

Electoral (District Boundaries) Amendment Bill

&

Data and Statistics (Census) Amendment Bill



Submission of the New Zealand Law Society Te Kāhui
Ture o Aotearoa

15 April 2026

1 Introduction

- 1.1 The New Zealand Law Society Te Kāhui Ture o Aotearoa (**Law Society**) welcomes the opportunity to comment on the Data and Statistics (Census) Amendment Bill (**Data Bill**) and the Electoral (District Boundaries) Amendment Bill (**Electoral Bill**), which, together, seek to modernise the census process and enable a census to be taken each year from 2030 onwards.¹
- 1.2 This brief submission, prepared with input from the Law Society's Public Law Committee,² primarily addresses issues arising from amendments in the Electoral Bill. However, we have opted to make a joint submission on both the Electoral Bill and the Data Bill on the basis that both bills seek to give effect to the same policy, and the issues canvassed in the submission largely arise from deficiencies in the policy process which resulted in the two bills.
- 1.3 The Law Society supports measures to ensure more reliable and accurate census data is gathered and used for the electoral process. However, these bills and their underlying policy process have failed to meaningfully engage with some of the more significant constitutional issues arising from the proposal to decouple the timing of electoral boundary reviews from censuses. In our view, further policy work is needed if these bills are to proceed (and this should include meaningful public consultation on this proposal, and consultation with Māori on meeting obligations under the Treaty of Waitangi/te Tiriti o Waitangi).
- 1.4 The Law Society **wishes to be heard** in relation to this submission.

2 Deficient policy process for amendments of constitutional significance

- 2.1 The Electoral Act 1993 provides for the calculation of electoral districts, and requires their review after each periodical census.³ These calculations and reviews help ensure New Zealand's electoral districts continue to have roughly equal numbers of people, and consequently, equal representation among electors. The Regulatory Impact Statement for the Electoral Bill (**RIS**) explains that these provisions in the Electoral Act are entrenched because of the important constitutional role they play in New Zealand's democratic arrangements.⁴ Therefore, any proposals to amend these reserved provisions would also be inherently constitutional.
- 2.2 The Electoral Bill that is now before the Justice Committee seeks to amend these entrenched boundary review provisions and decouple the timing of boundary reviews from the census. In our view, amendments of such constitutional significance should be made only following:

¹ Explanatory Notes of the two bills.

² Information about this committee is available on the Law Society's website: www.lawsociety.org.nz/professional-practice/law-reform-and-advocacy/law-reform-committees/public-law-committee/.

³ Section 35(2).

⁴ Ministry of Justice *Regulatory Impact Statement: Census Modernisation and its impact on the Electoral Act 1993* (9 October 2025) at page 2.

- (a) the gathering and consideration of evidence to show the proposed changes are appropriate and necessary to achieve the underlying policy objective;
- (b) meaningful consultation with the public, and with Māori, where the changes engage obligations under the Treaty of Waitangi/te Tiriti o Waitangi; and
- (c) careful consideration of the costs and benefits of such an amendment.

2.3 These steps do not appear to have been completed prior to the drafting of these bills, and a number of concerns arise as a result. We discuss these below.

Lack of public consultation

2.4 The RIS confirms that no public consultation was undertaken in relation to the changes in the Electoral Bill, despite the Bill proposing to amend entrenched provisions that are of constitutional significance.⁵ The RIS states:⁶

The pace of policy development has meant that we have been unable to undertake public consultation ahead of in-principle policy decisions. More time would have allowed for consultation with experts and affected groups, particularly Māori. This could have helped to ensure that policy implications were thoroughly considered and any unintended consequences were addressed.

2.5 The Departmental Disclosure Statement for the Electoral Bill (**DDS**) states the policies in that Bill were informed by public consultation undertaken during the Independent Electoral Review in 2022.⁷ However, the Independent Electoral Review focus was on removing the requirement for the boundary review process to be based on census data⁸ – this is only one of a suite of changes that will be made by the Electoral and Data Bills in order to modernise the census process. The Review did not consider in detail any changes to the timing of boundary reviews.

2.6 The Law Society is therefore concerned to see that, despite the constitutional significance of these amendments, there has been no opportunity for members of the public to contribute to the policy development process, including by:

- (a) indicating whether they support, or object to, the proposed changes to the timing of boundary reviews;
- (b) offering alternative suggestions for when boundary reviews should occur; and
- (c) providing feedback on policy options before key decisions are made.

2.7 Meaningful public education and support for these changes is particularly important here, given these amendments relate to fundamental principles of democracy in New Zealand.⁹ Any amendments must continue to uphold voters' confidence that their

⁵ At pages 2 and 13.

⁶ At page 4.

⁷ Ministry of Justice *Departmental Disclosure Statement: Electoral (District Boundaries) Amendment Bill* (20 February 2026) at page 8.

⁸ Independent Electoral Review *Final Report: Our recommendations for a fairer, clearer, and more accessible electoral system* (November 2023) (**IER Report**), ch 17.

⁹ Ministry of Justice *Proposed approach to the census modernisation and the Electoral Act 1993* (14 August 2025) at page 2.

electorate is representative, and that electorates are not the subject of political interference or changes made without public input and support. Meaningful public consultation on changes to the electoral process is therefore crucial, particularly where it requires amendment of an entrenched provision.

