



# Cabinet

CAB Min (09) 34/17

Copy No: 18

## Minute of Decision

*This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.*

### Referendum on Mixed Member Proportional Representation: Options

Portfolio: Justice

On 21 September 2009, Cabinet:

#### Background

- 1 **noted** that the government is committed to giving New Zealanders an opportunity to have their say on the Mixed Member Proportional (MMP) representation voting system;
- 2 **noted** that the referenda process should be considered in light of, and co-ordinated with, other related constitutional work and upcoming electoral activity;
- 3 **noted** that the following factors – highlighted by the previous (1992/93) voting system referenda process – have been considered in the evaluation of options for the proposed referenda process in order to ensure the process is constitutionally sound and that the outcome of the process is legitimate:
  - 3.1 public information and participation;
  - 3.2 legislation requirements;
  - 3.3 voter turnout;
  - 3.4 implementation of new voting system.
- 4 **noted** also that the cost of each option is an important consideration;

#### Referenda process options

- 5 **noted** that the submission attached to CAB (09) 549 includes information on the following five options for the referenda process to give effect to the government's commitment:
  - 5.1 **Option 1:** three referenda, with the first referendum held at the 2011 general election, two subsequent standalone ballots in 2012, and the 2014 general election conducted under MMP or the preferred alternative voting system;
  - 5.2 **Option 2:** two referenda with the first referendum (two questions) held at the 2011 general election, one subsequent postal ballot, and the 2014 general election conducted under MMP or the preferred alternative voting system;

- 5.3 **Option 3:** three referenda with the first referendum held at the 2011 general election, one subsequent postal ballot in 2012, the third referendum held at the 2014 general election, and the 2017 general election conducted under MMP or the preferred alternative voting system;
- 5.4 **Option 4:** two referenda with the first referendum (two questions) held at the 2011 general election, the second referendum held at the 2014 general election, and the 2017 general election conducted under MMP or the preferred alternative voting system;
- 5.5 **Option 5:** two referenda with the first referendum (two questions) held in 2010, the second referendum held at the 2011 general election, and the 2014 general election conducted under MMP or the preferred alternative voting system;
- 6 **noted** that Ministry of Justice officials recommend Option 4 as it offers the most robust process for constitutional change and is the least expensive option;
- 7 **agreed** to Option 4 – two referenda with the first referendum (two questions) held at the 2011 general election, the second referendum held at the 2014 general election, and the 2017 general election conducted under MMP or the preferred alternative voting system;
- 8 **agreed** that if a majority (more than 50 percent) of voters opt for change at the first referendum, the government commits to following the process laid out in Cabinet's preferred option;

## Funding

- 9 **noted** that the funding for the first referendum and the Independent Panel (conducting the publicity campaign) will be addressed in the 2010 Budget process and as part of the 2011 general election funding bid;

## Implications for 2011 and 2014 Elections

- 10 **noted** that as the referenda will be held in conjunction with the 2011 and 2014 general elections, electoral agencies will develop processes to mitigate any risk of voter confusion, congestion and delays to the preliminary count of the parliamentary vote;

## Next steps

- 11 **invited** the Minister of Justice to report to Cabinet (through the Cabinet Domestic Policy Committee) in November 2009 seeking agreement to the policy for the proposed Referendum Bill (e.g. rules about the conduct of the referendum, wording of referendum questions, role of the Independent Panel, the scope of the publicity campaign and process matters);
- 12 **noted** that the Minister of Justice intends to consult with support parties on the proposal preferred by Cabinet;
- 13 **noted** that the Minister of Justice also intends to discuss the proposal preferred by Cabinet with other parliamentary parties;

- 14 **noted** that, following briefing other parties, the Minister of Justice intends to brief the media on the proposed referenda process.

Secretary of the Cabinet

Reference: CAB (09) 549

---

**Distribution:**

Prime Minister

Chief Executive, DPMC

Director PAG, DPMC

Minister of Finance

Secretary to the Treasury

Minister of Justice

- Secretary for Justice

Minister of State Services

State Services Commissioner

Attorney-General

Solicitor-General

Minister of Maori Affairs

Chief Executive, Te Puni Kokiri

Chief Parliamentary Counsel

Legislation Coordinator

Secretary, DOM

Cabinet

## **Referendum on Mixed Member Proportional Representation: Options**

### **Proposal**

1. This paper invites Cabinet to make policy decisions on the timing and type of process for a series of referenda on the voting system.

### **Executive summary**

2. The Government is committed to giving New Zealanders an opportunity to have their say on the Mixed Member Proportional (MMP) representation system. The 2008 pre-election commitment was to “Hold a binding referendum on MMP by no later than 2011.”
3. On Wednesday 26 August 2009, Cabinet Domestic Policy Committee considered the Cabinet paper entitled *Referendum on Mixed Member Proportional (MMP) Voting System* [DOM (09) 77]. On Monday 31 August, the paper was referred to Cabinet for further consideration [DOM Min (09) 18/5, CAB Min (09) 31/13]. Following Ministers’ discussions at Cabinet, I instructed officials to develop a referenda process to give effect to the Government’s pre-election commitment and which would accord with the defined criteria.
4. Accordingly, this paper proposes a referenda process (Option 1 in the table below) which satisfies defined criteria (refer paragraph 31). It also:
  - 4.1. proposes four other referenda processes (Options 2 to 5) which I asked officials to develop for comparison and consideration (as summarised in the table below)
  - 4.2. notes that the referenda process should be considered in light of other constitutional work and electoral activity which is currently underway
  - 4.3. analyses the risks, benefits and cost of each option with reference to the factors highlighted by the previous (1992/93) referenda process on the voting system
  - 4.4. discusses the financial implications of each option
  - 4.5. asks Ministers to decide on a preferred option
  - 4.6. proposes that Cabinet consider and approve the wording of the question or questions for the first referendum and the other matters to be included in a bill in a further paper in November 2009.

**SUMMARY AND ASSESSMENT OF REFERENDA PROCESS OPTIONS**

	<b>Option 1</b>	<b>Option 2</b>	<b>Option 3</b>	<b>Option 4</b>	<b>Option 5</b>
1 <sup>st</sup> referendum	1 question with 2011 general election	2 questions with 2011 general election	1 question with 2011 general election	2 questions with 2011 general election	2 questions September 2010 postal ballot
⇩ <b>If voters vote for a change</b> ⇩					
2 <sup>nd</sup> referendum	1 question June 2012 standalone ballot	1 question November 2012 postal ballot Legally binding	1 question November 2012 postal ballot	1 question with 2014 general election Legally binding	1 question with 2011 general election Legally binding
3 <sup>rd</sup> referendum	1 question in November 2012 standalone ballot Legally binding		1 question with 2014 general election Legally binding		
Implementation of preferred voting system	2014 general election	2014 general election	2017 general election	2017 general election	2014 general election
<b>Assessment against critical factors</b>					
Public input and information	Limited time	Limited time	Adequate time	Adequate time	Inadequate time
Legislative requirements	Inadequate time	Limited time	Sufficient time	Sufficient time	Inadequate time
Probable voter turnout	1 <sup>st</sup> high	1 <sup>st</sup> high	1 <sup>st</sup> high	1 <sup>st</sup> high	1 <sup>st</sup> medium
	2 <sup>nd</sup> low - medium	2 <sup>nd</sup> medium - high	2 <sup>nd</sup> low - medium	2 <sup>nd</sup> high	2 <sup>nd</sup> high
	3 <sup>rd</sup> medium - high		3 <sup>rd</sup> high		
Implementation of new voting system, if chosen	Insufficient time to implement	Insufficient time to implement	Sufficient time to implement	Sufficient time to implement	Sufficient time to implement
Approx. cost	\$79.5 m	\$25m	\$36.5m	\$23m	\$25m
Overall assessment by officials	<b>Very risky</b>	<b>Very risky</b>	<b>Second best option</b>	<b>Best option</b>	<b>Moderately risky</b>
Key:	Low risk		Medium risk		High risk

5. The questions to be asked in the referenda are as follows:
  - 5.1. the first question asks voters whether they wish to retain the MMP voting system
  - 5.2. the second question asks voters to choose their preferred alternative voting system from a short list of options
  - 5.3. the third question asks voters to choose between MMP and the preferred alternative voting system (selected in the second question).
6. Ministry of Justice officials recommend Option 4 as it offers the most robust process for constitutional change and the least cost. Officials recommend Option 3 as second best, as it offers the next most robust process for constitutional change.

## Background

7. In accordance with the 2008 pre-election promise to hold “a binding referendum on MMP by no later than 2011”, the Prime Minister stated in the December 2008 Speech from the Throne that the Government:

*... will give New Zealanders the chance to have their say on the Mixed Member Proportional (MMP) representation system that has formed the basis of the country's parliamentary elections since 1996.*

*This will take the form of a binding referendum, and if a majority of voters decide they want to consider other electoral systems, the new Government will offer them a choice of a range of systems to replace it.*

8. The Relationship and Confidence and Supply Agreement between the National Party and Māori Party states that:

*The National Party agrees it will not seek to remove the Māori seats without the consent of the Māori people. Accordingly, the Māori Party and the National Party will not be pursuing the entrenchment of the Māori seats in the current parliamentary term.*

*Both parties agree that there will not be a question about the future of the Māori seats in the referendum on MMP planned by the National Party.*

9. On Wednesday 26 August, Cabinet Domestic Policy Committee considered the Cabinet paper entitled *Referendum on Mixed Member Proportional (MMP) Voting System* [DOM (09) 77]. The paper was referred to Cabinet for further consideration [DOM Min (09) 18/5, CAB Min (09) 31/13]. The options considered by Cabinet Domestic Policy Committee and Cabinet are briefly outlined in **Appendix A**.

