2001, and any other necessary laws and regulations, to provide for a minimum voting age of 16 years in local elections; and
 - 10.2 investigate lowering the minimum voting age in general elections to 16 years, taking into consideration the legal consequences of a change to the minimum voting age as set out in its report (and noted below).
- 11 The majority cited the following reasons for their recommendations:
 - 11.1 the right to be free from age discrimination should only be limited by good justifications;
 - 11.2 evidence cited by the Office of the Children's Commissioner in its report to the High Court that people in their mid-teens are generally able to make deliberative decisions analogous to voting (even if more emotionally charged decision-making remains underdeveloped); and
 - 11.3 the potential for a younger voting age to instil life-long voting habits.
- 12 The majority recognised that changing the voting age for parliamentary elections requires support from at least 75 percent of MPs or a majority in a referendum. They did not consider a referendum was appropriate for considering this change. The majority noted certain legal consequences of lowering the parliamentary voting age including legislative links to qualifying as a member of parliament and jury service. They considered these implications could be worked through and there is an opportunity to consider any other implications raised by the Independent Review of Electoral Law in the future.²
- 13 The ACT and National Party members of the Committee did not support lowering the voting age for either parliamentary or local elections.³ The ACT party in its differing view raised questions about the age of criminal liability and offences and penalties, along with whether parental responsibility and liability should end at the age of 16 years. The National Party in its differing view noted that the age of 18 is set for many activities, rights and responsibilities, while 16 is set for others, and the justice system generally treats 16-and 17-year-olds very differently to the way it treats those 18 and over.

² The Independent Review of Electoral Law released its interim report on 6 June 2023, which includes a draft recommendation that the voting age for parliamentary elections be lowered to 16. See draft recommendation 17 and pages 117-119 in <https://electoralreview.govt.nz/assets/PDF/IER-Interim-Report.pdf>

³ See pages 15-17 in [Declaration of inconsistency: Voting age in the Electoral Act 1993 and the Local Electoral Act 2001 \(selectcommittees.parliament.nz\)](https://selectcommittees.parliament.nz/Declaration-of-inconsistency-Voting-age-in-the-Electoral-Act-1993-and-the-Local-Electoral-Act-2001)

Proposed Government Response

- 14 We are seeking approval to table the attached Government Response. The proposed response notes the following:

There is not currently Parliamentary support to amend the Electoral Act 1993

- 15 The response notes that the inconsistency with the right to be free from discrimination on the basis of age should be removed to the extent possible.
- 16 However, there is not currently Parliamentary support for lowering the voting age for parliamentary elections to 16. Preparing and progressing a bill that has no prospect of passing into law would be a costly and time-consuming exercise that would not lead to practical change.

The Government will introduce legislation to amend the Local Electoral Act 2001

- 17 The response notes that the Government has decided that the best way forward is to introduce a bill to lower the voting age to 16 in local elections. It also notes the other proposed age limits in the Bill (for example, a minimum age of 18 for voting for, or being a member of, an alcohol licensing trust is to be retained).

The Government encourages future Parliaments to consider amending the Electoral Act 1993

- 18 The response encourages future Parliaments to consider lowering the voting age for parliamentary elections. It also notes the opportunity for the Government to consider the issue again following the Independent Review of Electoral Law's final report which will be presented to the Minister of Justice by the end of the year.

Timing of the Government Response

- 19 The Government Response must be presented to the House by 15 August 2023.

Consultation

- 20 Treasury, Te Puni Kōkiri, Statistics NZ, Ministry of Education, Whaikaha - Ministry for Disabled People, Ministry for Pacific Peoples, Ministry for Women, Ministry for Ethnic Communities, Ministry of Youth Development, Oranga Tamariki, Department of Corrections, and the Electoral Commission, were consulted on this paper. The Department of the Prime Minister and Cabinet (Policy Advisory Group) was informed.

Financial implications

- 21 There are no financial implications from tabling the Government Response.