- 2.8 The amendments in the Electoral Bill may impact not only the legitimacy of representation, but also its *perceived* legitimacy. Limited understanding of the boundary review process and the proposed amendments risks fostering poor public perception. Where these are changes that impact representation, it can reduce public trust, and voter engagement and participation in future general elections. Such outcomes would undermine democracy and the integrity of New Zealand's elections.
- 2.9 While the select committee process offers an important opportunity for public engagement, feedback received during this process is unlikely to influence changes to underlying policies and policy options selected by the Minister.
- 2.10 If the Bill is to proceed, further policy work must be done to educate the public, and to ensure there is broad public support for these changes, and that legitimate concerns raised by the public are carefully considered and addressed. We also note that, while these bills received cross-party support during the first reading votes, such support is not a substitute for meaningful public consultation and engagement (particularly given that cross-party support was only sought *after* key policy decisions were made).¹⁰

Inconsistencies with principles of the Treaty of Waitangi/te Tiriti o Waitangi

- 2.11 Officials have identified that the amendments to the boundary review provisions are likely to:
- (a) Be of particular interest to Māori because the calculation of the Māori electoral population directly influences the number of reserved Māori seats there are in Parliament.¹¹
 - (b) Engage the Crown's obligations under the Treaty of Waitangi/te Tiriti o Waitangi, for example, where:
 - (i) they result in less frequent boundary divisions than the status quo (noting officials have identified that such outcomes could be inconsistent with the Crown's obligations under the Treaty);¹²
 - (ii) the inability to have a boundary review ahead of the 2029 General Election impacts the proportionality of representation, and the size, number and boundaries of Māori electoral districts;¹³ and
 - (iii) as one commentator noted, the proportion of the Māori descent population in a hypothetical 2028 census remains unchanged from

¹⁰ The RIS refers, at page 13, to the Minister intending to consult with parliamentary party leaders represented in the House of Representatives on reform options with the intention of seeking cross-party support.

¹¹ RIS at page 10.

¹² DDS at page 7.

¹³ As contemplated in a departmental briefing to the Minister (see Ministry of Justice *Proposed approach to the census modernisation and the Electoral Act 1993* (14 August 2025) at page 2).

current projections, along with the proportion of voters choosing to go on the Māori electoral roll, and there arises a need for eight Māori electorates at the 2029 election (up from seven at present).¹⁴

- 2.12 Despite these concerns, no consultation has been undertaken with Māori on the Electoral Bill.¹⁵ This raises questions as to whether those reforms are consistent with the Crown's obligations under the Treaty.¹⁶ While officials have noted that some aspects of the Bill which appear inconsistent with the Treaty "could continue to attract scrutiny as part of the Select Committee and House processes, which may require further discussions with political party leaders at that point",¹⁷ it is unclear what steps will be taken to address these concerns (noting cross-party consultation and discussions with political party leaders do not discharge the Crown's obligations under the Treaty).
- 2.13 We urge the Select Committee to seek advice from officials on these matters, and to ensure any resulting legislation is consistent with the Treaty.

Conflicting evidence from cost-benefit analyses

- 2.14 The Electoral Bill does not provide for a transitional boundary review, which means electoral boundaries will not be redrawn ahead of the 2029 General Election. This has been identified as the Minister's preferred policy option,¹⁸ despite officials:
- (a) confirming that provision for a transitional review is their preferred approach;
 - (b) advising that a transitional review could meet public and political expectations of boundaries being re-set ahead of 2029, and ultimately increase the perceived legitimacy of representation in 2029;¹⁹
 - (c) noting there is a broader Treaty of Waitangi/Tiriti o Waitangi interest in undertaking a transitional review, as it allows for the Māori electoral population to be recalculated ahead of the 2029 General Election;²⁰ and
 - (d) concluding that the benefits of excluding a transitional review from the Bill do not outweigh the costs.²¹
- 2.15 It is unclear why the decision was made to proceed with the Minister's preferred option, despite the concerns raised by officials. The Select Committee should seek advice on these points, and carefully consider whether these bills should require there to be a transitional boundary review (particularly in light of the costs and benefits of conducting such a review).

¹⁴ Sam Sachdeva "Govt's census shake-up advances despite 'unreliable' data concerns" (*Newsroom*, 4 March 2026, online ed).

¹⁵ DDS at page 7.

¹⁶ We acknowledge that some consultation appears to have been undertaken on amendments in the Data Bill.

¹⁷ Noted in a departmental briefing (see: Ministry of Justice *Census modernisation and electoral boundary reviews: outcomes of cross-party consultation and confirmation of key policy settings* (8 December 2025) at pages 3-4).

¹⁸ See RIS.

¹⁹ RIS at page 3.

²⁰ RIS at page 26.

²¹ RIS at page 3.

3 Next steps

- 3.1 We urge the Select Committee to seek further information and advice from officials on the issues we have raised in this submission, and to make necessary changes to these bills to ensure any resulting amendments, particularly to constitutionally significant entrenched provisions in the Electoral Act, have public support, are consistent with the Treaty of Waitangi/te Tiriti o Waitangi, and are supported by evidence and cost-benefit analyses.
- 3.2 We also note that, given these amendments are spread across two separate bills, it would have been helpful if more work had been done to clearly explain to the public how the two bills are related, and how the various amendments will work together. If these bills are to proceed, it would be helpful if steps could be taken to educate the public about these changes, and improve their understanding of what they mean for New Zealand's electoral arrangements.



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