

# POLICY Quarterly

Volume 20 – Issue 3 – August 2024

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## Editorial – Whither Democracy?

Humanity is witnessing a polycrisis. Globally, we face multiple threats – ideological, geopolitical, technological, ecological and demographic.

The evidence of serious problems is abundant. Many societies are deeply polarised socially and politically. Extremist social movements are gaining traction across the democratic world. Political violence and intimidation are escalating. Authoritarian regimes and autocratic leaders are in the ascendency. Important constitutional principles, including the rule of law, are under threat. Economic nationalism is intensifying. Geopolitical tensions are increasing. Support for multilateral institutions and a rules-based world order is ebbing. And the USA may re-elect a corrupt demagogue.

Meanwhile, AI exacerbates the spread of misinformation, thereby contributing further to declining public confidence and trust in democratic institutions. And multiple ecological crises – above all, climate change and biodiversity loss – cast a darkening shadow over Earth's critical life-support systems.

Compounding matters, these threats are interconnected and mutually reinforcing, thus enhancing the potential for cascading risks. Climate change, for instance, will impose ever-increasing economic, social and ecological costs. In particular, more severe droughts and floods, along with accelerating sea level rise, will displace tens of millions of people over the coming decades. Mass migration, in turn, will intensify ethnic divisions and religious intolerance, strengthen anti-immigration sentiment, reinforce economic nationalism and exacerbate political conflict.

Yet globally, the political will to tackle our current and emerging problems is faltering. This is especially true regarding our ecological crises. Influential political movements in many countries still dispute the overwhelming evidence of widespread ecological loss, damage and degradation. Efforts to achieve rapid decarbonisation and protect vital ecosystem services are constantly thwarted by powerful vested interests, regulatory capture or political gridlock. And all too often, as in Aotearoa, the virtues of unconstrained economic growth are prioritised over long-term environmental sustainability, including the survival of endangered species.

Take, for instance, the 920-page document prepared by the US Heritage Foundation to guide the next Republican president – known as 'Project 2025' (Dans and Groves, 2023). Almost all the 54 references to climate change by multiple contributors question the seriousness of the problem, ridicule recent decarbonisation measures or proclaim economic growth as the best solution.

Equally worrying are the profound constitutional, economic, social and environmental implications of several recent decisions by the US Supreme Court. Not only have these greatly handicapped the government's regulatory role, but they have also granted presidents 'absolute immunity' from prosecution when exercising their 'core constitutional powers' – and, moreover, determined that presidents should be 'entitled to at least presumptive immunity' for 'their remaining official actions'.<sup>1</sup> Such decisions are extraordinary.

What does all this mean for democratic governance? Already, the democratic 'tide' following the collapse of the Soviet Union in the 1990s is receding. As Stephanie Worboys highlights in this issue of *Policy Quarterly*, trust in democratic institutions is waning, including in Aotearoa. During 2019–23, according to the International Institute for Democracy and Electoral Assistance (International IDEA), half of all countries witnessed a decline in at least one indicator of democracy. Likewise, net losses outweighed net gains for the sixth year running: this included broad declines in every continent regarding the rule of law, human rights, and the quality of political representation.

As the secretary-general of International IDEA, Dr Kevin Casas-Zamora, laments:

Democracy faces critical challenges around the world, from polarization and authoritarianism to disinformation and climate change ... these issues are not unique to developing countries or to nascent democracies. They are problems common to all democracies. (Casas-Zamora, 2023)

Or, to quote W.B. Yeats' poem 'The Second Coming', written following the First World War:

Things fall apart; the centre cannot hold;  
Mere anarchy is loosed upon the world;  
The blood-dimmed tide is loosed, and everywhere;  
The ceremony of innocence is drowned;  
The best lack all conviction,

While the worst are full of passionate intensity.

Democracies have of course outlasted many previous crises. And there are no grounds for fatalism or despair. That said, the current threats are real. Determined efforts to enhance democratic resilience are essential. In this regard, the recommendations of the recent Australian Strengthening Democracy Taskforce deserve scrutiny (Strengthening Democracy Taskforce, 2024).