Publicity

- 22 We intend to issue a press release when the Government Response is tabled and the Bill is introduced.

Proactive Release

- 23 We propose to release this Cabinet paper and the related Minute with any necessary redactions in accordance with Cabinet Office Circular CO (18) 4, following the introduction of the Bill in the House.

Recommendations

- 24 The Ministers of Justice and Local Government recommend that the Cabinet Legislation Committee:
- 1 **note** that this paper is intended to be read alongside the paper from the Minister of Justice and the Minister of Local Government entitled *Elections (Lowering the Voting Age for Local Elections and Polls) Legislation Bill: Approval for Introduction*;
 - 2 **note** that on 12 December 2022 the Attorney-General notified the House of the Declaration of Inconsistency: Voting age in the Electoral Act 1993 and the Local Electoral Act 2001;
 - 3 **note** that the Justice Committee recommended that the Government:
 - 3.1 amend the Local Electoral Act 2001, and any other necessary laws and regulations, to provide for a minimum voting age of 16 years in local elections; and
 - 3.2 investigate lowering the minimum voting age in parliamentary elections to 16 years, taking into consideration the legal consequences of a change to the minimum voting age as set out in its report.
 - 4 **approve** the Government Response, attached to this submission, entitled “Government Response to Declaration of Inconsistency: Voting age in the Electoral Act 1993 and the Local Electoral Act 2001”;
 - 5 **invite** the Ministers of Justice and Local Government to present the Government Response to the House in accordance with accordance with section 7B of the New Zealand Bill of Rights Act 1990 and the rules and practices of the House;
 - 6 **note** that the Government Response must be presented to the House by 15 August 2023;
 - 7 **agree** that the Government Response be presented on approximately 2 August 2023;

- 8 **note** that the Minister of Local Government is proposing that the Elections (Lowering the Voting Age for Local Elections and Polls) Legislation Bill be introduced on the same day as the Government Response; and
- 9 **note** that a debate on the DOI, select committee report and Government Response must take place within six sitting days of the response being tabled.

Authorised for lodgement

Hon Kiri Allan - Minister of Justice

Hon Kieran McAnulty - Minister of Local Government



Cabinet Legislation Committee

Minute of Decision

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Government response to the Declaration of Inconsistency Voting age in the Electoral Act 1993 and the Local Electoral Act 2001

Portfolio **Local Government / Justice**

On 27 July 2023, the Cabinet Legislation Committee:

- 1 **noted** that this paper is intended to be read alongside the paper under LEG-23-SUB-0125 from the Minister of Local Government entitled *Electoral (Lowering Voting Age for Local Elections and Polls) Legislation Bill: Approval for Introduction*;
- 2 **noted** that on 12 December 2022 the Attorney-General notified the House of the Declaration of Inconsistency: Voting age in the Electoral Act 1993 and the Local Electoral Act 2001;
- 3 **noted** that the Justice Committee recommended that the government:
 - 3.1 amend the Local Electoral Act 2001, and any other necessary laws and regulations, to provide for a minimum voting age of 16 years in local elections;
 - 3.2 investigate lowering the minimum voting age in parliamentary elections to 16 years, taking into consideration the legal consequences of a change to the minimum voting age as set out in its report.
- 4 **approved** the government response, attached to the submission under LEG-23-SUB-0124, entitled “Government Response to Declaration of Inconsistency: Voting age in the Electoral Act 1993 and the Local Electoral Act 2001”;
- 5 **invited** the Minister of Justice and Minister of Local Government to present the government response to the House in accordance with section 7B of the New Zealand Bill of Rights Act 1990 and the rules and practices of the House;
- 6 **noted** that the government response must be presented to the House by 15 August 2023;
- 7 **agreed** that the government response be presented during the week of 2 August 2023;
- 8 **noted** that the Minister of Local Government is proposing that the Elections (Lowering the Voting Age for Local Elections and Polls) Legislation Bill be introduced on the same day as the government response;
- 9 **noted** that a debate on the DOI, select committee report and Government Response must take place within six sitting days of the response being tabled.