## Constitutional activity

10. The proposed referenda process will address a key constitutional matter: what system of voting New Zealanders prefer. It is critical that it is considered in light of,

and co-ordinated with, other related constitutional work being carried out by the Government as well as upcoming electoral activity. This constitutional work and electoral activity is outlined in **Appendix D** (A3 page).

11. In particular, the Government is currently reforming the electoral finance rules and integrating the electoral agencies. Local government elections will take place in October 2010. There will be a census and general election in 2011, and a Māori electoral option in 2012. The proposed new Electoral Commission (operational from October 2010) will be transitioning to its new structure at the same that it is preparing for the proposed first referendum and preparing for the 2011 general election.
12. In addition, the Government has committed to establish a group to consider constitutional issues in accordance with the agreement with the Māori Party, beginning in 2010. This review may consider issues such as the term and size of Parliament, the Māori electoral option and Māori seats (including possible entrenchment). These issues are closely related to the way in which New Zealand elects its Members of Parliament.
13. There is a possibility that a citizen's initiated referendum will be held within this parliamentary term or in the next term. A proposed referendum question has been lodged with the Clerk of the House under the Citizens Initiated Referenda Act 1993 asking: "Should Citizens Initiated Referenda seeking to repeal or amend a law be binding?" There is a process for submissions to be considered on the wording of the question, and then the petitioner, Mr Baldock, has 12 months to collect signatures of 10 percent of voters. If enough signatures are collected, a referendum must be scheduled.

### **New Zealand's shift to MMP voting system – relevant factors**

14. The stages of the previous electoral reform process are outlined in **Appendix E** (A3 page). This includes the referenda on New Zealand's voting system held in 1992 and 1993, which culminated in the first general election held under MMP in 1996. I set out below a number of factors highlighted by the previous referenda process in terms of lessons learned and issues raised. These factors inform the evaluation of options for the current proposed referenda process on the voting system. Consideration of these factors is essential to ensure that any process (which could result in changes to our system of voting) is constitutionally sound, and that the outcome of that process is legitimate.

### **PUBLIC INFORMATION AND PARTICIPATION**

15. The 1992/93 process took place after many years of public discussion about New Zealand's electoral system and provided numerous opportunities for public education and participation, for example, the 1985/86 Royal Commission and Select Committee processes (1988, 1991 and 1993). There were two education campaigns in the lead-up to the 1992 and 1993 referenda, designed to inform voters about alternative voting systems.
16. Even so, the Independent Panel responsible for the public education campaign reported in 1993 that their task was hampered by the lack of precision about the

voting system reform options. The lack of detail also meant that certain matters, notably how the alternative voting systems would relate to the Māori seats and the size of the House, became controversial.

17. It is crucial that the proposed process, which contemplates potential constitutional change, allows for adequate public consultation and participation, including the development of alternative voting systems, as early on in the process as possible. It should also allow for impartial public information and education, that is both timely and of a high quality, including detailed information about alternative voting systems and clear parameters around the debate.
18. For example, the information campaign should outline whether the debate about the retention of MMP or a move to another system of voting would extend to the possible abolition of the Māori seats. The Government's position under the Relationship and Confidence and Supply Agreement between the National Party and Māori Party is to not remove the Māori seats without the consent of the Māori people.
19. The first indicative referendum in 1992 had two questions, the first asking voters whether they wanted to change from the First Past the Post (FPP) voting system, and then, what their preferred alternative voting system was from a short list of options. The advantage of a two question referendum is that the decision of the voter whether to change from MMP is made within the context of knowing the alternatives. A single question referendum asks the voter to make this decision in a vacuum, although there may be public discussion of the likely alternatives. A two question referendum has some risk that some voters may be confused, but this can be mitigated by a good public information campaign and a carefully designed ballot paper.
20. The options set out below assume that an Independent Panel will be appointed to inform voters about the referenda process and alternative voting systems.

#### **LEGISLATIVE REQUIREMENTS**

21. The 1992/93 process included the passage of three pieces of legislation (the Electoral Referendum Act 1991, the Electoral Act 1993 and Electoral Referendum Act 1993). The first (1991) bill was developed over a period of six months and considered by the Electoral Law Committee for a further four months. The second 1993 legislation was developed over at least three months (and for two – three months prior to the referendum) and then considered by the Electoral Law Committee over a six month period.
22. Legislation is needed to authorise a referendum if a referendum is any of the following:
  - 22.1. held with a general election
  - 22.2. binding
  - 22.3. held by standalone ballot.



23. As a consequence, any process utilising any of these types of referenda will need to allow time for the development and approval of the policy underpinning the legislation, select committee consideration (including public participation) and for the House to debate the passage of the legislation.
24. A legally binding referendum on our voting system would require legislation on the preferred alternative voting system to be in place and ready to commence automatically subject to the outcome of the referendum. The complexity of legislation to implement any alternative voting system will depend on the system chosen. Possible alternative voting systems are Supplementary Member (SM), FPP and Single Transferable Vote (STV). Drafting legislation for either SM or FPP is less challenging than for STV, which is a more complex system. If STV is the alternative voting system chosen, more time may be required for drafting the associated legislation.

### **VOTER TURNOUT**

25. In 1991, the then government provided for a two-stage referenda process in 1992 and 1993 and considered that the appropriate time for a binding referendum (the second referendum) was at a general election because of the likelihood of a high voter turnout. The turnout for the referendum held in 1993 with the general election was high at 84.8 percent of eligible voters. While the relatively short timeframe posed some challenges, running the referenda process over two years ensured the issue of electoral reform was kept on the public agenda and there was no sense of “voter fatigue”.
26. A high voter turnout is desirable for a referendum proposing constitutional change. A higher turnout is more likely for a referendum held in conjunction with a general election, than for a standalone ballot or postal ballot.
27. If not held with a general election, voter turnout appears to depend on the level of public interest in the topic of the referendum. The referendum on Compulsory Superannuation in 1997 was held by postal ballot and had a participation rate of 80.3 percent of eligible voters. The first indicative referendum on the voting system in 1992 was held by standalone ballot and had a lower voter turnout of 55.2 percent. To date, no binding referendum has been held by standalone ballot.

### **IMPLEMENTATION OF NEW VOTING SYSTEM**

28. The transition from FPP to MMP took three years, beginning immediately after the 1993 election, with the Māori electoral option (in 1994), the subsequent report of the Representation Commission (1995), fundamental changes to the roles and responsibilities of the Chief Electoral Office and the establishment of the Electoral Commission. The Electoral Commission carried out a large publicity campaign on MMP in the lead-up to the 1996 election. In addition, amendments were made to the Electoral Act 1993, including administrative and technical alterations, rules about electoral spending and the layout of the ballot paper.
29. Planning and implementing a general election is a complex project and the electoral agencies begin preparation for a general election at the start of the three year election cycle. Should voters opt for a new voting system, electoral agencies will

need to begin planning for the subsequent general election under the new system as soon as possible, in order to manage new issues and risks. Ideally, this should be at the start of an election cycle. This is especially the case if voters elect for STV (assuming it was short listed as an alternative and put to voters), as it would necessitate significant changes to the current voting system.

#### **FURTHER CONSIDERATION: COST**

30. While not the sole determinant, the overall cost of the referenda process to the taxpayer is an important consideration. The most cost-effective type of referendum is one held in conjunction with a general election (estimated at an additional \$11.5 million to the general election cost, including publicity campaign and administration). The cost of conducting a referendum by postal ballot is marginally more expensive (estimated at \$13.5 million). The most costly type of referendum is one held by standalone ballot (estimated at \$34 million). The cost of each option is addressed in the section that follows.

#### **Referenda process options**

31. Following Cabinet's discussion of the MMP referendum on Monday 31 August 2009, I instructed officials to develop a referenda process giving effect to the Government's pre-election commitment, and which would accord with the following criteria:
  - 31.1. no postal referendum in the current parliamentary term
  - 31.2. the first referendum to be held in conjunction with the 2011 general election asking one straightforward question
  - 31.3. subsequent referenda could be held by standalone ballot
  - 31.4. a new voting system, if desired by eligible electors, is in place for the 2014 general election.
32. This paper presents a referenda process (Option 1) which satisfies the above criteria. I have also included four other referenda processes (Options 2 to 5) for comparison and consideration, all of which meet the Government's pre-election promise. The options are evaluated in terms of risks and benefits, taking into account the factors discussed at paragraphs 14 to 30 above. Timelines and summaries for each option are attached at **Appendix F** (A3 pages).

#### **MANAGING RISKS OF HOLDING REFERENDUM WITH GENERAL ELECTION**

33. The criterion at paragraph 31.2, that the first referendum be held in conjunction with the 2011 general election, raises risks. Officials have started work on identifying and managing the risks associated with holding a referendum in conjunction with a general election (eg, in terms of the administration of the election and possible voter confusion). **Appendix B** discusses this initial thinking. The Chief Electoral Office will report separately to the Minister of Justice with detailed advice on this issue, seeking the Minister's decisions on processes, after Cabinet has made policy decisions on the timing and type of referenda on the voting system.

## WORDING OF THE FIRST QUESTION

34. I propose that Cabinet consider and approve the wording of the question or questions for the first referendum in a further paper in November 2009. To give a sense of the first question (ie, a question asking voters whether they wish to retain MMP or change to a different voting system) **Appendix C** outlines some suggestions and commentary.

