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Report to Policy, Finance & Strategy Committee  
From Amy Norrish, Policy Analyst

## **Process to Decide on Electoral System for 2004 Elections**

### **1. Purpose**

The purpose of this paper is to agree on a *process* to assist Council to decide whether or not to change from a First Past the Post (FPP) electoral system to a Single Transferable Vote (STV) electoral system for the 2004 local elections.

(A further report to assist Council in *deciding* its preferred electoral system for the 2004 local elections will be presented at the next Policy, Finance & Strategy Committee meeting on 6 August 2002.)

### **2. Background**

The Local Electoral Act (LEA) came into force in May 2001. This Act significantly altered the previous legislation governing the conduct of local government and district health board elections.

#### **2.1 Impact of the Local Electoral Act 2001 on Local Authority Electoral Systems**

Under the LEA local authorities are required to consider the choice between FPP and STV electoral systems for the 2004 triennial elections. (Attachment 1 briefly explains FPP and STV.) Councils can resolve to:

- a) remain with FPP
- b) change to STV, or
- c) not pass a resolution for either system.

If no resolution is passed by Council the status quo (FPP) is retained by default.

## 2.2 Process for Considering Electoral System Options

The LEA outlines key processes and timeframes to be met by Council when choosing an electoral system. Some of these processes are mandatory while others are optional.

The Act provides for a three-part mechanism for councils to decide which electoral system they wish to use for 2004 and beyond. Sections 27 to 37 of the LEA states that local authorities:

- **may** resolve to change the electoral system (s.27).
- **must** give public notice of any resolution and/or the right of electors to demand a poll on the electoral system to be used (s.28).
- **may** resolve to conduct a poll (s.31).

In addition, 5% of electors enrolled at the previous triennial general election **may** demand, by petition, a poll to decide which system to use (s.29). Such a demand could be in response to Council making no decision on an electoral system, or to Council resolving to either remain with FPP or change to STV. The result of such a poll is binding.

## 2.4 Key Deadlines for Implementing Process

The LEA requires a local authority to comply with the following timeline when deciding which electoral system will be used.

### 2.4.1 Council may resolve to change electoral system

*12 September 2002*

This is the first key date in this process. It is the last day on which the Council **may** resolve, of its own volition, to change the electoral system from FPP to STV for the 2004 election. Any such resolution will take effect for the 2004 elections and will continue in effect until either:

- the Council resolves otherwise, prior to 12 September two years before the 2007 elections, or
- a poll of electors is held.<sup>1</sup>

### 2.4.2 Council must give public notice of the right of electors to demand a poll

*19 September 2002*

This is the last day on which Council **must** give public notice of the right of 5% of the electors to demand a poll on the future electoral system for the next two triennial elections. If a Council resolution on the electoral system has been made by 12 September 2002, then this must be included in the notice.

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<sup>1</sup> (The Local Government Bill currently includes a provision that should a Council decide to change its electoral system by resolution, and no poll is held, the new system must be used for the next two elections, and not just one election, as presently required by Section 27 of the LEA.

#### 2.4.3 *Electors can Demand a Poll*

*18 December 2002*

This is the last day on which electors can demand a poll. Electors **must** be given 90 days following the public notice (on 19 September 2002) to allow electors to gather sufficient signatures to demand a poll.

#### 2.4.4 *Last date Council may initiate poll*

*28 February 2003*

A local authority **may** resolve to undertake a poll of electors on the electoral system anytime until 28 February 2003. Public notice of the Council's intention to initiate a poll **must** be given by this date.

#### 2.4.5 *Requirement to hold poll 82 days after notice received*

A poll **must** be held no later than 82 days after notice is received of:

- a valid demand for a poll i.e. by 18 December 2002, or
- a resolution to initiate a poll made by Council i.e. by 28 February 2003.

A poll, demanded by electors or initiated by Council is **binding** and would determine the electoral system for the next two triennial elections.

### 2.5 **STV Mandatory for District Health Board Elections for 2004**

Traditionally, FPP has been the only electoral system used for all local government and DHB elections in New Zealand. The new legislation makes the use of STV mandatory for DHB elections from 2004, using Meek's method of counting votes with certain modifications.