Rebecca Davies
Committee Secretary

Present:

Hon Grant Robertson (Chair)
Hon Andrew Little
Hon David Parker
Hon Kieran McAnulty
Hon Barbara Edmonds
Hon Dr Duncan Webb
Hon Dr Deborah Russell
Tangi Utikere, MP (Chief Government Whip)

Officials present from:

Office of the Prime Minister
Officials Committee for LEG

In Confidence

Office of the Minister for Local Government

Cabinet Legislation Committee

Electoral (Lowering Voting Age for Local Elections and Polls) Legislation Bill: Approval for Introduction

Proposal

- 1 This paper seeks approval for the introduction of the Electoral (Lowering the Voting Age for Local Elections and Polls) Legislation Bill (the Bill).
- 2 The accompanying paper *Government Response to the Declaration of Inconsistency: Voting age in the Electoral Act 1993 and the Local Electoral Act 2001*, from myself and the Minister of Justice, seeks approval of the Government Response to the Declaration of Inconsistency regarding the minimum voting age in the Electoral Act 1993 and the Local Electoral Act 2001.

Policy

- 3 In November 2022, Cabinet agreed that legislation be prepared lowering the voting age from 18 to 16 years for parliamentary and local elections [CAB-22-MIN-0529].
- 4 The Cabinet decision was in response to the November 2022 Supreme Court declaration that the voting age of 18 is inconsistent with the New Zealand Bill of Rights Act 1990, and that the inconsistency had not been justified (the Declaration of Inconsistency).
- 5 In March 2023, Cabinet agreed that, given the changed context, including the need to respond to a national emergency, the Government would focus its legislative response to the Declaration of Inconsistency on lowering the voting age for local elections only [CAB-23-MIN-0080].
- 6 Cabinet made a series of policy decisions, including some modifications of earlier decisions, on 21 November 2022 [CAB-22-MIN-0529], 5 December 2022 [CAB-22-MIN-0553], 22 May 2023 [CAB-23-MIN-0182] and 26 June 2023 [CAB-23-MIN-0259]. These combined policy decisions are that the Bill will:
 - 6.1 lower the minimum voting age for all local elections¹ (except for elections under the Sale and Supply of Alcohol Act 2012) to 16 years old;

¹ Local elections include local government elections, alcohol licensing trust elections and elections to certain charitable trusts and other entities.

- 6.2 retain the current approach that the minimum candidacy age will be the same as the minimum voting age for each type of local election (i.e. 18 years old for elections under the Sale and Supply of Alcohol Act 2012 and 16 years old for all other local elections); and
- 6.3 have a commencement date of 1 March 2028 (which can be brought forward by up to one year if implementation can be completed sooner).
- 7 The Local Electoral Act 2001 currently specifies that anyone eligible to vote in parliamentary elections is also eligible as a residential elector for local elections. Therefore, to give effect to the policy decisions above, amendments are needed to the Local Electoral Act 2001 to provide for youth elector enrolment processes and voting eligibility. The amendments to the Local Electoral Act 2001 only require a simple majority in the House to be enacted.
- 8 The Bill also contains consequential amendments to a number of Acts, including the Electoral Act 1993 and some local Acts. Many of these consequential amendments are to align the eligibility rules for other local government electoral processes (such as special issue referendums) with the new local government voting and candidacy ages.

Connection with the Government response to the Declaration of Inconsistency

- 9 The accompanying paper, *Government Response to the Declaration of Inconsistency: Voting age in the Electoral Act 1993 and the Local Electoral Act 2001*, from myself and the Minister of Justice, proposes that the Government Response to the Declaration of Inconsistency be tabled at the same time the Bill is introduced. This means the Bill can form part of the Government Response, and can be discussed as part of the House debate on the Declaration of Inconsistency.
- 10 The Government Response needs to be tabled no later than 15 August 2023. The House debate must take place within six sitting days of the Government Response being tabled.
- 11 I recommend that the Bill be introduced, alongside the Government Response, on 2 August 2023 (or as soon afterwards as possible).
- 12 I recommend that the first reading for the Bill takes place in the same sitting as the House debate on the Declaration of Inconsistency, or a sitting soon after.

