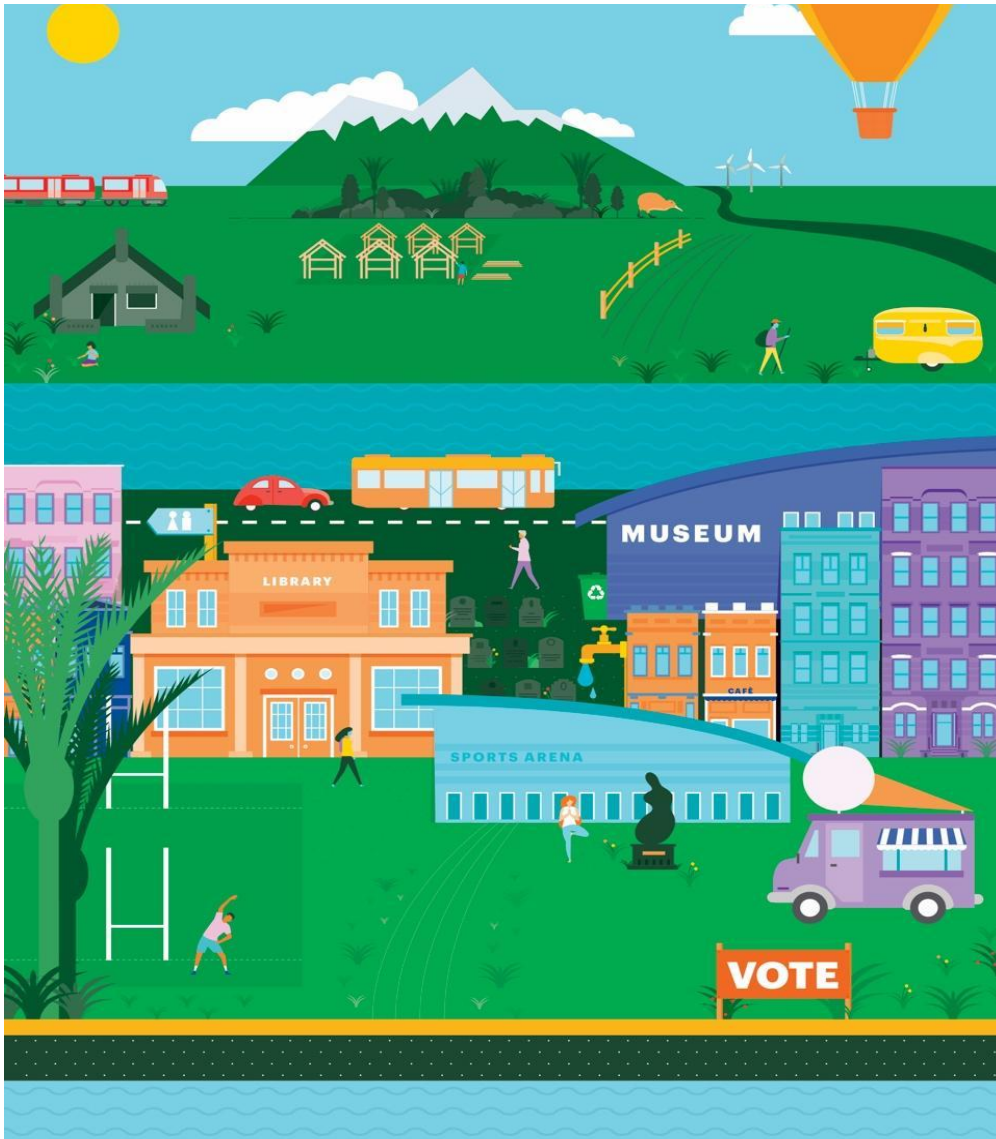


# OUR LOCAL COUNCILS

**Are people having enough say on what happens in their area?**



Local Government New Zealand developed this image of council services

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**Trust Democracy thanks you for taking the time to think about and discuss an important part of our democracy: Aotearoa New Zealand's system of local government.**

At a time when major government reforms are raising questions about New Zealand's system of local councils, Trust Democracy would like to support opportunities for ordinary people to think about how to make our councils work more democratically. How can we improve the way councils agree on goals, plans and policies, and determine priorities and make decisions? Do we feel properly represented by the county's mayors and councillors under our current system?

