

# **BRIEFING TO THE INCOMING MINISTER**

**Hon Kiritapu Allan**

**JULY 2022**

## Contents

INTRODUCTION .....	3
PART ONE – UPCOMING MATTERS .....	4
PART TWO – COMMISSION PURPOSE AND VALUE .....	6
Commission purpose .....	6
Value .....	6
Maintaining a healthy democracy .....	6
Participation and trust .....	7
PART THREE – OPERATING CONTEXT AND COMMISSION CAPABILITY .....	9
Operating environment .....	9
Information environment .....	9
Labour market conditions .....	9
Policy change .....	10
Potential additional by-elections .....	10
Commission capacity and capability .....	10
PART FOUR – GOVERNANCE AND FUNCTIONS .....	12
Electoral Commission Board .....	12
Electoral Commission functions .....	13

## INTRODUCTION

---

1. The Electoral Commission (Te Kaitiaki Take Kōwhiri) is an independent Crown entity. We are proud of the role we have in ensuring New Zealanders entitled to vote can play a full part in our healthy democratic system. This includes participation in general elections, by-elections and referendums.
2. This briefing sets out those matters which the Electoral Commission will be seeking your support on, or would like to engage with you on, between now and the next general election in 2023. It provides context for this engagement by describing the Commission's purpose, current operating environment, and its capacity and capability to deliver for Aotearoa New Zealand. We also set out recent and current issues for the Commission.
3. Appended to this briefing are two recently finalised accountability documents: the Commission's Statement of Intent 2022/23 - 2025/26 and Statement of Performance Expectations 2022/23. These contain further performance measure information, and an account of the three year cycle of our work.

## PART ONE – UPCOMING MATTERS

4. Below are short descriptions of some matters the Electoral Commission will be seeking your support on, or would like to engage with you on, between now and the next general election in 2023.

	Matter	Approximate timing
1	Withheld under s.9(2)(f)(iv) of the Official Information Act	Withheld under s.9(2)(f)(iv) of the Official Information Act
2	Support for funding of any further by-elections. (See p.10)	Required if additional by-elections called
3	Engagement with you regarding service levels to voters and new policy implementation for the next general election, as well as mitigation of key election risks. (See p.10-11)	During regular meetings between the Minister and the Commission Board
4	Report back on Electoral Commission Board self-assessment, as required in Letter of Expectations from Minister Faafoi	By end September 2022
5	Quarterly performance report for the period July – September 2022	October 2022
6	Annual report for 2021/22 following completion of December 2022 audit	Early 2023

### Recent and current issues

5. This section gives you very brief background on recent issues, in case they should be raised with you. Further information can be provided.
6. The Commission carried out a capability review in 2021 which informed the following outcomes:
- A substantially successful Budget 2022 bid which has increased our baseline funding for the next two election cycles and outyears, to enable us to deliver the election in 2023 and beyond;
  - A strengthening of Commission leadership capacity by establishing three Deputy Chief Executive positions. Appointments will be made in the next few weeks. We will take an early opportunity to introduce you to these new senior staff and their roles; and
  - A review of our 15 small regional offices which will mean the closure of six, and a small overall reduction in permanent staff from 62 to 55 in our Enrolment and Community Engagement functions. This was driven by increased digital enrolment, meaning that we could administer enrolments in three locations. At the same time we are strengthening regional community engagement capacity. Stakeholders including EC staff, the Prime Minister, the Leader of the Opposition and all electorate MPs were advised by 13 June and no feedback or questions have resulted.

7. A number of issues related to the electoral system are ongoing in the media such as:
  - Court cases related to Serious Fraud Office investigations of donations and expenses; and
  - potential impacts of mis- and dis-information on the public and on election campaigns.
8. We have worked closely with the Ministry on your recently announced bills about the Māori Electoral Option and electoral matters including political donations, financial reporting, and overseas voter eligibility. The Commission is available to provide information to support the select committee consideration of these bills, as well as to support the independent panel appointed to review electoral law.

## PART TWO – COMMISSION PURPOSE AND VALUE

---

9. The Commission is a successful, high-functioning organisation that constantly strives to improve its performance. The expertise we have accumulated over many general elections, by-elections and referendums enables us to provide effective and impartial advice on the successful and smooth functioning of the electoral process.