While there is no simple recipe for democratic resilience, maintaining effective, competent and non-corrupt government is vital. Equally, however, various constitutional, policy and other reforms warrant consideration. Among these are greater governmental efforts to counter misinformation, invigorating civic engagement and active citizenship (e.g., via better civics education in schools and deliberative mechanisms), stricter limits on campaign finance, and reforms to Parliament's standing orders (e.g., tighter constraints on using urgency).

Nevertheless, the survival of democratic institutions will ultimately depend on citizens' motives, beliefs and behaviours. Democracy requires, above all, a supportive political culture and widely shared moral values.

Central to such a culture are: a deep and abiding respect for human dignity, fundamental rights and ecological integrity; a willingness to take robust evidence seriously; a constant quest for the truth and a corresponding rejection of obvious falsehoods; a vigorous commitment to social justice and racial harmony; a precautionary approach in the face of deep uncertainty and serious risks; a readiness to support the long-term public interest despite the short-term costs; and an enduring recognition of human moral frailty, fickleness and failure, including the propensity for power to corrupt and absolute power – including 'absolute immunity' – to corrupt absolutely.

These values underpin a democratic and civilised world. They need persuasive advocacy, ongoing nurture and moral courage. They are worth striving for – and, ultimately, dying for.

Jonathan Boston, Editor

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## Anne Salmond

Sir Frank Holmes Memorial Lecture, April 2024

# Democracy and te Tiriti

Ko te wai e hora rā, ko Raukawa-moana. Ko te marae e takoto rā, ko te Whare Pī. Ko koutou āku rangatira kua pae nei i te pō nei, tēnā koutou, tēnā koutou, tēnā tātou katoa.

My thanks to the School of Government for their very kind invitation. I guess I ought to feel at home here in the shadow of Parliament, because, as they say, in politics it's dog eat dog, whereas in academia it's precisely the reverse. It's a good recipe for humility, in any case.

In this lecture in honour of Sir Frank Holmes, with his exceptional contributions to both academia and politics, I'd like to offer some thoughts, well researched I hope. It's not a matter of 'laying down the law', but of sharing ideas about matters of national importance.

In 1992, during its hearings on the Muriwhenua land claim, the Waitangi Tribunal asked me to give evidence on Māori understandings of te Tiriti o Waitangi when it was signed in 1840 (Salmond, 1991). I had trained as an historical linguist, and had recently published *Two Worlds: first meetings between Māori and Europeans*, a book that explored the beginnings of our shared history in New Zealand. Not wanting to tackle this task on my own, I worked closely with Merimeri Penfold and Cleve Barlow, friends and colleagues in the Department

of Māori Studies at the University of Auckland. Cleve was a fluent native speaker of northern Māori who had recently published a book on tikanga, while Merimeri, also a fluent speaker from Tai Tokerau, was a brilliant translator of te reo into English.

Merimeri, Cleve and I worked through the text of te Tiriti, word by word, drawing on their deep understandings of tikanga and te reo, Cleve's database and my own work on the historical records, including the debates at each of the northern sites where te Tiriti was signed. One of the first things we noticed was the use of the term 'tuku' – to give or release – throughout the text of te Tiriti, a term used in chiefly gift exchange.

In the debates over te Tiriti, each rangatira spoke for their own hapū, weighing up the risks and benefits of

forging a closer relationship with Queen Victoria, Governor Hobson and the British. Some drew on direct experience of visits by themselves or their predecessors to Britain or British colonies, where they'd met governors or monarchs, while others had studied the Bible and learned about governors in that context.

For the Queen's part, te Tiriti begins with a statement of care. In her mahara atawhai (caring concern) for the rangatira and hapū of New Zealand, it says, the Queen has decided to tuku or give a rangatira as a kai whakarite or mediator, literally 'one who makes things equivalent', to preserve their rangatiratanga and their land, to bring peace and tranquil living, and to avoid the evils arising from indigenous persons and settlers living without law.