This document has been developed to support you to take part in small-group discussions about our system of local government. It is divided into 3 parts.:

- **Part 1** offers some background information about democracy
- **Part 2** offers some background information about our system of local government
- **Part 3** invites you to think about how local government representation and decision-making might be organised or reorganised.

Before we get started, some important context:

- *What does it take to make local democracy work as it should? We shouldn't leave this question to politicians and experts alone and we invite you to join these deliberations.*
- *We've called this document a choicebook because politics is about making choices. This choicebook provides you with a way of working through some choices to do with local government with other people.*
- *The choicebook presents three potential approaches for improving local government. One says that any form of government needs to*

*give effect to Te Tiriti o Waitangi. The second says that a few tweaks can improve the current system. The third says the system needs much better ways of including ordinary people in local politics.*

- *The choicebook is not meant to push one approach but aims to encourage you to think about what you value and the trade-offs you would be willing to make. An example of a trade-off is: say you want to buy a new phone, you'd really like the flashy \$750 model but you know if you spent all the \$750 on a phone you can't buy your friend a birthday present, so you buy a cheaper phone, so you can buy the birthday present - that's a trade-off.*
- *As two pakeha men, we acknowledge that neither of us have an extensive knowledge of tikanga, Te Ao Māori or other relevant knowledge. To try and ensure we are doing justice to Te Tiriti and its implications for government and governance, we have leaned heavily on recent academic research into this area by Māori scholars.*

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Simon Wright and John Pennington are members of Trust Democracy, a new non-profit organisation interested in strengthening democracy in Aotearoa New Zealand. Trust Democracy would like to acknowledge the Hutt Mana Charitable Trust and the funding it provided to support this work.<sup>1</sup>

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<sup>1</sup> <https://hmct.org.nz/>

# PART 1: ABOUT DEMOCRACY

Europeans trace democracy back 2,500 years to Athens, Greece, but Europeans are not unique. Many other peoples, including Māori, have decision-making processes that we recognise are important for democracy. We could all learn from these processes to help improve our present-day democracy.

Democracy is also a very slippery word with many definitions. However, most definitions of democracy would include the right for people to participate in decisions about the policies and laws that affect them. Democratic approaches can work at the level of the nation-state, say New Zealand, as well as regionally and locally as in the case of local councils.

There are several different forms democracy could take. Our current local government system is based on electoral democracy.

<b>Direct Democracy</b>	<b>Electoral democracy</b>	<b>Deliberative democracy</b>	<b>Treaty-based democracy</b>
People take part in democratic decision making, without representatives or political parties, using mechanisms such as referendums.	People vote for candidates or political parties to represent them.	Puts less emphasis on decision-making by elected representatives and instead asks randomly selected, representative groups to consider issues and make decisions.	As the founding document of Aotearoa New Zealand, Te Tiriti will be at the centre of whatever form of democracy we might have in the future.

The following section explains more about deliberative democracy as it is rarely used or talked about in Aotearoa New Zealand. More details about our current system of electoral democracy and how it gives effect to Te Tiriti are provided in Part 2. We have decided not to include a direct democracy approach in this choicebook so that the workshop discussions don't take too long.

## **DELIBERATIVE DEMOCRACY**

Deliberative democracy says that ordinary people should be involved in decision-making because that is how democracy should work, and we will get better results if we use everyone's intelligence. To do this, we deliberate - discuss things - with other people, to find out what they think and what their reasons are. As we know, people have different views about things, so we need to discuss those views and look at the positives and negatives of different perspectives. We can then try and come to a decision about what needs to be done. People don't always agree on everything but often they find things they have in common

which means something positive can come out of their discussions. Often, something that no one had thought about before, or a new way of making progress on a complicated issue, comes from deliberating.