Impact analysis

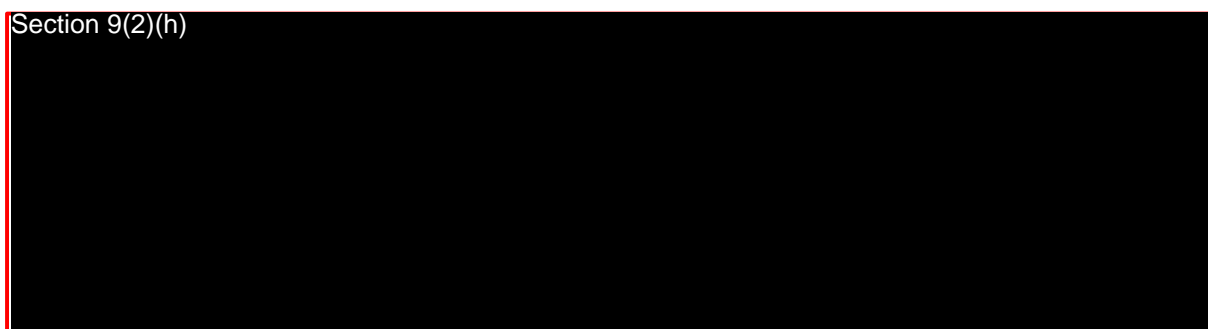
- 13 The Department of Internal Affairs prepared a supplementary regulatory impact statement which was submitted to Cabinet when final policy approvals were sought in June 2023 [CAB-23-MIN-0259].

Compliance

- 14 The Bill complies with:
- 14.1 the principles of the Treaty of Waitangi;
 - 14.2 the disclosure statement requirements, with a disclosure statement attached to the paper (**Appendix A**);
 - 14.3 relevant international standards and obligations; and
 - 14.4 the Legislation Guidelines (2021 edition), which are maintained by the Legislation Design and Advisory Committee.

Bill of Rights considerations

Section 9(2)(h)

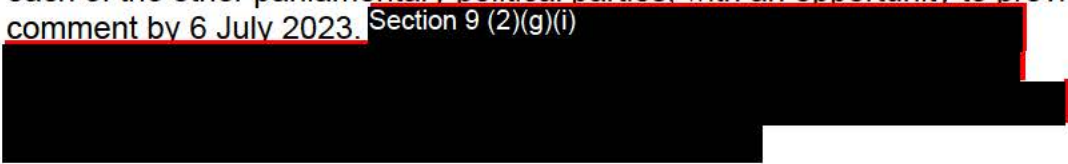


Privacy considerations

- 16 The Department of Internal Affairs had discussions with the Office of the Privacy Commissioner particularly about the availability of youth electors' personal information via electoral rolls and other data sharing mechanisms in the legislation (for example, access to electors' information for research purposes).
- 17 The Office of the Privacy Commissioner understands the arguments about electoral roll information being publicly available for the purposes of electoral integrity. However, the Office also encourages further consideration of whether any modifications to the existing settings for the electoral roll are needed for young electors, noting that their age may create particular vulnerabilities. The Office may choose to make a submission to the select committee on these matters.
- 18 After those discussions took place, the interim report from the Independent Review of Electoral Law was released. That report contains draft recommendations to no longer make parliamentary electoral rolls and master rolls available for public inspection. Once the final report from the Independent Review is completed, the Government may be a need to consider how electoral roll provisions for local elections should be aligned with any changes to parliamentary roll provisions.