## OPTION 1 – THREE REFERENDA: 2011 GENERAL ELECTION; TWO STANDALONE BALLOTS

35. Option 1 would be as follows:
- 35.1. Bill providing for first and second referenda passed in 2010
  - 35.2. **First referendum** held with the 2011 general election and asks voters whether they wish to retain the MMP voting system. Government commits to act on the outcome
  - 35.3. If the majority vote for change, **second referendum** (by standalone ballot) held in the first half of 2012 asks voters to choose their preferred alternative voting system from a short list of options
  - 35.4. Bill providing for third referendum passed in late 2012 under urgency
  - 35.5. **Third referendum** (legally binding referendum by standalone ballot) held in the second half of 2012 asks voters to choose between MMP and the preferred alternative voting system (selected in the second referendum)
  - 35.6. **Implementation:** 2014 general election conducted under MMP or the preferred alternative voting system.
36. This option meets the criteria outlined at paragraph 31 above, as it gives effect to the pre-election promise, asks a single question in the first referendum at the 2011 general election, subsequent referenda are held by standalone ballot and a new voting system, if chosen, is in place for the 2014 general election. Because of the tight timeframe, the bill providing for the first referendum should also provide for the second referendum, including the referendum question on alternative options.

### *Benefits*

37. Option 1 allows, in respect of the first and second referenda, adequate time for providing the public with opportunities for participation in the process of clarifying the key elements of each of the alternative voting systems and how each of these voting systems would operate in the New Zealand context. The option also allows adequate time for public information campaigns for the first and second referenda.
38. This option is likely to have high voter turnout for the first referendum, as it is to be held in conjunction with a general election.

### *Risks*

39. This option allows limited time for the publicity campaign leading up to the third binding referendum. Similarly, it permits very little time for the policy development

and drafting of the legislation that empowers the third referendum and provides for the alternative voting system. That legislation would need to be passed under urgency after the results of the second referendum were known, in order for it to meet the timeline. There would be no time for public and select committee scrutiny. This is inappropriate for a bill changing the voting system.

40. As the first referendum is a single question on whether to retain MMP, voters will not know the alternative voting systems they will have to choose from in the second referendum. Without this information, voters may have difficulty in making a fully informed choice on the first question.
41. As there are three referenda, there may be voter fatigue, and consequently lower voter turnout at the second and third referenda. As the second and third referenda are held by standalone ballot, there is likely to be a lower turnout than a referendum combined with a general election.
42. The truncated timeframe for the third referendum, in terms of allowing for adequate public information and participation and for the legislation drafting and select committee scrutiny, along with possible low voter turnout, may risk the legitimacy of the outcome of the referenda process.
43. There are only 21 months to plan and deliver the 2014 general election under a new voting system, if chosen. This truncated timeframe may put at risk the effective and efficient administration of the 2014 general election.

#### *Cost*

44. This is the most expensive option, estimated at \$79.5 million.

#### **OPTION 2 – TWO REFERENDA: 2011 GENERAL ELECTION (TWO QUESTIONS); POSTAL BALLOT**

45. Option 2 would be as follows:
  - 45.1. Bill providing for first referendum passed in 2010;
  - 45.2. **First referendum** held with the 2011 general election asks voters two questions:
    - 45.2.1. whether they wish to retain the MMP voting system
    - 45.2.2. their preferred alternative voting system from a short list of options.  
Government commits to act on the outcome
  - 45.3. Bill providing for second referendum passed in mid 2012 (if required)
  - 45.4. If the majority vote for change, **second referendum** (legally binding referendum by postal ballot) held in November 2012 asks voters to choose between MMP and the preferred alternative voting system (selected in the second question of the first referendum)
  - 45.5. **Implementation:** 2014 general election conducted under MMP or the preferred alternative voting system.

46. Option 2 differs from Option 1 in that the first referendum would ask two questions. The alternative voting systems would need to be selected for the second question and included in the empowering bill, which would need to be passed in 2010.
47. Holding only one subsequent referendum allows slightly more time than would be available under Option 1 for public consultation on the bill empowering the second referendum and the alternative voting system, and for a publicity campaign prior to the second referendum.
48. Having two questions in the first referendum allows voters to make their choice on whether to retain MMP in the context of the alternative voting systems. This makes the response to the first question a more informed choice.

### *Benefits*

49. Option 2 allows adequate time for providing the public with opportunities to participate in the legislative process for the first referendum, including adequate time to clarify the key elements of each of the alternative voting systems and how each of these voting systems would operate in the New Zealand context. Option 2 also allows adequate time for public information campaigns for the first referendum.
50. Option 2 is likely to have high voter turnout for the first referendum, as it is to be held in conjunction with a general election. Having two referenda instead of three also reduces the risk of voter fatigue.
51. Holding two referenda instead of three would reduce the administrative burden on the new Electoral Commission.

### *Risks*

52. Option 2 has limited time for the publicity campaign leading up to the second, binding referendum. It permits slightly more time than Option 1 for the policy development and drafting of the legislation that empowers the second referendum and provides for the alternative voting system. However, the legislation would still need to be passed in a short timeframe after the results of the first referendum were known in order for it to meet the timeline. This would mean there would be limited time for public and select committee scrutiny of the bill. This is inappropriate for a bill changing the voting system.
53. The risks around public information and participation, and the drafting of the legislation may risk the legitimacy of the outcome of the referenda.
54. Like Option 1, Option 2 would allow only 21 months to plan and deliver the 2014 general election under a new voting system, if chosen. This truncated timeframe may put at risk the effective and efficient administration of the 2014 general election.

### *Cost*

55. The total cost of this option is estimated at \$25 million.

### OPTION 3 – THREE REFERENDA: 2011 GENERAL ELECTION; POSTAL BALLOT; 2014 GENERAL ELECTION

56. Option 3 would be as follows:
  - 56.1. Bill providing for first referendum passed in 2010
  - 56.2. **First referendum** with single question held in conjunction with the 2011 general election. Government commits to act on the outcome
  - 56.3. If the majority vote for change, **second referendum** (by postal ballot) held in November 2012 asks voters to choose their preferred alternative voting system from a short list of options
  - 56.4. Bill providing for third referendum passed in late 2013
  - 56.5. **Third referendum** (legally binding referendum) held in conjunction with the 2014 general election asks voters to choose between MMP and the preferred alternative voting system (selected in the second referendum)
  - 56.6. **Implementation:** 2017 general election conducted under MMP or the preferred alternative voting system.
57. Option 3 has a longer timeframe than Options 1 and 2, with a new voting system in place, if chosen, by the 2017 general election.

#### *Benefits*

58. Option 3 allows adequate time for providing the public with opportunities to participate in the process and for receiving sufficient information to make an informed choice for the each of the three referenda.
59. This option allows sufficient time for all necessary legislation to be drafted, including legislation to implement an alternative voting system, if chosen. However, Option 3 may not allow sufficient time for drafting a bill if the alternative voting system chosen is STV.
60. This option is likely to have high voter turnout for the first and third referenda, as they are to be held in conjunction with general elections.
61. Under Option 3, there are three years to plan and deliver the 2017 general election under a new voting system, if chosen. This is consistent with the timeframe for implementation following the binding referendum in 1993, and minimises the risk to the efficient and effective administration of the 2017 general election.

#### *Risks*

62. As the first referendum is a single question on whether to retain MMP, voters will not know the alternative voting systems they will have to choose from in the second referendum. Without this information, voters may have difficulty in making an informed choice on the first question.

63. Having three referenda may contribute to voter fatigue. This may be exacerbated by the longer timelines of the referenda process under this option, 2011 – 2014, compared with 2011/12 with Options 1 and 2.

#### *Costs*

64. The cost of this option is estimated at \$36.5 million. While it is more expensive than Options 2, 4 or 5, it is less expensive than Option 1.

#### **OPTION 4 – TWO REFERENDA: 2011 GENERAL ELECTION (TWO QUESTIONS); 2014 GENERAL ELECTION**

65. Option 4 would be as follows:
- 65.1. Bill providing for first referendum passed in 2010
  - 65.2. **First referendum** held with the 2011 general election asks voters two questions:
    - 65.2.1. whether they wish to retain the MMP voting system
    - 65.2.2. their preferred alternative voting system from a short list of options. Government commits to act on the outcome
  - 65.3. Bill providing for second referendum passed in late 2013
  - 65.4. **Second referendum** (legally binding referendum) held in conjunction with the 2014 general election asks voters to choose between MMP and the preferred alternative voting system (selected in the second question of the first referendum)
  - 65.5. **Implementation:** 2017 general election conducted under MMP or the preferred alternative voting system.
66. With this option, the first referendum would ask two questions. The alternative voting systems would need to be selected for the second question and included in the empowering bill, which would need to be passed in 2010.

#### *Benefits*

67. Option 4 allows adequate time for providing the public with opportunities to participate in the process, and for receiving sufficient information to make an informed choice for both referenda.
68. Having two questions in the first referendum allows voters to make their choice on whether to retain MMP, in the context of the alternative voting systems. This makes the response to the first question a more informed choice.
69. This option allows sufficient time for all necessary legislation to be drafted, including legislation to implement an alternative voting system, if chosen.
70. As both referenda are to be held with a general election, there is likely to be a high voter turnout both times.

71. Under Option 4, there are three years to plan and deliver the 2017 general election under a new voting system, if chosen. This is consistent with the timeframe for implementation following the binding referendum in 1993, and minimises the risk to the efficient and effective administration of the 2017 general election.

#### *Risks*

72. The longer timelines of the referenda process under this option (2011-2014), compared with Options 1, 2 and 5 (2011-2012), may contribute to voter fatigue with the issue.