So, deliberation is about working with other people to find ways of navigating big challenges when there are lots of different views out there. The 'democracy' bit in deliberative democracy is about including ordinary people when it comes to making important decisions. How could we do this? Well, it's probably not very practical to choose everybody. Anyway, including everybody isn't necessary to make progress on difficult issues. Researchers have shown that small groups (say 15-100) of people can work constructively together. These are not just any small groups, they are groups who have been chosen by a process called sortition. Sortition is just a fancy name for a lottery. This is the way a jury is selected for a criminal trial. Sortition takes a population of people, it might be a suburb, a region or even a whole country, and takes a random sample of that population, called a representative sample. Various criteria are used such as gender, ethnicity, geography, income, age, etc. to make sure the group looks like the people around us.

These representative groups are called 'mini-publics' i.e mini as in small groups. These mini-publics have a variety of different names e.g., citizens' juries, citizens' assemblies and deliberative polls are some examples.

# PART 2:

# ABOUT LOCAL GOVERNMENT

Local government is currently the system of locally elected members representing their communities and making decisions on their behalf. Parliament is elected to deal with national issues, local government councils are elected to deal with local issues.

The Local Government Act 2002 defines how local councils should operate. While councils are able to make decisions independently, they do so within this and other laws (e.g., Local Government Official Information and Meetings Act, Resource Management Act) made by Parliament and by Government policy.

New Zealand had over 850 local councils and authorities until a major reform in 1989. The local government sector now consists of 11 regional councils, 61 territorial authorities. Of these – 11 are city councils and 50 are district councils. There are 6 unitary councils, which are territorial authorities with regional council responsibilities.

Maps showing the boundaries of city, district and regional councils are provided at the end of this document.



## TE TIRITI O WAITANGI / THE TREATY OF WAITANGI

Councils are required to maintain and improve opportunities for Māori to contribute to local government decision-making and to help build the capacity of Māori to contribute. Council decisions must take into account the relationship of Māori with ancestral land, water, sites, wāhi tapu, valued plants and animals, and other taonga.

Councils use a variety of ways to ensure Māori perspectives and interests are understood and taken into account. These include internal advisory teams; external reference groups they consult with; relationship agreements with mana whenua and other recognised Māori groups (e.g., Māori Urban Authorities, local whanau and hapu); non-voting seats at Council meetings; Māori ward councillors (similar to the Māori seats in Parliament); and joint boards, especially for the co-governance of natural resources after Treaty Settlements.

## THE ROLE OF LOCAL GOVERNMENT

The legislated role of local government is to:

- *Enable democratic local decision-making and action by, and on behalf of, communities*
- *Promote the social, economic, environmental, and cultural well-being of communities in the present and for the future.*

If you think of local government, you probably think of an organisation that has a mayor and a council and provides:

- *Local libraries, recreation centres, swimming pools, parks, sports fields, rubbish collection*
- *Long- and short-term plans for developing the city or district*
- *Local infrastructure including water, sewerage, stormwater and roads*

- *Environmental safety and health, district emergency management and civil defense preparedness, building control, public health inspections and other environmental health matters.*

You may also know about regional councils which look after things like the environment, flood control and public transport across a region.

While elected councillors make decisions about the overall direction of a council, many day-to-day decisions are made by council employees. A council's Chief Executive (CE) is responsible for supporting elected councillors in their decision-making, implementing their decisions and is directly accountable to the elected councillors. A CE employs all the relevant professionals needed to run a council.

Councils are able to create economies of scale and share expertise by jointly providing services with other councils. For example, Porirua library users can access books in the Kāpiti, Masterton, Hutt Valley, Whitireia and Weltec libraries. Councils can also deliver their services through private companies (contracting out) or by setting up council-owned business-like organisations.

## **CURRENT REFORMS WILL AFFECT LOCAL GOVERNMENT**

Trust Democracy is hosting this deliberation at a time when questions are being raised about the performance and future of local government. The Government has initiated 3 major review and reform processes that will affect councils in major ways. These are described below.