- 19 The Office of the Privacy Commissioner has also noted that the current provisions in the Electoral Act 1993, relating to disclosure of identifiable information about individual electors to third parties for research purposes, raise larger questions that are probably best considered as part of the Independent Review of Electoral Law. In the interim report the review panel has made a draft recommendation to retain access for social scientific and health research, but with tighter controls on data access and use, and a stronger ethics approval process.

Consultation

- 20 The Ministry of Justice, Treasury, Te Puni Kōkiri, Statistics NZ, the Ministry of Education, Whaikaha - Ministry for Disabled People, the Ministry for Pacific Peoples, the Ministry for Women, the Ministry for Ethnic Communities, the Ministry of Youth Development, Oranga Tamariki, the Department of Corrections, the Ministry for the Environment, the Electoral Commission and the Office of the Privacy Commissioner, were consulted on the draft Bill. The Department of the Prime Minister and Cabinet (Policy Advisory Group) was informed.
- 21 Immigration New Zealand, Waka Kotahi and the Ministry of Social Development have been consulted on the changes that are likely to be needed to information sharing arrangements.
- 22 Local Government New Zealand, and the Taituarā (Local Government Professionals) Electoral Reference Group were also consulted on the draft Bill.
- 23 Bay of Plenty Regional Council, Christchurch City Council, Gore District Council, Masterton District Council, South Taranaki District Council and South Wairarapa District Council were consulted on consequential amendments to local Acts for their areas.
- 24 The policy proposals in the Bill have previously been discussed with the Government caucus and the final version of the Bill will be considered by caucus prior to introduction.
- 25 On 28 June 2023 my office provided a copy of the draft Bill to the leaders of each of the other parliamentary political parties, with an opportunity to provide comment by 6 July 2023. Section 9 (2)(g)(i)
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Binding on the Crown

- 26 Cabinet Circular (02) 4: *Acts Binding the Crown: Procedures for Cabinet Decision* notes that bills that are amending existing Acts will generally follow the position of the principal Act on whether the Act is binding on the Crown.

- 27 The Local Electoral Act 2001 is binding on the Crown and the proposed amendments to that Act in the Bill will also be binding.
- 28 The Bill also contains some amendments to the Electoral Act 1993. Those amended provisions will not be binding on the Crown.

Creating new agencies or amending law relating to existing agencies.

- 29 The Bill does not create new agencies or amend existing agencies.

Allocation of decision-making powers

- 30 The Bill does not involve the allocation of decision-making powers between the Executive, the Courts and Tribunals.

Associated regulations

- 31 The Bill does not include any provision for making regulations. The Bill makes some consequential amendments to the Local Electoral Regulations 2001.

Other instruments

- 32 The Bill does not include any provision empowering the making of other instruments that are deemed to be legislative instruments or disallowable instruments.

Definition of Minister/department

- 33 The Bill does not contain a definition of Minister, department (or equivalent government agency), or chief executive of a department (or equivalent position).

Commencement of legislation

- 34 The Bill will commence by default on 1 March 2028.
- 35 The Bill also provides that an earlier date, on or after 1 March 2027, may be set by Order in Council. This is to enable earlier commencement if the changes can be implemented sooner.

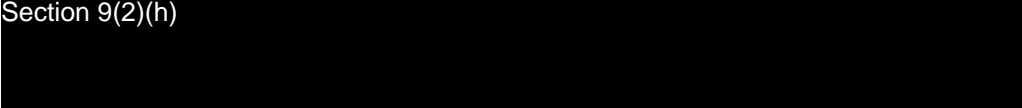
Parliamentary stages

- 36 My recommended approach to timing for introduction and first reading is outlined in paragraphs 9-12 above.
- 37 I seek Cabinet approval for the Bill to be introduced on approximately 2 August 2023 (but by 15 August 2023).
- 38 The Bill will need to be enacted by October 2027 to be able to apply to the 2028 local elections.
- 39 I propose that the Bill be referred to the Justice Committee for consideration.