#### *Cost*

73. The cost of this option is estimated at \$23 million. This is the least expensive option.

### **OPTION 5 – TWO REFERENDA: 2010 POSTAL BALLOT (TWO QUESTIONS); 2011 GENERAL ELECTION**

74. Option 5 would be as follows:

74.1. **First referendum** (by postal ballot) held in late 2010 asks voters two questions:

74.1.1. whether they wish to retain the MMP voting system

74.1.2. what their preferred alternative voting system is from a short list of options. Government commits to act on the outcome

74.2. Bill providing for second referendum passed in mid 2011

74.3. **Second referendum** (legally binding referendum) held in conjunction with the 2011 general election and asks voters to choose between MMP and the preferred alternative voting system (selected in the second question of the first referendum)

74.4. **Implementation:** 2014 general election conducted under MMP or the preferred alternative voting system.

75. With this option, the first referendum would ask two questions. The alternative voting systems would need to be selected for the second question and included in the empowering bill, which would need to be passed in 2010.

#### *Benefits*

76. Having two questions in the first referendum allows voters to make their choice on whether to retain MMP, in the context of the alternative voting systems. This makes the response to the first question a more informed choice.

77. This option is likely to have high voter turnout for the second, binding, referendum as it is to be held in conjunction with a general election.



78. There are three years to plan and deliver the 2014 general election under a new voting system, if chosen. This is consistent with the timeframe for implementation following the binding referendum in 1993, and minimises the risk to the efficient and effective administration of the 2014 general election.

### *Risks*

79. Option 5 has limited time for publicity campaigns leading up to each of the two referenda. It also has limited time for public consultation on the development of the alternative voting systems, and limited time to clarify the key elements of each of the alternative voting systems including how each of the systems would operate in the New Zealand context.
80. There is limited time for the policy development and drafting of the legislation that empowers the second referendum and provides for the alternative voting system. The legislation would need to be passed under urgency after the results of the first referendum were known in order for it to meet the timeline. This means there would be no time for public and select committee scrutiny of the bill. This is inappropriate for a bill changing the voting system.
81. While Option 5 follows the process undertaken for the 1992/93 referenda, this process does not guarantee sufficient time because in 1992/93, work was done in advance of the 1992 referendum and in anticipation of a particular result (which was not certain but was indicated by the polls). If the referendum result was different than that predicted, the timeframe would probably have changed.
82. The risks around public information and participation, and the drafting of the legislation may risk the legitimacy of the outcome of the referenda.
83. The first referendum would be held in September 2010, just prior to the time at which the new Electoral Commission becomes operational (October 2010). At this point, the Electoral Commission will be preparing for amalgamation, preparing for the 2011 general election, and preparing for the second referendum to be held in conjunction with the 2011 general election. While holding a postal referendum in September 2010 would be achievable, the cumulative effect of the work programme would put the electoral agencies under extra pressure.

### *Cost*

84. The cost of this option is estimated at \$25 million.

### **Conclusion on options**

85. Ministry of Justice officials recommend Option 4 as it offers the most robust process for constitutional change and the least cost. Officials recommend Option 3 as second best, as it offers the next most robust process for constitutional change.
86. Options 3 and 4 provide more opportunity for public participation and contain the least risks. Option 4 is the most cost-effective option and, by having both referenda with general elections gives the greatest guarantee of a high voter turnout. Options 3 and 4 run over a longer period of time as the referenda process ends in 2014, with a new system (if chosen) implemented for the 2017 general election. However,

Option 3 has less time than Option 4 for the drafting and passage of the bill to enable a binding referendum to be held in conjunction with the 2014 general election.

87. Officials advise that Options 1, 2 and 5 contain the greatest risks to the quality and legitimacy of the referenda process. If there is a vote for change to the voting system, Options 1 and 2 would put the 2014 general election at risk because of the short implementation period. Options 1, 2 and 5 also do not provide for adequate public participation throughout the referenda process.

### **Amendments to MMP**

88. In the lead-up to the first referendum, the public discussion concerning whether to retain or change the current voting system is likely to bring to light a number of issues that people have with MMP (eg, the party vote threshold). It may be useful during this public discussion for the Government to indicate whether it would be willing to undertake a review of MMP to clarify and address these issues, if the public votes to retain MMP. This would assist voters to make an informed choice. It would also reduce the likelihood of change from MMP to an alternative voting system if most voters generally agree with MMP, subject to some amendments.

### **Threshold to act**

89. For the Government to commit itself to act on the results of the first referendum, it needs to be clear about its threshold to act. I consider that the Government should consider itself bound by the result if it is approved by a majority (over 50 percent) of those voting, irrespective of the voter turnout. This approach is consistent with the Electoral Act 1993. A change to the method of voting requires amending an entrenched provision in the Electoral Act, and one of the ways to achieve this is to secure a majority of votes of eligible electors.

## Next steps

90. Subject to Cabinet's decisions on this paper, I propose the following steps:

Date	Activity
November 2009	Cabinet paper seeking agreement to the policy for the bill (eg, rules about the conduct of the referendum, wording of referendum question, role of the Independent Panel, the scope of the publicity campaign and process matters) and agreement that Parliamentary Counsel Office draft a bill.  The funding for the first referendum and the Independent Panel will be addressed in the 2010 Budget process and as part of the 2011 general election funding bid.
February 2010	Cabinet Legislation Committee and Cabinet agree that the bill providing for the referendum be introduced into the House.
March 2010	Bill introduced, first reading and bill referred to select committee.
October 2010	Select Committee reports back to the House.
November 2010	Bill passed.  Appointments and Honours Committee and Cabinet agree to composition and terms of reference for Independent Panel to carry out publicity campaign.
December 2010 to April 2011	Independent Panel prepares for publicity campaign.
April to general election day 2011	Independent Panel conducts publicity campaign.
2 <sup>nd</sup> half of 2011	General election and first referendum.

91. The timeframes for the above steps will differ if Option 5 is chosen by Cabinet.

## Consultation

92. This paper was prepared in consultation with the Chief Electoral Office, Electoral Enrolment Centre, the Crown Law Office, Te Puni Kōkiri and the Treasury. The Department of the Prime Minister and Cabinet was informed of this paper. The Electoral Commission was consulted on the previous Cabinet paper.

## Financial implications

93. Funding is required to conduct referenda. Detailed costing work has not been undertaken. Current figures are preliminary only. Further work will be undertaken to revise these costing before appropriations are sought.

94. For all options, the funding for the first referendum and the Independent Panel will need to be addressed in the 2010 Budget process and as part of the 2011 general election funding. Subject to Ministers' decisions on this paper, the Ministry of

Justice in consultation with the Chief Electoral Office, Electoral Commission and Electoral Enrolment Centre, will develop a detailed funding proposal.

95. The Chief Electoral Office advises that a conservative estimate of the additional costs of holding a referendum in conjunction with a general election, using untested staffing assumptions, is \$5.5 million. The Electoral Enrolment Centre advises that the enrolment costs for the first referendum can be absorbed with the other enrolment costs associated with the 2011 general election.
96. The estimated enrolment and administration cost of holding a referendum by postal vote is \$7.5 million. The estimated enrolment and administration cost of holding a referendum by standalone ballot is \$28 million.
97. Funding will be also required for an Independent Panel to prepare and run a publicity campaign. The estimated cost of appointing the Independent Panel, preparing and conducting a publicity campaign is \$6 million.
98. The total estimated costs for administration, enrolment and publicity are:
  - 98.1. \$11.5 million if the referendum is held in conjunction with a general election
  - 98.2. \$13.5 million if the referendum is held by postal ballot
  - 98.3. \$34 million if the referendum is conducted by standalone ballot.
99. The costs associated with the development of the legislation under all options can be met from existing Ministry of Justice baselines.

#### **TREASURY COMMENT**

100. There does not appear to be a strong rationale as to why Option 1 should be implemented over the other options. However, if Option 1 is preferred then the fiscal cost should be reduced from \$79.5 million to \$38.5 million by using a postal vote for the second and third referenda.

#### **Estimated costs (administration of referenda and publicity)**

	<b>Option 1</b>	<b>Option 2</b>	<b>Option 3</b>	<b>Option 4</b>	<b>Option 5</b>
<b>1<sup>st</sup> referendum</b>	\$11.5 million	\$11.5 million	\$11.5 million	\$11.5 million	\$13.5 million
<b>2<sup>nd</sup> referendum</b>	\$34 million	\$13.5 million	\$13.5 million	\$11.5 million	\$11.5 million
<b>3<sup>rd</sup> referendum</b>	\$34 million	-	\$11.5 million	-	-
<b>Total</b>	<b>\$79.5 million</b>	<b>\$25 million</b>	<b>\$36.5 million</b>	<b>\$23 million</b>	<b>\$25 million</b>

## Human rights, gender implications and disability perspective

101. The proposals outlined in this paper appear to be consistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993. A final view will be possible at the time of the next Cabinet report, when justificatory material is provided and considered.
102. The proposals outlined in this paper have no specific gender or disability implications.

## Legislative implications

103. Special empowering legislation is required to hold the first referendum in conjunction with the 2011 general election. A MMP Referendum Bill was awarded a category 4 priority (to be referred to a select committee in 2009) on the Government's 2009 Legislation Programme [CAB Min (09) 12/14]. I will submit a new bid for a referendum bill for the 2010 legislative programme.

## Regulatory impact analysis

104. A regulatory impact analysis is not required for the empowering legislation because the proposed legislation deals with administrative procedures, and does not impact on business, consumers or the public.