In the debates over te Tiriti, the rangatira argued over whether or not to accept Hobson as a governor, and what that might mean for their people and their mana as rangatira. Since the first arrival of Europeans in Tai Tokerau, inter-hapū fighting had spiralled out of control through uneven access to muskets, the missionaries were challenging tapu and many tikanga, unruly settlers from Britain and elsewhere were difficult to control, and pressure from land speculators was intensifying. Life in 1840 was changing at a furious pace, and for the rangatira, leadership was increasingly

fraught. From their speeches, it is clear that they were not sure about what signing te Tiriti might mean. Eventually, however, almost all were persuaded by the missionaries, Hobson and various fellow rangatira to put their trust in the Queen's promises that they and Hobson would be equals, that their mana, lands and tikanga would be protected, and that it was in their best interests to sign te Tiriti.

Pivotal to these debates was the balance between 'kawanatanga' in ture 1 of te Tiriti and 'tino rangatiratanga' in ture 2. After a forensic analysis of these terms in many early texts in Māori, including the Bible

rangatira to cede their rangatiratanga. He had just returned from Port Nicholson, where New Zealand Company representatives who had just arrived on the *Tory* were buying up large areas of land, and was fearful about what that might mean for local kin groups. For that reason, I think, he softened his translation of the English draft of the Treaty to make it acceptable to the rangatira. Instead of using 'mana' and 'kingitanga' to translate 'sovereignty', as he had done in He Whakapūtanga, he used 'kawanatanga' or governance instead, a lesser power.

In 1992, when we gave evidence to the Tribunal that in te Tiriti o Waitangi the

In both hearings, not much attention was paid to ture 3 of te Tiriti, which was assumed to be a fairly accurate translation of the English draft: 'Her Majesty the Queen of England extends to the Natives of New Zealand Her royal protection and imparts to them all the Rights and Privileges of British Subjects.' On closer inspection, however, ture 3 puts it differently. Here, in exchange for their agreement to kāwanatanga, the Queen promises to care for 'nga tangata maori katoa o Nu Tirani' – the indigenous inhabitants of New Zealand – and tuku or gives to them 'nga tikanga katoa rite tahi' – tikanga exactly equivalent (not the same) – as to her subjects, the inhabitants of England. This was her return gift to the rangatira.

There are several other things to note about ture 3. While in English there is only one definite article, 'the', in te reo there are two, 'te' and 'nga', singular and plural. Thus, when the Queen promised to give 'nga tangata maori katoa o Nu Tirani', the indigenous inhabitants of New Zealand, tikanga (right ways of doing things) exactly equal to her subjects, the inhabitants of England, that gift was made to them as persons in the plural. Although the phrase 'nga tangata maori' has often been read as 'the Māori people', or, in the Lands case judgement in 1987, as 'the Maori race' in the singular, this is a translation error.

This insensible slip from plural to singular has contributed to the interpretation of te Tiriti as a binary 'partnership between races', or between 'the Māori race and the Crown', or 'Māori and Pākehā'. A small grammatical difference between te reo and English has contributed to constitutional confusion.

Throughout the text of te Tiriti, from the first line of the preamble onwards, its parties are named as Victoria, the Queen of England; the kāwana or governor; the rangatira; the hapū; and nga tangata in the plural. There is no mention of 'te iwi Māori' or anything that could be translated as 'the Māori people' or 'the Māori race' in the singular. Hapū are the largest collectivities mentioned.

In ture 3, furthermore, when the Queen gives nga tangata maori katoa o Nu Tirani (the indigenous inhabitants of New Zealand) as persons nga tikanga katoa rite tahi, tikanga absolutely equivalent to those

As Tāmāti Waka Nene said in one of the last speeches at Waitangi in 1840, speaking in favour of the governor, 'You must be our father! You must not allow us to become slaves! You must preserve our customs, and never permit our lands to be wrested from us!'

and He Whakapūtanga (the Declaration of Independence), like many scholars before us we concluded that in ture 1, the rangatira tuku or gave Queen Victoria absolutely and forever the right to have a governor in New Zealand, and to govern. This was a substantial gift, but less than the cession of sovereignty (in the sense of an indivisible, overarching power) claimed in the English draft of the Treaty.