<b>Three waters reform</b>	<b>Resource management reform</b>	<b>Local government review</b>
<p>Currently councils are responsible for drinking water, sewerage and stormwater. The government is proposing that 4 new, publicly-owned organisations take over the '3 waters'.</p>	<p>Laws about resource management are used to decide what can be built where (e.g., factories can't be built in residential suburbs). They are also used to control activities that could have negative effects (e.g., noisy or polluting activities).</p>	<p>An independent review to identify how our system of local democracy and governance needs to evolve over the next 30 years.</p>

# PART 3:

# LET'S

# DELIBERATE!

With major government-led reforms underway, now is a good time for ordinary people to consider how local communities should be represented and how decisions should be made.

To help you explore some of the options, this choicebook sets out 3 different approaches for improving local government. While other approaches could be added, these approaches represent a variety of perspectives and we offer them as a starting point for discussion. They are set out from the point of view of someone who supports that approach. You will be asked towards the beginning of the workshop whether there are other approaches you would like to explore.

The 3 approaches are:

1. *Adopt Te Tiriti-based local governance*
2. *Improve elections, consultation and decision-making*
3. *Include ordinary people as decision makers*

## APPROACH 1: ADOPT TE TIRITI-BASED LOCAL GOVERNANCE

Whatever democratic system is in place, Te Tiriti o Waitangi has to be central to it at all levels of decision-making, including for local issues.

Since 1840, many Māori have been calling for the Crown to honour Te Tiriti o Waitangi, the Māori-language agreement that around 460 chiefs signed (only 39 signed the English-language Treaty). Under Te Tiriti, tribal leaders (Ariki and Rangatira) would continue to exercise their mana and authority over their people and lands independently, while the Crown would have authority over its people. Issues of mutual concern would be negotiated.

Steps to improve Māori representation in local government have been made e.g., the Local Electoral Act 2001 to create Māori Wards (these are similar to the Māori seats in Parliament). In conservation and environmental decision-making, there have been several successful co-management and co-governance partnership models.

However, despite some progress, “for Māori local government remains a site of struggle for fair and effective representation, recognition and participation in planning and decision making-processes.”<sup>2</sup>

Kāwanatanga and Rangatiratanga are two key terms in understanding how Māori view who governs and what control they should have.

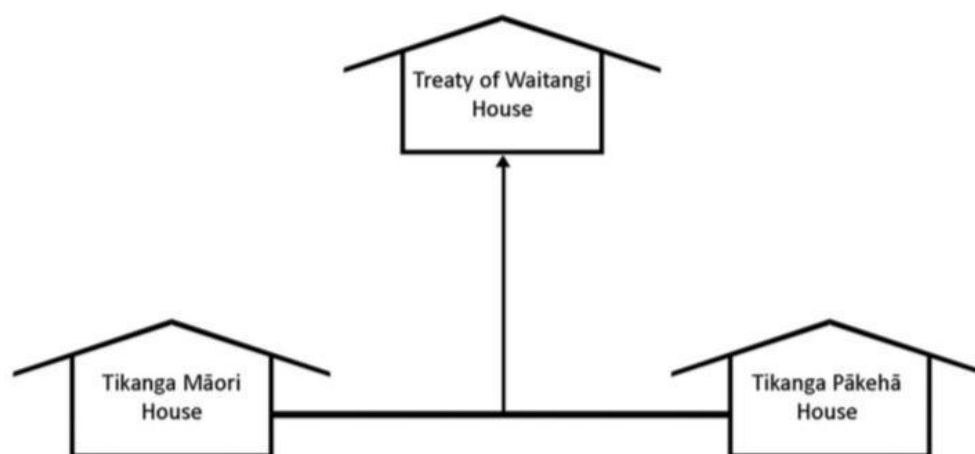
- **Kāwanatanga** is used to describe the concept of governance. For local government, this is the aspiration to have more influence over decisions that affect everyone.
- **Rangatiratanga** expresses two contemporary Māori aspirations: the aspiration to improve the economic position of Māori; and the aspiration to have more autonomy over things that affect Māori.