## Publicity

105. I intend to issue a media release outlining Cabinet's decisions and next steps.

## Recommendations

106. The Minister of Justice recommends that Cabinet:
  1. **Note** that the Government is committed to giving New Zealanders an opportunity to have their say on the Mixed Member Proportional (MMP) representation voting system.
  2. **Note** that the referenda process should be considered in light of, and co-ordinated with, other related constitutional work and upcoming electoral activity.
  3. **Note** that the following factors – highlighted by the previous (1992/93) voting system referenda process – have been considered in the evaluation of options for the proposed referenda process in order to ensure the process is constitutionally sound and that the outcome of the process is legitimate:

- 3.1. public information and participation
  - 3.2. legislation requirements
  - 3.3. voter turnout
  - 3.4. implementation of new voting system.
4. **Note** also that the cost of each option is an important consideration.
  5. **Note** that if any referendum is held in conjunction with a general election, electoral agencies will develop processes to mitigate any risk of voter confusion, congestion and delays to the preliminary count of the parliamentary vote.
  6. **Note** that Ministry of Justice officials recommend Option 4 as it offers the most robust process for constitutional change and is the least expensive option.
  7. **Agree** to one of the five options presented in this paper:

*EITHER*

- 7.1. Option 1: three referenda, with the first referendum held at the 2011 general election, two subsequent standalone ballots in 2012 and the 2014 general election conducted under MMP or the preferred alternative voting system

*OR*

- 7.2. Option 2: two referenda with the first referendum (two questions) held at the 2011 general election, one subsequent postal ballot and the 2014 general election conducted under MMP or the preferred alternative voting system

*OR*

- 7.3. Option 3: three referenda with the first referendum held at the 2011 general election, one subsequent postal ballot in 2012, the third referendum held at the 2014 general election and the 2017 general election conducted under MMP or the preferred alternative voting system

*OR*

- 7.4. Option 4: two referenda with the first referendum (two questions) held at the 2011 general election, the second referendum held at the 2014 general election and the 2017 general election conducted under MMP or the preferred alternative voting system

*OR*

- 7.5. Option 5: two referenda with the first referendum (two questions) held in 2010, the second referendum held at the 2011 general election and the 2014 general election conducted under MMP or the preferred alternative voting system.
8. **Agree** that if a majority (more than 50 percent) of voters opt for change at the first referendum, the Government commits to following the process laid out in Cabinet's preferred option.
  9. **Note** that the funding for the first referendum and the Independent Panel (conducting the publicity campaign) will be addressed in the 2010 Budget process and as part of the 2011 general election funding bid.
  10. **Invite** the Minister of Justice to report to Cabinet in November 2009 seeking agreement to the policy for the bill (eg, rules about the conduct of the referendum, wording of referendum question/s, role of the Independent Panel, the scope of the publicity campaign and process matters).
  11. **Note** that the Minister of Justice will consult with support parties on the proposal preferred by Cabinet.
  12. **Note** that the Minister of Justice will discuss the proposal preferred by Cabinet with Parliamentary parties.
  13. **Note** that the Minister of Justice will issue a media release outlining Cabinet's decisions and next steps.

Minister of Justice

Date signed:

## Appendix A: Outline of options previously considered by Cabinet

1. For convenience, this appendix sets out the referenda process options previously considered by Cabinet [DOM Min (09) 18/5, CAB Min (09) 31/13]. Note that Option C is the same as Option 3 in this Cabinet paper.
2. The total cost figures in this chart have been updated to reflect officials' estimates, following further consideration.

Option	Total cost	Referenda	Outcome Implemented
A	\$27m	<ol style="list-style-type: none"> <li>1. Postal referendum in 2010 (2 questions)</li> <li>2. Legally binding postal referendum in 2012 (1 question)</li> </ol>	2014 general election
B	\$40.5m	<ol style="list-style-type: none"> <li>1. Postal referendum in 2010 (1 question)</li> <li>2. Postal referendum in 2012 (1 question)</li> <li>3. Legally binding postal referendum in 2015 (1 question)</li> </ol>	2017 general election
C	\$36.5m	<ol style="list-style-type: none"> <li>1. Referendum with general election 2011 (1 question)</li> <li>2. Postal referendum in 2012 (1 question)</li> <li>3. Legally binding referendum with 2014 general election (1 question)</li> </ol>	2017 general election



## **Appendix B: Managing risks of holding a referendum in conjunction with a general election**

1. In 1999, two citizens' initiated referenda were held with the general election. This caused voter confusion, congestion in polling places and significantly delayed the announcement of the preliminary results of the general election.
2. Holding a referendum with a general election makes an already complex process more complex by doubling the number of voting papers to be processed and managed. If the referendum contains more than one question, these impacts would be exacerbated. The overriding risk is to the quality of the general election and public and political confidence in the administration of elections.
3. This appendix provides an overview of the risks and options for mitigation, but no decision is sought from Cabinet on this issue. The Chief Electoral Office will report separately to the Minister of Justice with detailed advice on this issue, seeking his decisions on processes, after Cabinet has made policy decisions on the timing and type of referenda on the voting system.

### **RISK 1: ISSUE CONFUSION**

#### *Description of risk*

4. The Justice and Electoral Select Committee in its report on the 1999 general election were concerned that the issues raised by the citizens' initiated referenda became "muddied in the agitation of the electoral contest".

#### *Mitigating the risk*

5. The Independent Panel established to prepare and conduct the public information campaign will have a role in managing this risk by educating voters about the timing and content of the referendum.

### **RISK 2: VOTER CONFUSION AND CONGESTION**

#### *Description of risk*

6. Voter confusion arose at the 1999 general election because many voters were not expecting to be issued with citizens' initiated referenda voting papers and had difficulty understanding at least one of the questions and the effect of the process.
7. Delays were caused at the 1999 general election in the issuing of voting papers, in voters marking their voting papers, and in voters working out where to put their completed voting papers. The overall effect of this was to lengthen the amount of time spent by voters in polling places, and it led to congestion and queues.

#### *Mitigating the risk*

8. Again, the public information campaign will have a role in managing the risk of voter confusion. The public information campaign will need to be carefully constructed and presented, as the subject matter is complex.

9. The risk of congestion in the polling place can be mitigated by careful planning for election day, such as effective signage and colour coding to guide voters through the process at polling places, processes for efficient issuing of voting papers and assigning additional staff in larger polling places to monitor ballot boxes and provide guidance to voters about process.

**RISK 3: DELAY IN PARLIAMENTARY COUNT**

*Description of risk*

10. At the 1999 general election, the requirement for polling place staff to conduct a preliminary count for two referendum questions on election night led to significant delays to the timing of the election night count for the parliamentary vote.

*Mitigating the risk*

11. There are three main options identified for the election night count of the referendum papers:
  - 11.1. count advance referendum voting papers only with no referendum count in polling places on election night. After election day, an electorate by electorate count would be conducted as part of the official count and the results released with the official results of the parliamentary election
  - 11.2. national count of the referendum papers on election night with an electorate by electorate count being conducted as part of the official count and the results released with the official results of the parliamentary election
  - 11.3. a full electorate by electorate count of the referendum papers on election night.
12. There are advantages and disadvantages with each option, which will be identified in the advice from the Chief Electoral Office to the Minister of Justice.

## Appendix C: Wording of the question for the first referendum

1. Options discussed in this paper provide for the first referendum to be held in conjunction with the 2011 general election. I will seek Cabinet agreement on the wording of the first question once a decision has been made on the referenda process. To give a sense of the first question (ie, a question asking voters whether they wish to retain MMP or change to a different voting system) four suggestions with commentary are presented below.

Option	Question	Comment
1.	I vote to retain the present MMP system.  I vote for a change to the voting system.	Voters tick their preferred statement.  In 1992, this was the form of the first part of the two-part referendum.  It is a neutral and straightforward question.  Government could clarify that a vote to keep MMP could mean reviewing it.
2.	Do you wish to change the current MMP system to another voting system?  [YES/NO]	Voters answer the question by marking YES or NO.  It is a straightforward question.  This question makes the vote for change a positive response. It may be seen as biased against MMP.  Government could clarify that a vote to keep MMP could mean reviewing it.
3.	Do you wish to keep the current MMP voting system?  [YES/NO]	Voters answer the question by marking YES or NO.  It is a straightforward question.  The question makes the vote to keep MMP a positive response. It may be seen as biased against changing the voting system.  Government could clarify that a vote to keep MMP could mean reviewing it.
4.	I vote to retain the MMP voting system as it is.  I vote to retain the MMP voting system, but change parts of the voting system.  I vote for a change to another voting system.	Voters tick their preferred statement.  Gives voters the chance to vote specifically for a change to MMP.  It is a relatively complex question.  Do not know which aspects of MMP voters want to change.  Will make it harder to achieve a clear vote to move away from MMP to another voting system, because there are two statements about keeping MMP and only one about change.