### Commission purpose

10. The Electoral Commission is established by section 4B of the Electoral Act 1993 and is an independent Crown entity under the Crown Entities Act 2004. The statutory objective of the Commission is to administer the electoral system impartially, efficiently, effectively, and in a way that:
- facilitates participation in parliamentary democracy;
  - promotes understanding of the electoral system; and
  - maintains confidence in the administration of the electoral system.
11. The Electoral Act requires the Commission to act independently when conducting its electoral functions. Widespread trust in the electoral system – the accuracy of the roll, the integrity of the election process, and confidence in election results – contributes to the acceptance of an election outcome as legitimate. A high level of participation in the electoral process is an important aspect of this trust. The more people take part, the more the result can be regarded as a legitimate reflection of the will of the people.
12. The Commission plays a critical role in ensuring New Zealanders can participate in elections by making enrolling and voting as easy as possible for all voters. In carrying out certain statutory functions, for example in relation to party registration, the Commission also works directly with political parties, both inside and outside Parliament.
13. The Commission has a permanent staff of approximately 150 people based in a national office in Wellington and regional offices across Aotearoa. For major election events, the Commission grows considerably; we expect to employ around 20,000 temporary staff to deliver the 2023 General Election.

### Value

#### Maintaining a healthy democracy

14. The maintenance of a healthy democracy in New Zealand is the outcome that the Commission primarily contributes to.
15. Aotearoa scores very well on indicators of democracy and governance. The Democracy Index<sup>1</sup> ranked New Zealand second for best democracy in 2021 and, since 2010, New

---

<sup>1</sup> Democracy Index 2021: The China Challenge, The Economist Intelligence Unit, 2022. This annual index is based on five categories: electoral process and pluralism, civil liberties, the functioning of government, political participation, and political culture.

Zealand has also consistently appeared in the top ten ranking countries for all six indicators that the World Bank uses to assess governance.<sup>2</sup>

## Participation and trust

16. Democratic elections rely on high levels of public trust. This includes trust:

- in the integrity and fairness of the process;
- in the results; and
- in freedom to participate and express views without fear of reprisal.

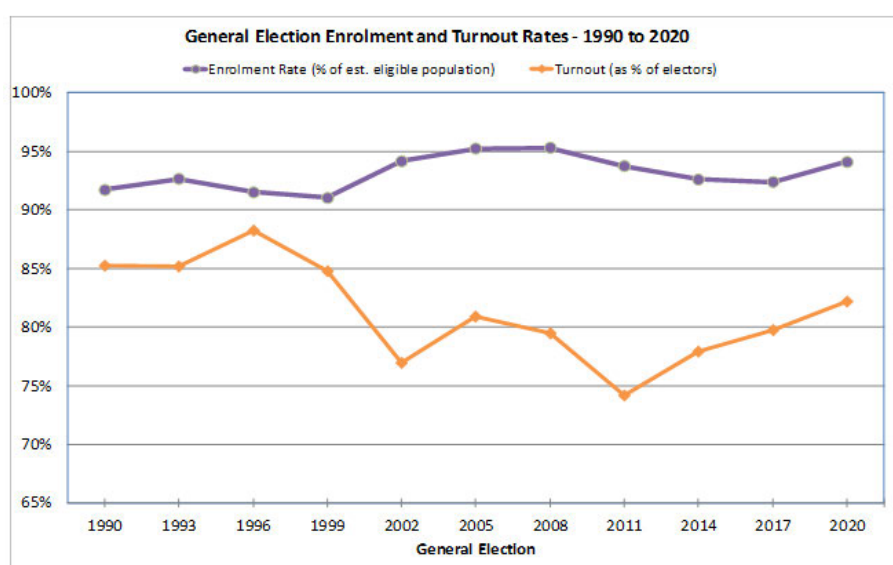
17. High participation rates both require and reinforce people's trust and confidence in the electoral system and election results. Trust supports participation in the process, and acceptance of outcomes. It is a building block of people's willing acceptance of power.

18. New Zealand's electoral system is held in high regard and the Commission is seen to deliver well-run elections with high levels of integrity (voter overall satisfaction of 95% in 2020 and Democracy Index 2021). The Commission does this through maintaining its independence of operation, and a robust system of checks and balances to make sure elections are fair and transparent to the public. Commission staff, scrutineers and independent Justices of the Peace are involved in elections to observe voting, counting of votes, and recording of results to protect the integrity of the electoral system.

19. While Aotearoa has (and continues to) experience high levels of trust in the electoral process and outcomes, a growing number of factors threaten to reduce and/or destabilise trust. These are described later in this briefing.