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<sup>2</sup> Webster, Creating Treaty-based local governance, p.147

One suggestion for how to achieve a Treaty-based approach to local governance is the 'three-house model':

- A **Tikanga Māori House** for things that relate to Māori
- A **Tikanga Pākehā House** where both Māori and others work together using Te Ao Māori and Western values; and
- A third house, a **Treaty House**, where the findings from the other two houses could be brought together.



Pākehā styles of governance differ a lot from Māori ways. As a way of working towards a three-house model, local government could adopt a hui form of working. In a hui, decision-making is not just about getting a majority to do things, it's about ongoing debate and discussion as a way of building consensus.

Local government has responsibilities to ensure the well-being of the people in its area. Māori understanding of the world teaches how land, the environment and the economy are tied together to give us well-being. We need to include the values of Te Ao Māori in local government and to provide for power sharing in local government to achieve local government's well-being responsibilities.

Moves to enhance Māori participation will involve:

1. *A new Treaty-based system of local government that provides for Māori tino rangatiratanga (independence) as an equal form of governance; and*
2. *Changes to the existing system that acknowledge Māori ways of understanding sit alongside effective Māori representation’.*<sup>3</sup>

### **What can be done**

- *Make resources and people available to hold nation-wide hui on the partnership model for local government based on Te Tiriti*
- *Resource Māori properly with funding and support for effective Māori participation in local government*
- *Explore the use of hui as a governance model*
- *Explore how the Anglican church has developed a successful partnership model since 1992.*

### **Arguments against Te Tiriti-based local governance**

- *Māori shouldn’t have so much say as they only make up 16% of the population.*
- *Māori wouldn’t have the capacity to carry out the proposals for Te Tiriti-based local government*
- *The current provisions in the Local Government Act (2002) already make Māori participation in decision-making a specific requirement.*

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<sup>3</sup> Webster, p. 159

## **APPROACH 2: IMPROVE ELECTIONS, CONSULTATION AND DECISION-MAKING**

A supporter of this approach believes that the best system of local democratic government is the one we already have. There are a few things we can do to make it work better but the current system of locally elected members representing their communities and making decisions on their behalf has been serving us well for over 100 years. While the Government is currently reviewing local government, major changes to the current system aren't needed.

By selecting representatives through elections, voters' consent for winning candidates to represent them and make decisions on their behalf. Elections also provide for strong accountability. If mayors and councillors represent their communities well, they are likely to be re-elected. If they represent their communities badly, they will be voted out office at the next election. Anyone who is interested in representing their community can stand for election. The process for becoming a candidate is straightforward and inexpensive. Recent law changes mean that it is easier for councils to enhance Māori representation by setting up Māori wards.

The current system supports good, democratic decision-making. Elected representatives receive expert advice from a range of experts, including council officers and consultants. Councils consult their communities, including mana whenua and other local Māori, when developing strategies and plans to ensure community and Māori views and preferences are known when making decisions. Councils are required to consider more than immediate issues and also have to plan for the long-term sustainable development of their communities. Training programmes are available to councillors and council officers so that they are able to perform their roles well.

A strength of the current system is that Councils can contract out services or set-up business-like organisations to deliver services



effectively and efficiently at arms-length from the petty politics that elected councillors sometimes engage in.

### What can be done

A supporter of this approach would generally favour actions to improve voter turnout (typically less than 40% of registered voters vote in larger cities), consultation, decision-making, service delivery and funding.

- *Make local elections as similar as possible to parliamentary elections to avoid confusion.*
- *Investigate what is the best voting method(s) to increase turnout at local elections.*
- *Improve information about standing as a candidate and voting in local elections.*
- *Improve information about candidates in local elections.*
- *Support community associations (e.g., residents' associations), especially in 'hard-to-reach' communities, to make submissions on behalf of their people to ensure their voice is heard.*
- *Make sure that councillors are properly trained to perform their role.*
- *Make greater use of experts and have rules that make politicians follow expert advice.*
- *Councils should work with businesses to deliver services.*
- *Central government needs to either adequately fund councils or allow councils to find ways to fund themselves (e.g., keep the GST on spending in their area) so that quality services can be delivered and to ensure that Council policies and decisions are not influenced by wealthy people (e.g., developers, homeowners).*