Henry Williams, the British missionary who translated the English draft into te reo, had translated He Whakapūtanga, the Declaration of Independence, into Māori five years earlier. In He Whakapūtanga he used the words 'kingitanga' (kingship) and 'mana' to translate 'sovereign power and authority'; while 'kawanatanga' was used to translate 'a function of government', a lesser power that the rangatira might delegate to a person of their own choosing. The word 'rangatiratanga' was used as a translation equivalent for 'independence'.

Williams, who had lived in the north for 17 years, knew it was pointless to ask local

rangatira and hapū did not cede sovereignty to the British, the timing was awkward, and our report was quietly shelved. It was not until 2009, in the Te Paparahi o te Raki claim, that the Tribunal finally tackled the issue of sovereignty and its relationship with tino rangatiratanga in te Tiriti head on, and I was asked to revisit that earlier submission (see Salmond, 2023, pp.337–450).

By that time Cleve had died and Merimeri was not well, and with guidance from close colleagues, including Hone Sadler, Manuka Henare and Patu Hohepa, I carried out further research that upheld those earlier findings. This time, too, evidence given by hapū experts greatly enriched our understandings of the text of te Tiriti o Waitangi, and the context in which it was signed. In its stage one report, the Tribunal itself concluded that when they signed te Tiriti, the rangatira did not cede sovereignty to the Queen. They did give her absolutely and forever the right to govern in all their lands, however.

of her subjects, nga tangata o Ingarani, the inhabitants of England, this is a relationship of equivalence, not identity, with the governor sent as a kai whakarite, one who creates order and balance.

Rite in ture 3 is a word that means equivalent, not the same – equality in difference. As Tāmami Waka Nene said in one of the last speeches at Waitangi in 1840, speaking in favour of the governor, ‘You must be our father! You must not allow us to become slaves! You must preserve our customs, and never permit our lands to be wrested from us!’ When Nene’s elder brother Patuone spoke at Waitangi, the last of the manuhiri to address the gathering, Bishop Pompallier reported that ‘he spoke at length in favour of Mr. Hobson, and explained, by bringing his two index fingers side by side, that they would be perfectly equal, and that each chief would be similarly equal with Mr. Hobson’ (Low, 1990, p.192; Colenso, 1890, pp.26–7).

According to this reading of te Tiriti, when each rangatira signed the parchment they forged their own alliance with Queen Victoria. In the Northern Wars which followed five years later, after Treaty promises were broken, some rangatira and hapū fought with British troops, while others fought against them. The same thing happened in the Land Wars in the 1860s.

Rather than a bilateral partnership between ‘the Māori race’ and the Crown, then, te Tiriti is a multilateral agreement in which each rangatira and their hapū gave kāwanatanga, the right to govern, to Queen Victoria, while retaining their tino rangatiratanga, their independent right to manage their lands, ancestral treasures and relationships with the Crown. At the same time, the indigenous inhabitants of New Zealand with their tikanga were placed on an equal footing as persons with the inhabitants of England. In this arrangement, the mana of all parties is respected.

Is this compatible with democracy? I would say so, absolutely. Indeed, in 1840, life in te ao Māori was in many ways more democratic than it was in Europe. As Frederick Maning, an early settler in the Hokianga, observed,

The natives are so self-possessed, opinionated, and republican, that the chiefs have at ordinary times but little

control over them, except in very rare cases, where the chief happens to possess a singular vigour of character to enable him to keep them under. (Maning, 1863, p.37)

Or as Francis Dart Fenton, a distinguished judge of the Native Land Court, remarked,

No system of government that the world ever saw can be more democratic than that of the Maoris. The chief alone has no power. The whole tribe deliberate

In 1840 the trader Joel Polack wrote:

it is not uncommon to see young children of tender years, sitting next to their parents in the councils, apparently listening with the greatest attention ... They ask questions, [and the chiefs] answer them with an air of respect, as if they were a corresponding age to themselves. I do not remember a request of an infant being treated with neglect, or a demand from one of them being slighted. (Polack, 1840, I/378–9)

... article 3 in the English draft of the Treaty, in which the Queen of England gave the indigenous inhabitants ‘all the Rights and Privileges of British Subjects’, was not really much of a gift.