20. Voter turnout, which is an indicator of participation in democratic processes, for the past three decades is shown in Table 1 below. Voter turnout has increased in recent elections but still remains lower than rates seen in the 1990s.

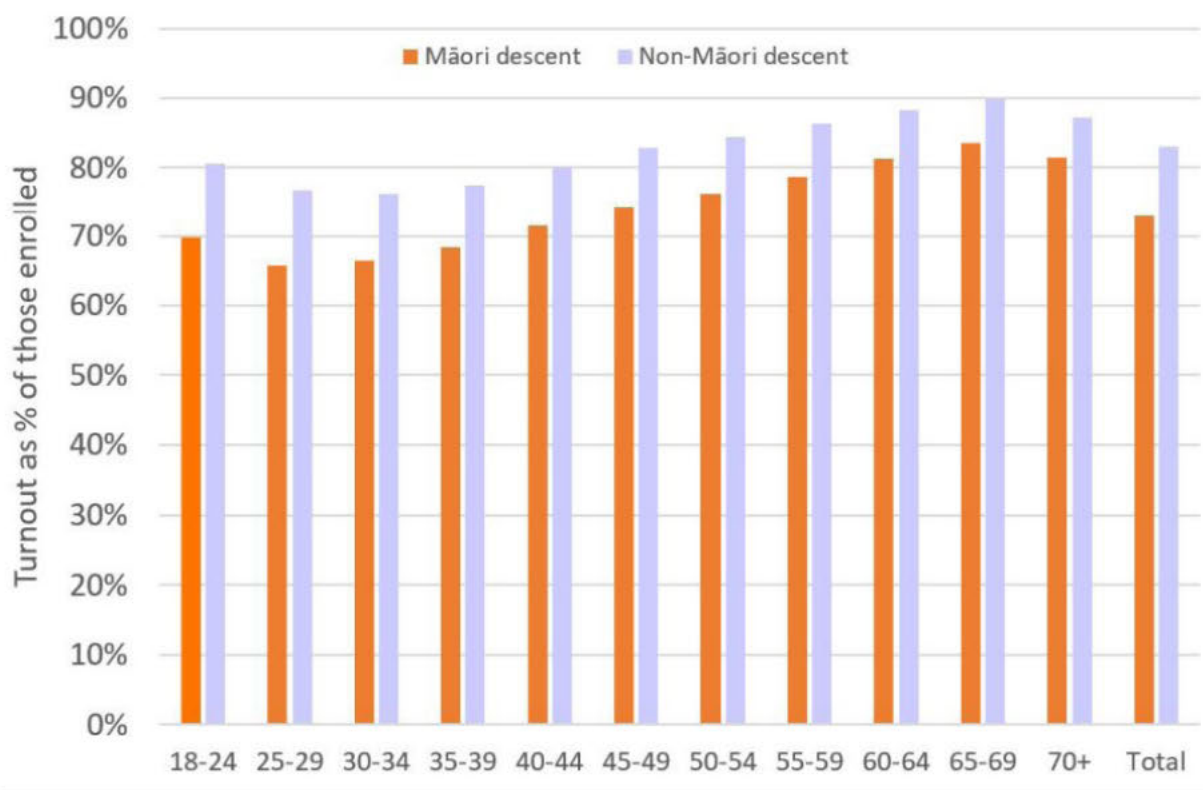
**Table 1 General election enrolment and turnout rates – 1990 to 2020**



<sup>2</sup> Worldwide Governance Indicators, World Bank. The six indicators are voice and accountability, political stability and absence of violence, government effectiveness, regulatory quality, rule of law, and control of corruption

21. Turnout rates for youth, Māori, and Pacific Peoples are lower than the turnout rate for the total voting population shown in Table 1. For this reason, the Commission takes additional steps to promote participation in these groups. We believe changing the way we worked with a number of Māori communities may have contributed to lifting participation in the 2020 election. Turnout in the Māori electorates grew to 69% (66% in 2017). The increase in the number of voters of Māori descent on the Māori and general rolls also grew 15.1% compared to a 10.5% increase for non-Māori. We are putting increased capacity into this work in preparation for the next election.

Table 2 Turnout by age and Māori descent at 2020 General Election





## PART THREE – OPERATING CONTEXT AND COMMISSION CAPABILITY

---

### Operating environment

22. The Commission operates in an increasingly complex environment that requires significant additional risk mitigation activity to be implemented with each successive election.