**APPENDIX D: TIMELINE OF GOVERNMENT'S WORK PROGRAMME AND EVENTS WITH CONSTITUTIONAL IMPLICATIONS (non-exhaustive)**

2009	2010	2011	2012	2013	2014	Future	Comment
							<p><b>Group to consider constitutional issues</b> to be established by no later than March 2010.</p>
							<p><b>Electoral finance rules</b> affect how parties and candidates communicate their policies with voters and how parallel campaigners may participate in public affairs.</p>
							<p><b>Restructuring the electoral agencies</b> impacts on the management of elections and administration of processes integral to the system (ie, registration of parties, regulation of electoral finance, broadcasting allocation). An integrated structure is intended to increase efficiency and effectiveness.</p>
							<p><b>Referendum on MMP</b> may result in a change to how voters choose their representatives. It may encourage discussion about other constitutional matters linked with the electoral system (eg, number of MPs, the parliamentary term, any perceived flaws with MMP, whether the Māori seats are necessary).</p>
							<p><b>The Māori electoral option</b> takes place after the census (or the year following an election if the election and census coincide). Māori choose whether to enrol on Māori roll or general roll. This determines the number of Māori seats and can affect the number of seats in the House. May raise debate about the process for running the option, and about the need for separate Māori seats.</p>
							<p><b>Electoral boundaries</b> determine the make-up of electorates. The review may raise the issue of how the size of electorates is determined (dividing the population of the South Island by 16).</p>
							<p>The Criminal Procedure Simplification Project has elements that may result in a consideration of amendments to the <b>Bill of Rights Act</b>.</p>
							<p><b>The Regulatory Responsibility Bill</b> is intended to provide a framework of overarching legal rules, principles and processes which will apply to all law-making in New Zealand. A Taskforce has been established to provide independent advice on the bill (report-back by the end of September 2009). Its recommendations must be constitutionally and operationally principled and practicable.</p>
							<p><b>International obligations</b> affect the exercise of power in New Zealand (eg, human rights treaties, trans-Tasman harmonisation). New Zealand is currently considering its position on the United Nations Declaration on the Rights of Indigenous Peoples. 2010 group to consider constitutional issues noted in New Zealand's 2009 Universal Periodic Review Report.</p>
							<p>Government decisions being made following Royal Commission on <b>Auckland Governance</b>. Determines how Aucklanders will be represented regionally. Raises issues about representation of Māori/tangata whenua on Auckland governance body.</p>
							<p><b>Treaty Settlements</b>. OTS is working towards meeting the Government's aim to achieve just and durable settlement of all historical claims by 2014. Settlements potentially increase the ability of iwi to have greater input in the exercise of public power (eg, co-management of Waikato River). Negotiations with Ngāi Tahu include constitutional relationship.</p>
							<p><b>Wai 262</b> claims breaches in respect of mātauranga Māori (knowledge) and use of indigenous flora and fauna. Currently at report-writing phase. Raises issues about rights and interests over taonga. Early indications suggest report will address the concept of rangatiratanga.</p>
							<p>The Ministerial Review Panel reviewed the <b>Foreshore and Seabed Act 2004</b>. The Government is considering its response. Raises issues about ownership and management of the foreshore and seabed.</p>
							<p><b>Fresh water</b>. Policy exercise aimed at establishing a fairer and more efficient water management system. The full rights of interests of Māori in fresh water are undefined and unresolved. The full range of potential roles and interests of Māori is open to consideration.</p>
							<p><b>The census</b> is the official count of population and dwellings in New Zealand, providing a 'snapshot' of our society at a point in time. The New Zealand census is taken by Statistics New Zealand every five years and is used to determine the size of electoral districts in New Zealand.</p>
							<p><b>Local government elections</b> are held every three years and determine local government representation. Local government elections are administered under the Local Electoral Act 2001.</p>
							<p><b>Preparing for a general election</b> is a three year project. General elections usually run in the last half of year three of a parliamentary cycle.</p>

# APPENDIX E: 1992 / 1993 REFERENDUM PROCESS

**1985 / 1986**

Royal Commission inquiry into New Zealand's electoral system (18 months at a cost of \$1.3m)

The Royal Commission received 804 written submissions, held public meetings in the four main centres and five hui at marae, and visited Australia, Canada, Ireland, the United Kingdom and West Germany. It recommended MMP and a raft of other changes.

**1987 / 1988**

Select Committee inquiry into the Royal Commission's report (15 months)

The Select Committee recommended retaining FPP (status quo). The Committee received 637 submissions and heard over 41 hours of evidence at 13 meetings in five cities.

**1991** January  
February  
March  
April  
May  
June  
July  
August  
September  
October  
November  
December

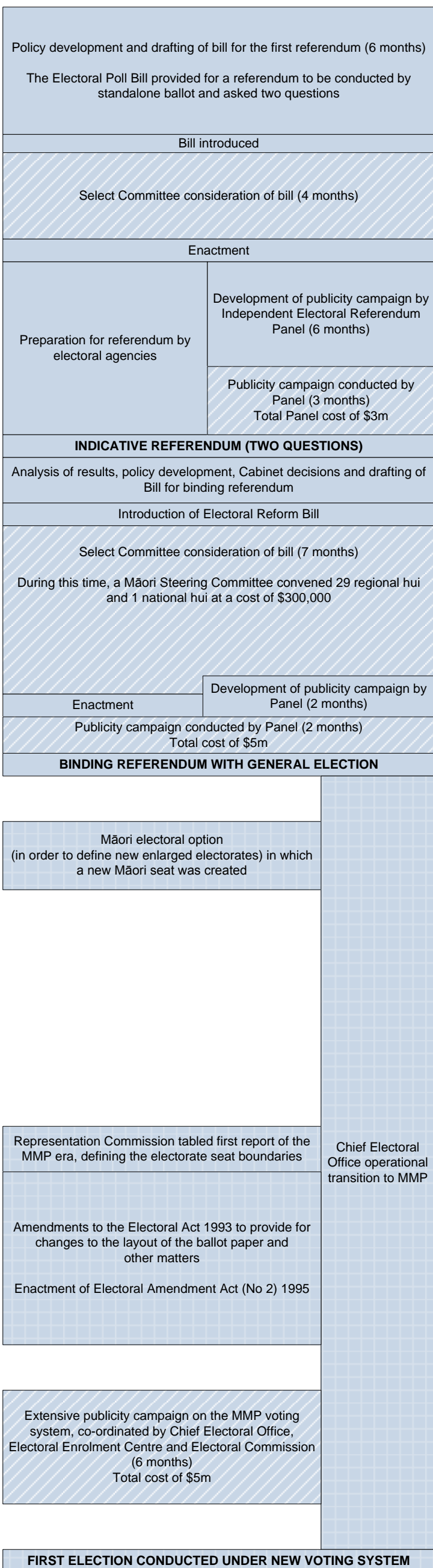
**1992** January  
February  
March  
April  
May  
June  
July  
August  
September  
October  
November  
December

**1993** January  
February  
March  
April  
May  
June  
July  
August  
September  
October  
November  
December

**1994** January  
February  
March  
April  
May  
June  
July  
August  
September  
October  
November  
December

**1995** January  
February  
March  
April  
May  
June  
July  
August  
September  
October  
November  
December

**1996** January  
February  
March  
April  
May  
June  
July  
August  
September  
October  
November  
December



The pre-election promise was a binding referendum on the electoral system. However, given the number of voting system alternatives, the then government concluded a one-off binding referendum was impractical, especially as this would require advance legislation outlining the full details of each option. It was also determined that the best way to maximise voter turnout was to hold a binding referendum on the voting system with the general election.

The Select Committee received 45 submissions and heard five-and-a-half hours of evidence. The Select Committee added a fourth choice to the options: the Single Transferable Vote (STV).

The Panel's report noted that the reform options lacked precision. As a result, the size of the House and the Māori seats became "matters of acute controversy".

- **55% turnout.**
- **85% voted for change.**
- **70.5% voted for MMP.**
- **17% voted for STV.**
- **6.6% voted for PV.**
- **5.6% voted for SM.**

Bill drafting was a substantial exercise. It involved work being done in advance of the 1992 referendum and in anticipation of a particular result (which was not certain but was indicated by the polls). If the referendum result was different the timeframe would probably have changed.

The Select Committee received 604 submissions and heard 41 hours of evidence at public hearings in six centres. The Select Committee recommended several key changes to the Bill, including raising the threshold for party representation to 5 percent of party votes and fixing the number of South Island electorates at 16.

Māori Steering Committee recommended the retention of the Māori seats.

**85% turnout. Voters were asked to choose between two options. 54% voted for MMP, 46% voted for FFP.**

**NOVEMBER 1993, REFERENDUM PROCESS ENDED  
3-YEAR IMPLEMENTATION PROCESS FOLLOWED**

- 3 year transition to new MMP voting system included:**
- revision of procedures and forms for FPP elections,
  - rewrite of manuals and instructions for polling staff,
  - allocation of party-list seats once vote counted,
  - replacement of list candidates (if required).

## Wording of Referenda Questions

<p><b>1992 Referendum</b></p> <p><u>Part A</u></p> <p>I vote to retain the present First-Past-The-Post system.</p> <p>I vote for a change to the voting system.</p> <p><u>Part B</u></p> <p>I vote for the Supplementary Member system (SM)</p> <p>I vote for the Single Transferable Vote system (STV)</p> <p>I vote for the Mixed Member Proportional system (MMP)</p> <p>I vote for the Preferential Voting system (PV)</p>
<p><b>1993 Referendum</b></p> <p>I vote for the present First-Past-The-Post system as provided in the Electoral Act 1956.</p> <p>I vote for the proposed Mixed Member Proportional system as provided in the Electoral Act 1993</p>

## Select Committee Inquiry 2001

Inquiry into the Review of MMP conducted as a legal requirement under the Electoral Act. MMP Review Committee met from April 2000 to August 2001. The Committee received 290 submissions with 70 heard as oral submissions. The Committee was divided on whether there should be another referendum on MMP. The Committee's report was delivered to the House in August 2001.

## APPENDIX F: OPTION 1

- **First referendum** with single question held with 2011 general election and asks voters whether they wish to retain MMP. Government commits to act on the outcome.