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on every subject, not only politically on such as are of public interest, but even judicially they hold their ‘komitis’ on every private quarrel. No individual enjoys influence or exercises power, unless it originates with the mass and is expressly or tacitly conferred by them. (Fenton, 1860, p.11)

At a time when European married women did not enjoy property rights or the vote, Māori women inherited land from their parents and grandparents, and female rangatira and tohunga exercised considerable influence. Contrary to contemporary *Once were Warriors* myths, too, European eyewitnesses reported that family life in Māori communities was generally affectionate, and children were cherished. According to Samuel Marsden, for instance, a leading missionary who visited New Zealand for the first time in 1814 (and could never be accused of being a ‘bleeding heart’), ‘I saw no quarreling while I was there. They are kind to their women and children. I never observed either with a mark of violence upon them, nor did I ever see a child struck’ (Marsden, 1832, p.479).

In the United Kingdom, on the other hand, discipline through the criminal code and in everyday life was harsh, and often very violent. Under the doctrine of ‘coverture’, women and children were legally ‘covered’ by their husbands and fathers, who were entitled to use corporal punishment as a form of discipline, and married women had no independent property rights. The King or Queen was the head of state, and governance was shared between the House of Lords or the ‘upper House’, and the House of Commons, reflecting a powerful class system. At that time the franchise was limited to men, and only men with a certain amount of property. In 1833 in England and Wales, for instance, only about one in 17 men who lived in towns and one in 24 men in rural areas had the franchise, while in Ireland, about one in 26 urban men and only one in 114 male country dwellers could vote (Hoppen, 1985, p.204).

In Ireland and in Highland Scotland, too, imperial rule was brutal. In the Highlands, for instance, the Gaelic language and culture were suppressed as ‘one of the chief and principal causes of barbarity and incivility’, and resistance brutally smashed in battles such as Culloden, after which lands were

confiscated and their leaders were hung, drawn and quartered. This was followed by the Highland Clearances, in which my own forebears, formerly seanachaidh or keepers of traditional lore for kings of Scotland and the lords of the Isles, were driven from their ancestral lands into exile.<sup>1</sup>

For all of these reasons, article 3 in the English draft of the Treaty, in which the Queen of England gave the indigenous inhabitants 'all the Rights and Privileges of British Subjects', was not really much of a gift. Under English rule, like the Highland Scots and the Irish, tāngata Māori – especially women – lost many of their

Around the end of the 19th century, however, as groups of MPs rallied around particular policies, political parties began to form. Under the 'first past the post' system (FPP), the candidate in an electorate with the most votes won the seat, and the party with the most seats won the election. This soon evolved into a two-party system which often polarised decision making, and the party that won the most votes did not always win the election.

In 1993, as we all know, this was changed to a mixed-member proportional system (MMP), in an attempt to achieve a more representative government. Under

In te Tiriti, the honour of Queen Victoria and her descendants is at stake, along with the mana of the rangatira who signed it, and theirs. In 1975 when the Waitangi Tribunal was established to try and make amends for this dishonourable history and uphold the Queen's promises, that was democracy in action, supported by the wider electorate.

Throughout our shared history, there have been intermittent struggles between those who try to uphold the Treaty of Waitangi and the honour of the Crown, and those who wish to disregard its promises. When hapū have united to uphold their mana, in the Kingitanga and Kotahitanga movements, for instance, this has almost invariably been in response to radical breaches of te Tiriti – from the time of the Northern Wars and the Land Wars to the present.