### Information environment

23. The risk profile for elections has shifted because of significant changes in the information environment. Not only is there a need to mitigate the risk of cyber-attacks, but we are now also working with other agencies to try to mitigate the growing problem of election-related mis- and dis-information, particularly on social media. This is an increasing threat to public confidence in the electoral process. Aotearoa's electoral process is robust and has many stringent safeguards against interference. Despite these protections, overseas debates on electoral integrity, particularly from the US, are entering public discussion in New Zealand via the internet, despite not being informed by an understanding of how our system works and how it is safeguarded. In particular, many do not understand the manual, paper-based nature of our vote counting process, which strongly guards us against digital interference.

24. We will continue to work with partner agencies, particularly in the security services, to prepare for potential disruptions to the electoral process from mis- and dis-information, and from threats to public safety that may affect the electoral process. The Commission has processes in place for sharing information from field staff up through the Commission and out to support agencies as well as from those agencies into the Commission. This enables us to deploy extra resources to address emerging areas of concern and to protect members of the public and our election staff.

### Labour market conditions

25. At election time, the Commission is a major employer of people. At the last election in 2020, the Commission received applications from 1% of the population for temporary voting place positions. The current tight labour market conditions, with record low levels of unemployment, are already being felt by the Commission as it gears up for the election. Addressing attractiveness and retention issues is a top priority for the Commission. The Commission is also committed to ensuring that it pays its voting place staff at least the Living Wage, and growth in the Living Wage over time is a significant source of cost pressure for the Commission.
26. We have identified the current labour market conditions as a risk to the Commission's ability to attract sufficient staff to conduct the election effectively. We are managing these risks by preparing our strategies for hiring large quantities of employees across the country.

## Policy change

27. The Commission's role is to implement electoral policy agreed by Parliament. The Commission has been working closely with the Ministry of Justice to advise on whether current policy proposals are workable and able to be implemented effectively and efficiently by the Commission. These policy proposals include change to the Māori Electoral Option (MEO), overseas voter eligibility criteria, donation and financial reporting and a range of technical changes.
28. The Commission's Board has recently met with the Chair of the electoral law independent review panel, which has been tasked with making election rules clearer and fairer, building more trust in the system, and better supporting people to exercise their democratic right to vote. The Board has agreed to support the panel with advice, where needed, and advise on practical implementation of alternate policy options. It will be important for the Commission to remain closely engaged with the panel so we can be confident that any recommendations it makes are able to be implemented by the Commission.

## Potential additional by-elections

29. The Commission has recently run the Tauranga By-election. That the process went very smoothly reflects the Commission's investment in its current strategy which is to ensure it is well prepared, on an ongoing basis, to run elections. Election readiness planning started very early on in this electoral cycle and this state of readiness is something the Commission wants to sustain.
30. The Tauranga By-election provides a useful template for us to run any other by-elections as required in this electoral cycle, for example if any parliamentary vacancies occur from the local body elections.
31. On average the Commission runs two by-elections per electoral cycle, although the number is highly variable from 0 to 6 per cycle. Given this variability, by-election funding is not included in the Commission's baseline funding. Instead, the Commission requests separate funding for each by-election from Cabinet. The Commission received \$1.538m for the Tauranga By-election. The Commission will need your support with these funding requests.

## Commission capacity and capability

32. The Commission has the capacity and capability to continue to deliver successful elections. It received a significant increase in funding through Budget 2022.
33. **Withheld under s.9(2)(f)(iv) of the Official Information Act**  
[REDACTED]  
[REDACTED]. As we finalise detailed spending plans for next year's general election, we will need to tailor the electoral services we offer to fit within the available resources. This will necessarily

involve the Commission having to make some trade-offs, which you will be kept informed of.

34. **Withheld under s.9(2)(f)(iv) of the Official Information Act** . For the other policy changes which are currently under consideration for this electoral cycle, including changes to overseas voter eligibility, the Commission is expecting it will have to absorb the implementation costs. **Withheld under s.9(2)(f)(iv) of the Official Information Act** .

35. We are starting to prepare for a continuous Māori Electoral Option to ensure this can be implemented effectively in the time remaining before the next general election. If the Bill is not passed, there will be some sunk costs to the Commission which will result in further trade-offs having to be made.