## Arguments against improving the current system

- *Low voter turn-out means councillors can't claim they have the consent of the majority of people to make decisions on their behalf.*
- *Elections always favour confident candidates from privileged backgrounds who do not understand what it's like for ordinary people.*
- *People don't know enough about how councillors or councils are performing to hold them to account at the ballot box.*
- *Council consultation processes and decisions favour property owners and developers at the expense of everyone else.*
- *Outsourcing Council services to businesses hasn't always resulted in cheaper or better services (e.g. Wellington's bus service).*
- *So called experts shouldn't be given too much power – they often disagree amongst themselves and don't have a complete understanding of issues.*
- *It's the current system that encourages petty politics.*

### **APPROACH 3: INCLUDE ORDINARY PEOPLE AS DECISION MAKERS**

We need a system of local government that provides real opportunities for ordinary people to help set the direction of where they want their local communities to go and make decisions about what is (are) the best way(s) to get there.

A supporter of this approach would say that we need to change local democracy to be more deliberative and put ordinary people at the centre of agenda setting (the direction we want to go) and decision-making. Deliberative democracy puts ordinary people in the driving seat rather than treating them as passengers.

The first thing to notice is the word 'deliberative'. To deliberate means to think carefully about something. As individuals, we do this all the time. For example, choosing a career, buying a car, or buying a house. However, it's not only as individuals that we need to deliberate, there are lots of issues that affect us all, such as whether we should open up our borders to international travellers during COVID, what we should do about climate change or whether we should tax the rich more. We need to try and come up with answers to these issues by thinking and working collectively with others - in other words, we need to deliberate!

Instead of trying to win arguments or sticking to a position you think is correct, Approach 3 is about engaging collectively to work through various alternatives to find which one(s) people think works best for everyone. Taking a deliberative way of doing things doesn't mean you have to give up what you believe, but it's about exploring and listening to what other people believe and seeing if there is something that works with your ideas and then building on them together.

It wouldn't work to have everyone take part in a deliberative democracy event so we have to take a much smaller number of people. These people need to be representative of the community, city, or region where they live and to get a representative sample, we randomly select people just like we do when we select people for a

jury. The important thing about random selection is that everybody has an equal chance of being selected, not just the 'usual suspects'. This approach randomly selects using criteria such as gender, ethnicity, geography, income and age to make sure the group looks like the people around you – the selected group is then a 'minipublic'.

People who have taken part in deliberative events, and researchers who have studied them, have found that when people come into a facilitated deliberative space, they work constructively together to find solutions to difficult issues because they have been given the responsibility to look for solutions that are best for everyone, not just the few.

### What can be done

- *Make use of a range of face-to-face, deliberative, advisory minipublic such as Citizens' Juries, Citizens' Assemblies, and Deliberative Polls and some of the new online platforms which provide meaningful opportunities for public voice*
- *Provide financial, care and employment support so ordinary people can participate in minipublic processes such as citizens' juries (as we do for legal jury service)*
- *Legislate to make the use of deliberative mini publics compulsory on issues that attract widespread public interest.*
- *Review the ways in which sortition could improve the role of the public in decision-making through greater inclusion, agenda setting and deliberation.*

### Arguments against including the ordinary people approach

- *Good governance requires special ability, expertise, and experience. Ordinary people chosen by random selection couldn't possibly be competent to make laws*

- *The people in a randomly selected minipublic won't be able to stay in their roles long enough to develop the required expertise to make good decisions*
- *People chosen by random selection to contribute to passing laws and making policy can't be held accountable in the way that elected politicians can*
- *Most people just won't have time to take part in minipublics*
- *This will slow down decision making and make it (even) more expensive*
- *Whatever the system, people will try to 'screw the scrum'.*

# APPENDIX: BOUNDARIES MAPS

This appendix has local government boundary maps for Te Ika-a-Māui / the North Island and Te Waipounamu / the South Island.