If the majority vote for change:

- **Second referendum** (indicative referendum by standalone ballot) held in first half of 2012 asks voters to choose what their preferred alternative voting system is from a short list of options.
- **Third referendum** (legally binding referendum by standalone ballot) held in second half of 2012 asks voters to choose between MMP and the preferred alternative voting system (selected in the second referendum).
- **Implementation:** 2014 general election conducted under MMP or the preferred alternative voting system
- **Total approximate cost:** \$75.5 million.

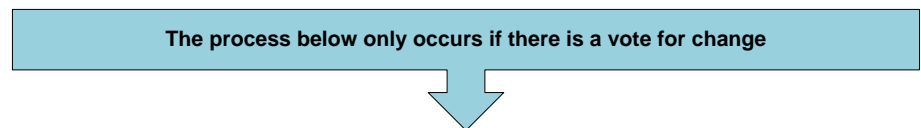
2009	October	Cabinet policy decisions			
	November	PCO drafts bill for first two referenda, each asks one question			
2010	December	Cabinet approves bill for introduction to the House			
	January	Bill introduced and referred to Select Committee			
2011	February	Select Committee considers bill (6 months)			
	March				
	April				
	May				
	June				
	July				
	August	Select Committee reports back to the House			
	September	Bill passed	Panel appointed		
	October	Panel prepares for publicity campaign (5 months)			
	November				
	December				
	January				
February					
March					
2012	April	Panel conducts publicity campaign (6 months)			
	May				
	June				
	July				
	August				
	September				
	October	<b>GENERAL ELECTION AND FIRST REFERENDUM</b>			
	November	Government formation			
	December	Cabinet considers referendum results			
	2013	January	Panel prepares for publicity campaign (2 months)		
		February			
		March	Panel conducts publicity campaign (2 months)		
April					
May		<b>SECOND REFERENDUM, STANDALONE BALLOT</b>			
June		Government considers results and makes policy decisions			
July		Prepare publicity campaign (6 weeks)	Draft bill to provide for binding referendum and alternative voting system (6 weeks)		
August		Publicity (6 weeks)	Cabinet approves bill	Pass law under urgency	
September		<b>THIRD BINDING REFERENDUM, STANDALONE BALLOT</b>			
October		Implementation of new voting system if chosen (21 months)			
November					
December					
January					
February					
March					
2014	April	Electoral agencies prepare for 2014 general election			
	May				
	June				
	July				
	August				
	September				
	October	Representation Commission convened to determine electorate seats			
	November	<b>ELECTION CONDUCTED UNDER MMP OR NEW VOTING SYSTEM</b>			
	December				
	January				
	February				
	March				
2015	April				

The timeframe for Option 1 (the second referendum to be conducted early in 2012) means that policy decisions, public input and passage of enabling legislation for the first two referenda all need to occur in the current parliamentary term.

Provides adequate time for the public to provide input into the first two referenda questions. It also provides adequate time to clarify the key elements of each of the alternative voting systems and how each of the systems would operate in the New Zealand context.

Provides adequate time to ensure that the public are in a position to make informed decisions about whether or not to retain MMP.

High voter turnout guaranteed because referendum conducted with the general election.



Second referendum occurs at the same time as the Māori Electoral Option exercise.

It is not feasible to draft provisions for the alternative electoral system within this timeframe, placing the 2014 general election and the legitimacy of the process at risk.

There is no time for Select Committee consideration of the detail of the alternative voting system, including public input, placing the legitimacy of the process and the outcome at risk.

Does not provide adequate time to ensure that the public are in a position to make informed decisions about New Zealand's voting system, placing the legitimacy of the outcome of the process at serious risk.

Voter turnout is unlikely to be as high as that for a referendum held with a general election.



Does not provide adequate time to implement a new voting system, particularly if the new system is STV, placing the 2014 general election at serious risk.

## APPENDIX F: OPTION 2

- **First referendum** held with 2011 general election and asks voters two questions:
  - whether they wish to retain MMP; and
  - what their preferred alternative voting system is from a short list of options. Government commits to act on the outcome.

If the majority vote for change:

- **Second referendum** (legally binding referendum by postal ballot) held in November 2012 asks voters to choose between MMP and the preferred alternative voting system (selected in the second question of the first referendum).
- **Implementation:** 2014 general election conducted under MMP or the preferred alternative voting system.
- **Total approximate cost:** \$25 million.

2009	October	Cabinet policy decisions	
	November	PCO drafts bill for first referendum that asks two questions	
2010	December	Cabinet approves bill for introduction to the House	
	January	Bill introduced and referred to Select Committee	
	February	Select Committee considers bill and invites public submission (6 months)	
	March		
	April		
	May		
	June		
	July		
	August	Select Committee reports back to the House	
	September	Bill passed	Panel appointed
2011	October	Panel prepares for publicity campaign (5 months)	
	November		
	December		
	January		
	February		
	March		
	April	Panel conducts publicity campaign (6 months)	
	May		
	June		
	July		
	August		
	September		
	October	<b>GENERAL ELECTION AND FIRST REFERENDUM</b>	
	November	Government formation	
2012	December	Cabinet considers referendum results and makes policy decisions	
	January	Bill drafted (3 months)	
	February	Cabinet approves bill	Bill introduced
	March	Prepare publicity campaign	Select Committee considers bill
	April		Bill passed
	May	Conduct publicity campaign (2 months)	
	June		
	July	<b>SECOND BINDING REFERENDUM BY POSTAL BALLOT</b>	
2013	August	Implementation of new voting system if chosen (21 months)	
	September		
	October		
	November		
	December		
	January		
2014	February	Representation Commission convened to determine electorate seats	
	March	ELECTION CONDUCTED UNDER MMP OR NEW VOTING SYSTEM	
April			
	May		
	June		
	July		
	August		
	September		
	October		
	November		
2015	December		
	January		
	February		
	March		

The timeframe for Option 2 (two questions asked in the first referendum conducted with 2011 general election) means that policy decisions, public input and passage of enabling legislation for the first referendum all need to occur in the current parliamentary term.

Provides adequate time for the public to provide input into the alternative voting systems. It also provides adequate time to clarify the key elements of each of the alternative voting systems and how each of the systems would operate in the New Zealand context.

Provides adequate time to ensure that the public are in a position to make informed decisions about whether to retain MMP, and about which alternative voting system they may prefer.

High voter turnout guaranteed because referendum conducted with the general election.

**The process below only occurs if there is a vote for change**



It is not feasible to draft the provisions for the alternative voting system within this timeframe, putting the 2014 general election and the legitimacy of the process at risk.

Does not provide adequate time for Select Committee and the public to provide input into the detail of the alternative voting system, putting the legitimacy of the process at risk.

Does not provide adequate time to ensure that the public are in a position to make informed decisions about New Zealand's voting system, putting at risk the legitimacy of the outcome of the binding referendum.

Voter turnout is unlikely to be as high as that for a referendum held with a general election.

**NOVEMBER 2012, REFERENDUM PROCESS ENDS  
21-MONTH IMPLEMENTATION PROCESS BEGINS**

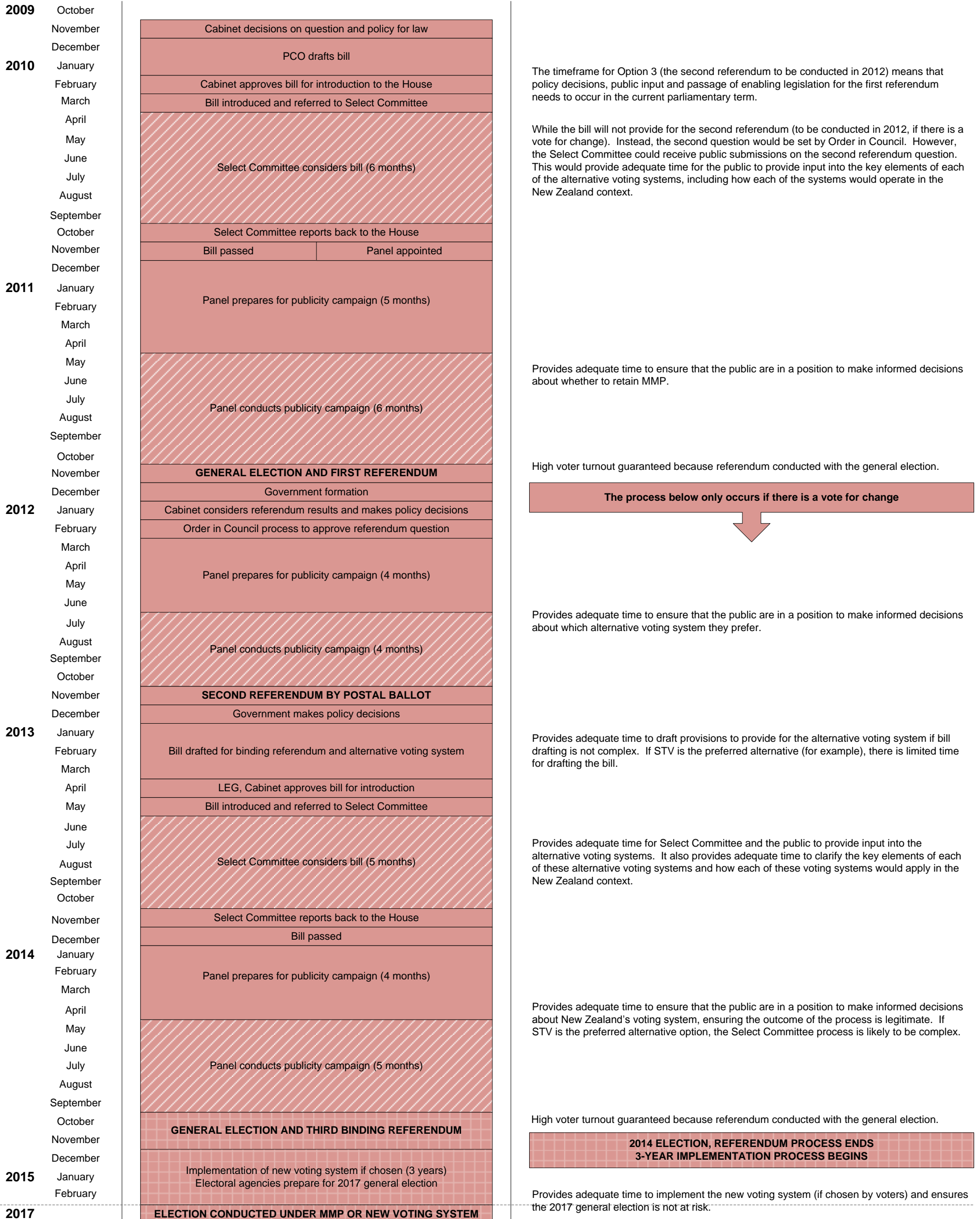
Does not provide adequate time to implement a new voting system, particularly if the new system is STV, placing the 2014 general election at risk.