36. The Commission operates with a range of uncertainties during each election cycle. These include not knowing when the date of the general election will be until year three of its planning cycle, not knowing how many by-elections there might be every electoral cycle, and the nature and timing of any policy changes. The Commission is very experienced in dealing with these uncertainties but needs to ensure it has sufficient resilience and flexibility to cope with this. **Withheld under s.9(2)(f)(iv) of the Official Information Act**

37. There is also a need for further investment in enabling technology and systems. While significant advances have been made to the Commission's technology services in recent years including enabling online enrolment, substantial cyber security advances, and device and infrastructure modernisation, further investment is necessary. The Commission relies on several core IT systems to run elections. Three systems (enrolment, election management and electronic role scrutiny) are end-of-life and require significant support to maintain and keep them operational. The Commission will need to seek additional funding to replace these systems in future. It is developing a technology roadmap to inform business case development.

38. Undertaking this work will be challenging as the Commission continues to have limited capacity to plan and develop over more than one electoral cycle. Adding such capacity comes at a cost, and we did not request funding for this in Budget 2022. It does limit the Commission's ability to introduce major changes that can only be safely implemented only over more than one electoral cycle.

39. **Withheld under s.9(2)(f)(iv) of the Official Information Act** .

## PART FOUR – GOVERNANCE AND FUNCTIONS

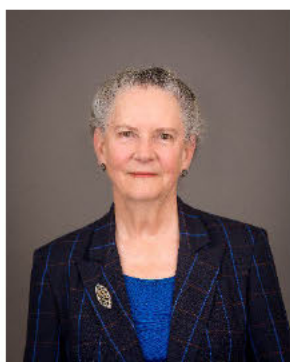
---

40. In this section we introduce the Electoral Commission Board and describe the key functions of the Electoral Commission.

### Electoral Commission Board

41. The Commission is governed by a Board of three Commissioners: the Chair, Deputy Chair, and the Chief Electoral Officer who is also the Commission's Chief Executive.

42. The current members of the Board are:



#### Chair: Dame Marie Shroff DNZM CVO

Between 1987 and 2003 Marie was Secretary of the Cabinet and Clerk of the Executive Council, working with four Governors-General, and six Prime Ministers from both major parties. During that time she co-led a senior officials group which prepared central government for the introduction of the proportional electoral system in New Zealand. Marie also served as Privacy Commissioner from 2003 to 2014.

Marie is a member of the Media Council and on the boards of Consumer New Zealand and the Privacy Foundation New Zealand. She was made a Dame Companion in the 2022 New Year's Honours.

Marie's five-year term as Chair of Electoral Commission began in August 2019.



#### Deputy Chair, Jane Meares

Jane is a commercial barrister at Clifton Chambers in Wellington. She undertakes public sector and commercial advisory work. She was previously Treasury's chief legal adviser.

Jane is Chair and Chief Commissioner of the Transport Accident Investigation Commission, Chair of Financial Services Complaints Limited, a director of the Electricity Corporation of New Zealand, Chair of the Royal New Zealand Ballet Foundation and a member of Land Information New Zealand's risk and assurance committee.

Jane's five-year term as Deputy Chair of the Electoral Commission began in August 2019.





### **Chief Electoral Officer: Karl Le Quesne**

Karl Le Quesne (pronounced 'Le Kaine') joined the Commission as Chief Electoral Officer and Chief Executive on 21 April 2022, replacing Alicia Wright, whose five-year term concluded.

He was born in Tokoroa, grew up in Hawke's Bay, and attended university in Wellington before beginning a career in the public service, which so far has spanned 30 years. Most recently he was Deputy Chief Executive of the Organisational Strategy and Performance branch at Te Tari Taiwhenua Department of Internal Affairs, which he joined in 2017. Karl has also previously held senior roles at the Departments of Justice and Corrections, and the Ministry of Education.

## **Electoral Commission functions**

43. Our functions are described in detail in our Statement of Intent and Statement of Performance Expectations, which are attached. They include:

- Enrolment (continuous and largely online)
- Our regulatory role (guidance for parties and candidates, party registration, and the broadcasting allocation)
- Public information and education to enhance awareness
- Engagement with the community to encourage participation
- Provision of voting services
- Support for the Representation Commission
- International engagement including support to Pacific partners
- The new Election Access Fund to support greater participation in the electoral process by disabled candidates

### **Appendices**

A. Statement of Intent 2022/23 – 2025/26

B. 2022/23 Statement of Performance Expectations