

22 March 2018

Hon David Parker, Attorney-General

## **Consistency with the New Zealand Bill of Rights Act 1990: Local Electoral Matters Bill**

### **Purpose**

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1. We have considered whether the Local Electoral Matters Bill ('the Bill') is consistent with the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990 ('the Bill of Rights Act').
2. We have not yet received a final version of the Bill. This advice has been prepared in relation to the latest version of the Bill (PCO 20943/5.2). We will provide you with further advice if the final version contains amendments that affect the conclusions in this advice.
3. We have concluded that the Bill appears to be consistent with the rights and freedoms affirmed in the Bill of Rights Act. In reaching that conclusion, we have considered the consistency of the Bill with s 14 (freedom of expression). Our analysis is set out below.

### **The Bill**

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4. The Bill amends the Local Electoral Act 2001 and the Electoral Act 1993. The amendments are intended to provide more flexible local electoral arrangements, so those arrangements can adapt to changing circumstances. The amendments:
  - a. allow trials of new voting methods to be conducted in local elections;
  - b. require the Electoral Commission, on request of a local authority, to supply electors' date of birth information;
  - c. prohibit date of birth information being published on the electoral roll;
  - d. allow researchers to access voter age information for the purposes of research relating to voter participation; and
  - e. enable local authorities and researchers to seek information from the Electoral Commission in relation to electors in local board areas.

### **Consistency of the Bill with the Bill of Rights Act**

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#### **Section 14 – Freedom of expression**

5. Section 14 of the Bill of Rights Act affirms that everyone has the right to freedom of expression, including the freedom to seek, receive, and impart information and opinions

of any kind in any form. The right has been interpreted as including the right not to be compelled to say certain things or to provide certain information.<sup>1</sup>

6. Subject to some conditions, provisions in the Bill compel the Electoral Commission to provide electors' date of birth information to local authorities, and voter age information to researchers, on request. These provisions appear to impose a prima facie limitation on s 14 of the Bill of Rights Act.
7. The objectives of compelling this information are to enable date of birth information to be used in future voting methods and voter authentication, and to enable analysis of voter participation by age group. We consider any limit on the freedom of expression is justified in light of these objectives, the minimal privacy interest in date of birth and age information, and the prohibition on publishing date of birth information on the electoral roll. We note the Bill also includes requirements for secure storage of date of birth information.

## **Conclusion**

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8. We have concluded that the Bill appears to be consistent with the rights and freedoms affirmed in the Bill of Rights Act.

Edrick Child  
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**Office of Legal Counsel**

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<sup>1</sup> *RJR-MacDonald Inc. v Canada (Attorney General)* 1995 3 SCR 199.