## APPENDIX F: OPTION 3

- **First referendum** with single question held with the 2011 general election and asks voters whether they wish to retain MMP. Government commits to act on the outcome.

If the majority vote for change:

- **Second referendum** (by postal ballot) held in November 2012 asks voters to choose what their preferred alternative voting system is from a short list of options.
- **Third referendum** (legally binding referendum) held with the 2014 general election asks voters to choose between MMP and the preferred alternative voting system (selected in the second referendum).
- **Implementation:** 2017 general election conducted under MMP or the preferred alternative voting system.
- **Total approximate cost:** \$36.5 million.



The timeframe for Option 3 (the second referendum to be conducted in 2012) means that policy decisions, public input and passage of enabling legislation for the first referendum needs to occur in the current parliamentary term.

While the bill will not provide for the second referendum (to be conducted in 2012, if there is a vote for change). Instead, the second question would be set by Order in Council. However, the Select Committee could receive public submissions on the second referendum question. This would provide adequate time for the public to provide input into the key elements of each of the alternative voting systems, including how each of the systems would operate in the New Zealand context.

Provides adequate time to ensure that the public are in a position to make informed decisions about whether to retain MMP.

High voter turnout guaranteed because referendum conducted with the general election.

**The process below only occurs if there is a vote for change**

Provides adequate time to ensure that the public are in a position to make informed decisions about which alternative voting system they prefer.

Provides adequate time to draft provisions to provide for the alternative voting system if bill drafting is not complex. If STV is the preferred alternative (for example), there is limited time for drafting the bill.

Provides adequate time for Select Committee and the public to provide input into the alternative voting systems. It also provides adequate time to clarify the key elements of each of these alternative voting systems and how each of these voting systems would apply in the New Zealand context.

Provides adequate time to ensure that the public are in a position to make informed decisions about New Zealand's voting system, ensuring the outcome of the process is legitimate. If STV is the preferred alternative option, the Select Committee process is likely to be complex.

High voter turnout guaranteed because referendum conducted with the general election.

**2014 ELECTION, REFERENDUM PROCESS ENDS  
3-YEAR IMPLEMENTATION PROCESS BEGINS**

Provides adequate time to implement the new voting system (if chosen by voters) and ensures the 2017 general election is not at risk.

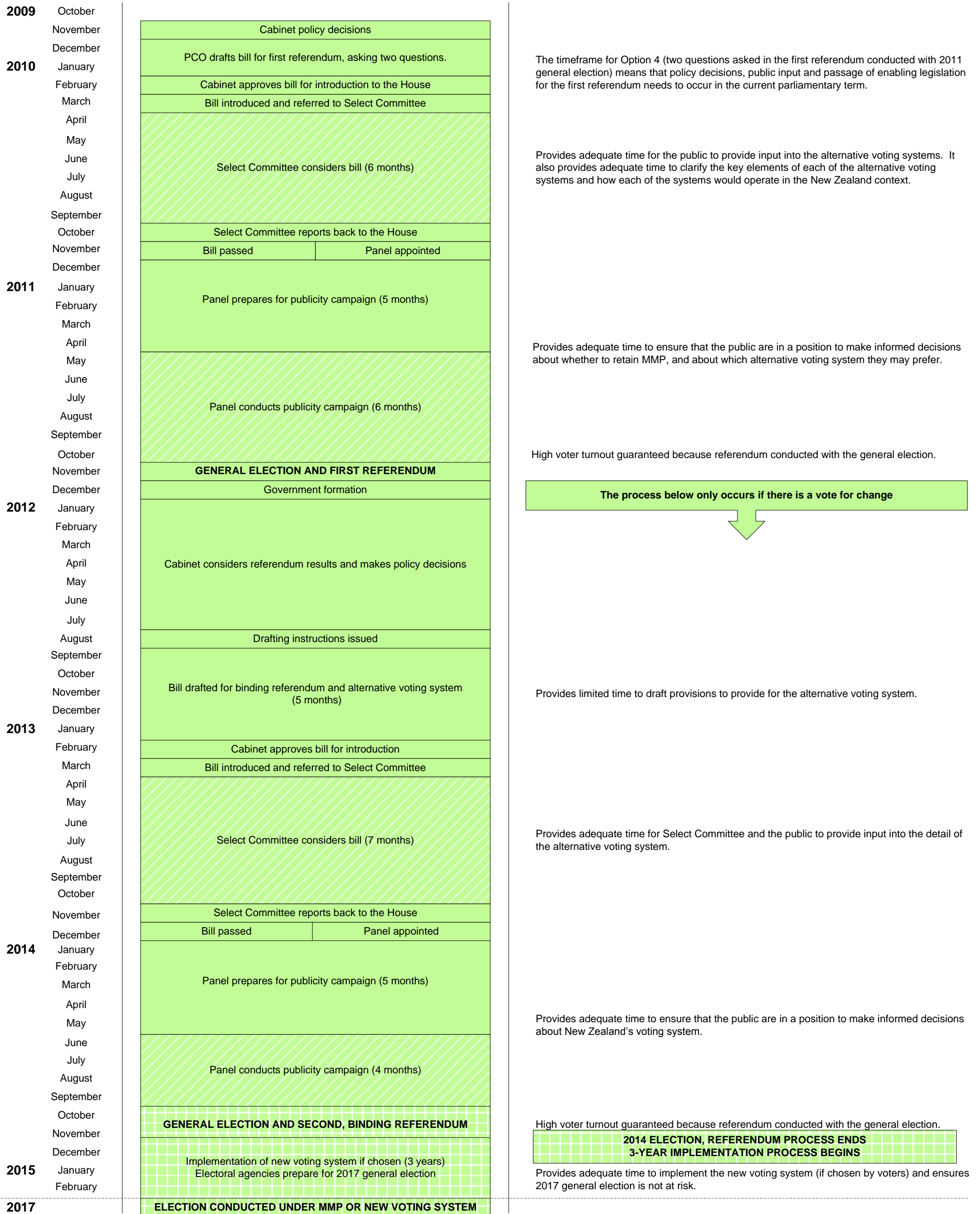


## APPENDIX F: OPTION 4

- **First referendum** held with the 2011 general election and asks voters two questions:
  - whether they wish to retain MMP; and
  - what their preferred alternative voting system is from a short list of options. Government commits to act on the outcome.

If the majority vote for change:

- **Second referendum** (legally binding referendum) held with the 2014 general election asks voters to choose between MMP and the preferred alternative voting system (selected in the second question of the first referendum).
- **Implementation:** 2017 general election conducted under MMP or the preferred alternative voting system.
- **Total approximate cost:** \$23 million.



The timeframe for Option 4 (two questions asked in the first referendum conducted with 2011 general election) means that policy decisions, public input and passage of enabling legislation for the first referendum needs to occur in the current parliamentary term.

Provides adequate time for the public to provide input into the alternative voting systems. It also provides adequate time to clarify the key elements of each of the alternative voting systems and how each of the systems would operate in the New Zealand context.

Provides adequate time to ensure that the public are in a position to make informed decisions about whether to retain MMP, and about which alternative voting system they may prefer.

High voter turnout guaranteed because referendum conducted with the general election.

**The process below only occurs if there is a vote for change**



Provides limited time to draft provisions to provide for the alternative voting system.

Provides adequate time for Select Committee and the public to provide input into the detail of the alternative voting system.

Provides adequate time to ensure that the public are in a position to make informed decisions about New Zealand's voting system.

High voter turnout guaranteed because referendum conducted with the general election.

**2014 ELECTION, REFERENDUM PROCESS ENDS  
3-YEAR IMPLEMENTATION PROCESS BEGINS**

Provides adequate time to implement the new voting system (if chosen by voters) and ensures 2017 general election is not at risk.

## APPENDIX F: OPTION 5

- **First referendum** held by postal ballot in September 2010 and asks voters two questions:
  - whether they wish to retain MMP; and
  - what their preferred alternative voting system is from a short list of options. Government commits to act on the outcome.

If the majority vote for change:

- **Second referendum** (legally binding referendum) held with the 2011 general election and asks voters to choose between MMP and the preferred alternative voting system (selected in the second question of the first referendum).
- **Implementation:** 2014 general election conducted under MMP or the preferred alternative voting system.
- **Total approximate cost:** \$25 million.