Proactive Release

- 40 I propose to release this Cabinet paper and the related Minute with any necessary redactions in accordance with Cabinet Office Circular CO (18) 4, following the introduction of the Bill in the House.

Recommendations

- 41 I recommend that the Cabinet Legislation Committee:
- 1 **note** that this paper is intended to be read alongside the paper from the Minister of Justice and the Minister of Local Government entitled *Government Response to the Declaration of Inconsistency: Voting age in the Electoral Act 1993 and the Local Electoral Act 2001*;
 - 2 **note** that the Electoral (Lowering the Voting Age for Local Elections and Polls) Legislation Bill holds a category 4 priority on the 2023 Legislation Programme (to be referred to a select committee before the 2023 general election);
 - 3 **note** that the Bill will lower the minimum voting age for local elections (except for elections under the Sale and Supply of Alcohol Act 2012) from 18 years to 16 years;
 - 4 **note** that the minimum age for standing as a candidate for local elections will continue to be the same as the minimum voting age for each election type;
 - 5 Section 9(2)(h)

 - 6 **approve** the Electoral (Lowering the Voting Age for Local Elections and Polls) Legislation Bill for introduction, subject to the final approval of the government caucus and sufficient support in the House of Representatives;
 - 7 **agree** that the Bill be introduced on approximately 2 August 2023;
 - 8 **note** that I propose that the Bill be introduced on the same day as the Government Response to the Declaration of Inconsistency regarding the minimum voting age in the Local Electoral Act 2001 and the Electoral Act 1993; and

- 9 **agree** that the government propose that the Bill be:
- 9.1 referred to the Justice Committee for consideration; and
- 9.2 enacted by October 2027.

Authorised for lodgement

Hon Kieran McNulty

Minister of Local Government



Cabinet Legislation Committee

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Electoral (Lowering Voting Age for Local Elections and Polls) Legislation Bill: Approval for Introduction

Portfolio Local Government

On 27 July 2023, the Cabinet Legislation Committee:

- 1 **noted** that this paper is intended to be read alongside the paper under LEG-23-SUB-0124 from the Minister of Justice and the Minister of Local Government entitled *Government response to the Declaration of Inconsistency Voting age in the Electoral Act 1993 and the Local Electoral Act 2001*;
- 2 **noted** that the Electoral (Lowering the Voting Age for Local Elections and Polls) Legislation Bill holds (the Bill) a category 4 priority on the 2023 Legislation Programme (to be referred to a select committee before the 2023 general election);
- 3 **noted** that the Bill will lower the minimum voting age for local elections (except for elections under the Sale and Supply of Alcohol Act 2012) from 18 years to 16 years;
- 4 **noted** that the minimum age for standing as a candidate for local elections will continue to be the same as the minimum voting age for each election type;
- 5 Section 9(2)(h) [REDACTED]
- 6 **approved** the Electoral (Lowering Voting Age for Local Elections and Polls) Legislation Bill [PCO 25167/18.0] for introduction, subject to the final approval of the government caucus and sufficient support in the House of Representatives;
- 7 **agreed** that the Bill be introduced in the week of 2 August 2023;
- 8 **noted** that the Minister of Local Government proposes that the Bill be introduced on the same day as the government response to the Declaration of Inconsistency regarding the minimum voting age in the Local Electoral Act 2001 and the Electoral Act 1993;
- 9 **agreed** that the government propose that the Bill be:
 - 9.1 referred to the Justice Committee for consideration; and
 - 9.2 enacted by October 2027.

Rebecca Davies
Committee Secretary

Present:

Hon Grant Robertson (Chair)
Hon Andrew Little
Hon David Parker
Hon Kieran McAnulty
Hon Barbara Edmonds
Hon Dr Duncan Webb
Hon Dr Deborah Russell
Tangi Utikere, MP (Chief Government Whip)

Officials present from:

Office of the Prime Minister
Officials Committee for LEG