## 3. **Comment**

### 3.1 **Four Key Questions to Decide on Process**

In view of the legislative framework outlined above, Council will need to make a number of decisions around the process for considering an electoral system for the 2004 elections.

- a) Whether or not to carry out limited public consultation on which electoral process should be used, and
- b) If public consultation is carried out:
  - i) the level of consultation; and
  - ii) the timing of consultation.
- c) Whether or not to conduct a poll of electors to determine which electoral system will be used.
- d) Whether to do nothing.
- e) Whether or not to take a long-term approach to consultation.

## 3.2 *Public Consultation*

### 3.2.1 *Why Consult?*

As a consequence of the Government's limited provision for a public education programme the responsibility for public consultation and education falls largely on local authorities.

The high cost of a poll and the possibility that electors could demand a poll, regardless of Council resolution, is a key reason to include public consultation in the process.

Consultation could:

- a) assist the Council's decision-making process
- b) inform the Council on whether there is sufficient interest from electors to warrant conducting a poll; and
- c) reduce the likelihood of a poll, by giving those who have an interest an opportunity to have input.

### 3.2.2 *Why Limited Consultation?*

The tight timeframe does not allow for broad public consultation.

There is no provision in the 2002/03 budget to meet the cost of consultation. Limited consultation could be carried out for between approximately \$5,000 and \$60,000, depending on the range and number of options implemented.

### 3.2.3 *Options for Limited Consultation*

Preliminary discussions between Regional and Constituent Council representatives have indicated many Councils may opt for a targeted or minimal approach to public consultation.

Limited consultation may involve one or more of the following:

- targeted consultation with community groups such as ratepayer groups, political groups, Tangata Whenua and neighbouring territorial authorities
- information on website
- information brochure in rate demands
- mailout information brochure using database
- article in Elements
- draft proposal put forward to specific stakeholder groups or focus groups (taken from a cross section of people in the Region) and comments requested
- plain English information pamphlet, provided by the STV Taskforce made available in libraries, council offices and accompany rates.

Consultation options (such as providing a draft proposal and requesting comment from stakeholder or focus groups) are relatively non-confrontational and likely to strengthen the decision made by Council, thereby diffusing the possibility of a poll being demanded.

### 3.2.4 *Consultation Prior to Council Resolution on 12 September 2002*

Consultation before 12 September 2002 could assist in the Council's decision-making process on the preferred electoral system and on whether to hold a poll. Consultation could provide information on key community group electoral system preferences and an indication of the likelihood of electors' demand for a poll.

The last Council Meeting before 12 September 2002 is on 6 August. This leaves only the month of July to organise a very limited consultation. It would also be difficult to implement an effective and worthwhile consultation plan. A special Council meeting a week before 12 September could be called to alleviate the time pressure for this and provide two months of consultation.

### 3.2.5 *Consultation After Public Notification on 19 September 2002*

Consultation between 19 September 2002 and the poll period on 18 December 2002 would serve to inform the Region's interest groups of electoral systems and may allay the possibility of public demand for a poll.

The timeframe for consultation is still tight but would allow adequate time for limited consultation to be carried out.

## 3.3 **Whether of not to Conduct a Poll**

The result of a poll, whether it is conducted in response to public demand or initiated by Council, is binding. The electoral system adopted or confirmed by a poll must be used for the next two triennial general elections and for all subsequent general elections until a further resolution or poll is held.

Should a poll be required, it is hoped this can be managed to occur between March 2003 and May 2003 to coincide with the national public education programme. This programme is rather limited and does not include any television advertising. Council may need to consider further education initiatives to complement this programme, so voters make a well-informed choice when voting.

### 3.3.1 *Council Initiates Poll*

A poll is a broad form of public consultation as it provides every elector with the opportunity to vote. However, history demonstrates there is also the risk that there may be low levels of voter participation and an unbalanced cross-section of the Region's community, should a poll be conducted. This can result in misrepresentation of the wider community's preference.

### 3.3.2 *No Poll Initiated by Council*

If Council resolves not to conduct a poll there is still the possibility that 5% of electors will demand a poll. However, past experience signals there is likely to be limited demand from electors for a poll.

