



COUNCIL SUPPORTING POLICY

REFERENDA

POLICY TITLE	REFERENDA
Lead Policy	Consultation Policy
Minute Ref:	M02/96.10
Review Date:	August 05

1. POLICY OBJECTIVES

- To strengthen and improve Council's decision-making through community involvement.
- To clarify the circumstances under which a referendum may be held.
- To ensure that Council's referenda processes comply with statutory requirements.

2. PRINCIPLES

- Council recognises the use of referenda.
- Where they are used, non-binding referenda are considered to be part of Council's consultation process.

3. DEFINITIONS

Approved Proposal

A proposal for a referendum that has been submitted by an elector of the district and that Council has approved to be the basis for a petition.

Council-directed Referendum

Any discretionary referendum that is not a public-demanded referendum.

Discretionary Referendum

Any referendum that is held at the discretion of Council under Section 9 Local Electoral Act 2001.

Elector, Electoral Officer, Electoral System

As defined by the Local Electoral Act 2001

Public-Demanded Referendum

Any referendum that arises as a result of a valid petition, submitted by an elector.

Statutory Referendum

Any referendum that is statutorily required by the Local Electoral Act, the Local Government Act, or any other legislation.

Valid Petition

A petition that has been confirmed by the Electoral Officer as being valid in accordance with the criteria included in the policy statement.

4. BACKGROUND

Types of Referenda

(a) Statutory Referenda

Under the provisions of the Local Electoral Act 2001, where appropriate circumstances are met Council is required to conduct a binding referendum on the following issues:

- Electoral system.
- Maori wards (proposed amendment to the Local Electoral Act 2001 included in the Local Government Bill).

(b) Discretionary Referenda

Under the provisions of the Local Electoral Act 2001 Council may hold a referendum on issues other than those listed above. Such referenda may be either:

- (i) A Council-directed referendum; or
- (ii) A public-demanded referendum.

Process for a Public-Demanded Referendum

The sequence of events to be followed for a public-demanded referendum is as follows:

- The proposer submits a proposal for a referendum to Council.
- Council approves the proposal for a referendum. For the avoidance of doubt, the decision whether or not to approve a proposal for a referendum is at the discretion of Council.
- The wording of the petition is determined.
- The proposer presents the completed petition to Council.
- The Electoral Officer validates the petition.
- The wording of the referendum question is determined.
- The referendum then takes place.

Consequences of Referenda

Section 54 of the Local Electoral Act requires that:

- In the case of a binding referendum, then Council is required to publicly state the consequences of each possible result of the referendum; and
- In the case of a non-binding referendum, then Council is required to publicly state its intentions (if any) in respect of each possible result of the referendum.

Local Electoral Act

Once Council has determined that a referendum is required, the provisions of the Local Electoral Act 2001 specify the detailed procedure to be followed. Council will follow the process included in the Local Electoral Act, though that process has not been restated in this policy.

5. POLICY STATEMENT

When Council will hold a Referendum

- Council will hold a referendum when statutorily required to do so.
- Council may decide to hold a referendum at any time regardless of whether a valid petition has been received or not.
- Council will hold a referendum when a valid petition has been received. A valid petition is one where the following criteria have been met:
 - Relates to a proposal for a referendum that has been approved by Council (see section 5.2 below); and
 - Is signed by current electors of the district; and
 - Is signed by a minimum of 5% of the number of electors enrolled to vote at the previous general election of Council; and
 - Is returned to Council within 90 days of the date of approval of the petition wording by Council.
- i. Where the Electoral Officer determines that there are defects in a petition, the proposer(s) shall be allowed 30 days from the date those defects are communicated by the Electoral Officer to amend the defects and re-submit the petition.

When Council will approve a Proposal for a Referendum

- For the avoidance of doubt, the decision whether or not to approve a proposal for a referendum is at the discretion of Council.
- Council may approve a proposal for a referendum only where the proposal relates to:
 - The services that are or may be provided by Council; or
 - Any policy or intended policy of Council; or
 - The current or future activities or objectives of Council; or
 - The current or future well-being of the district.
- Council will not approve a proposal for a referendum where the same or a similar proposal has been subject to a referendum in the preceding three years.
- Council will not approve a proposal for a referendum on a matter that could be appealed to a higher statutory authority.
- Council will specify the reasons why it considers whether a proposal should or should not proceed.

Referendum Processes

- All public-demanded referenda are non-binding.
- Where a Council-directed referendum has been unanimously approved by Council that referendum shall be binding. For this purpose, 'unanimously resolved' means that all members present at the meeting at which the proposed referendum is discussed vote in favour of the referendum.

- The final decision on the wording of the petition, the wording of the referendum question, and the wording of information included with the voting papers shall be made by Council (following receipt of recommendations from a Referenda Sub-Committee or the Chief Executive). Where dispute arises between Council and the proposer, the dispute may be dealt with in accordance with Council's mediation policy.
- All referenda shall be conducted by the Electoral Officer in accordance with the requirements of the Local Electoral Act 2001.
- Only Council can direct the Electoral Officer to conduct a referendum.
- All costs associated with a petition shall be borne by the proposer(s).
- All costs associated with a referendum shall be borne by Council.

Referendum Outcomes

- Except where a referendum is binding on Council by way of legislation or Council resolution, the results of a referendum are considered to be part of the consultative process and are not binding on Council.

6. RELEVANT DELEGATIONS

- The Chief Executive has delegated authority to implement this policy.
- Once Council has resolved that a referendum will be undertaken the conduct of that referendum is delegated to the Electoral Officer.
- Under Section 12 of the Local Electoral Act 2001, the Electoral Officer may:
 - (a) delegate to any person or class of persons any power or duty under this Act or regulations made under this Act (except this power of delegation).
 - (b) appoint or engage any person or class of persons for the purpose of carrying out any of those powers or duties.

7. REFERENCES AND RELEVANT LEGISLATION

- Any referendum held by Council is a 'poll' as defined in the Local Electoral Act 2001 and shall be conducted in accordance with that Act.
- Section 9 of the Local Electoral Act 2001 applies to referenda held at the discretion of Council.
- Sections 28 to 34 of the Local Electoral Act 2001 apply to referenda relating to the electoral system to be used by Council for upcoming elections.
- The Local Government Bill 2001 contains proposed amendments to the Local Electoral Act 2001. If enacted, these amendments will introduce a new Part 1A to the Local Electoral Act 2001 which will include Sections applying to referenda relating to the inclusion of Maori wards (proposed Sections 19ZA to 19ZG).