There is a slightly increased probability of a poll being demanded should Council decide to undertake an STV electoral process with no consultation.

### 3.3.3 *Cost of poll*

If undertaken by the Regional Council alone a poll is provisionally estimated to cost around \$300,000. If undertaken in association with Territorial Authorities (as with local body elections) our share of the cost would be much lower. There is currently no provision in the 2002/03 budget to meet this cost.

There are likely to be additional costs to implement an education plan for the Region's public on the different electoral systems and to ensure satisfactory voter participation which is representative of the Region's views.

## 3.4 **Do Nothing**

Council could choose not to pass a resolution, not initiate a poll and not undertake public consultation. Where no decision is made the status quo (FPP) will be retained by default, as long as there is no demand for a poll.

The short timeframe available for consultation and the unlikely event of public demand for a poll make this a viable option. However, there is still a small possibility that five per cent of electors could call for a binding poll.

## 3.5 **Long-term Consultation Plan**

Whatever approach Council decides to take, it may be desirable to carry out long-term consultation following the 2004 elections, in preparation for the 2007 election.

A long-term approach provides many benefits when compared with other options:

- a) The short timeframe available before 2004 local government elections does not allow for thorough and wide-reaching community consultation.
- b) DHB elections could provide invaluable insight into the workings of STV.
- c) A poll is very expensive and there is currently no provision for this in the 2002/03 budget.
- d) Minimal consultation can be limited as it can be information based rather than a feedback-oriented process.
- e) A comprehensive consultation and education is a more effective tool for determining public preference.
- f) Public education programmes (including that for the DHB elections), carried out over the next few years on the different electoral systems, may

reduce the need for an extensive education and information programme. It would also provide feedback on the community's response to STV.

### 3.6 Summary of Options

Council will need to decide whether to:

- 1) Carry out **limited consultation** and, if so, whether to commence consultation:
  - 1.1 **Prior to Council resolution**  
Council could commence limited public consultation in July and August and actively seek input from the community prior to making a Council resolution by 12 September 2002.

OR

  - 1.2 **After Council resolution and before public demand for a poll**  
Council could make preliminary decision to retain status quo (FPP) or change to STV by 12 September. The period after public notification of the Council's resolution and electors' right to demand a poll up until 18 December could be treated as the consultation period.

OR
- 2) **Resolve to use STV electoral system and not undertake public consultation**  
Council could resolve to use the STV electoral system by 12 September and give public notice of this decision and electors right to demand a poll by 19 September. If no demand for a poll is received, or results of a poll support this decision, STV would be used for 2004 elections.

OR

- 3) **Resolve to initiate a poll**  
Council could defer its decision and resolve to hold a poll of electors. The decision to hold a poll could be made anytime prior to 28 February 2003, but a public notice would still be required by 19 September 2002.

OR

- 4) **Do nothing**  
Council could not pass a resolution on the electoral system by 12 September. Council could simply give public notice by 19 September advising electors have the right to demand a poll on the electoral system to be used for the next two triennial elections. If no demand for

a poll is received the status quo (FPP) will continue to be used for the 2004 elections.

In any event Council may wish to undertake **long-term consultation**. A comprehensive education and consultation plan could be implemented after the 2004 local elections, in preparation for the 2007 election.

### **3.7 Effectiveness and Feasibility**

The effectiveness and feasibility of each option is dependent on cost, timing, community participation and education, and promotion of local government elections.

Regardless of which option is adopted electors have a right to demand a binding poll (except where Council choose to initiate a poll). Council could pursue a two pronged approach by:

- aiming to reduce short-term risks through limited consultation prior to Council resolution and
- providing a strategic outlook for the 2007 local election by undertaking a long-term consultation plan.

Limited consultation would provide an understanding of key interest groups preferences on the electoral system options, low level information to the public and reduce the likelihood of a poll for the 2004 election. A long-term consultation approach will ensure Council is well informed of the implications of STV in practice, the wider community's concerns and preferences for the 2007 elections.

## **4. Recommendation**

*That the report be received.*

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