It is important to understand this dynamic. While te Tiriti itself is a multilateral agreement between the various rangatira, their hapū and Queen Victoria, the Crown has always found it convenient to try and deal with hapū in larger groupings, whether as iwi, iwi groupings, 'the Māori race' or 'the Māori people'. At the same time, when Treaty promises are broken, hapū leaders join together to defend their people. The greater the threat, the wider the net is cast in forging these alliances. This process is very visible in New Zealand at present.

Given these converging dynamics, it is not surprising that in recent times te Tiriti has often been recast as a binary pact between 'the Crown and the Māori race' or 'Māori and Pākehā', as in the 1987 Lands case, rather than a set of multilateral alliances between Queen Victoria and the rangatira of the various hapū.

This kind of biracial framing has its dangers, however. Global studies of a process called 'pernicious polarisation' have examined how self-interested parties may play upon such divisions by 'stoking fears, anxieties and resentments that then become expressed as hostility, bias and eventually enmity. By choosing the cleavage or grievance to highlight, they drive the polarization' to amplify their power (McCoy and Somer, 2019, p.240). Identities – political, ethnic or religious – may be reduced to simple binaries: left versus right, Democrat versus Republican, black versus

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ancestral freedoms, and any idea that the Treaty introduced modern democracy to New Zealand is mistaken.

When the first election was held in New Zealand in 1853, for instance, only men had the right to vote. They had to be British citizens, 21 years old or more, and, as in Britain, own property over a certain value. That excluded most Māori, whose land was held in common by kin groups. The right to vote was extended in 1867 to all Māori men, who elected four Māori MPs to the House of Representatives; and in 1879 to all European men. In 1893, women, including Māori women, finally won the right to vote in national elections. This world-leading shift came about in part because Māori women enjoyed leadership roles and property rights at a time when these were denied to European women.

At first, New Zealand citizens voted for individual MPs based on their character, values and the policies they supported.

This system, citizens have two votes, one for a party and one for their local MP. Parties are elected to Parliament if they win at least 5% of the party vote or at least one electorate. Under MMP, parties or interest groups are intended to command influence roughly proportionate to their electoral support. When that ceases to be the case, MMP is failing.

Given this historic background, there are many ironies in current debates about democracy and the Treaty. Under the Queen's promises in te Tiriti o Waitangi, a democracy might have emerged in New Zealand that was freer, more accountable and more just than that in Britain at the same time. Instead of peace and tranquil living, however, there was war, followed by large-scale confiscations of land, and harsh cultural repression. From that time until now, the promise of equality for indigenous persons in New Zealand has not been delivered, as contemporary statistics attest.

white, Catholic versus Protestant, iwi versus Kiwi. In this polarising process, ‘identity can become all-encompassing as people view those in the “Other” camp with distrust, suspicion, or fear, and cease to interact with them – even segregating themselves in their neighborhoods, social relationships, and news-feeds with like-minded people’ (ibid., p.236).

The middle ground becomes a battleground (sometimes literally); moderate voices are silenced, and those with cross-cutting loyalties are cancelled. This undermines good governance by making parties less likely to compromise, or to reach a consensus.<sup>2</sup> If left unchecked, this kind of polarisation can split societies, devastate nation states, wreck their economies and destroy the lives of their people.

This has happened in many countries – Serbs and Croats in Bosnia; Catholics and Protestants in Ireland; Israel and Palestine in Gaza; Hutu and Tutsi in Rwanda, and in many other African nations. Many analyses are being written about ‘pernicious polarisation’ in America at present.

As for political parties involved in such processes, ‘[i]ncumbent polarizing parties typically attempt to govern on their own and eschew norms for bipartisan or multi-partisan decision-making’ (ibid., p.249). That may include governing with an absolute majority without consulting the opposition or the wider electorate; forging alliances with smaller, more extreme parties; or governing by autocracy and repression.

No country is immune from this kind of politics. After the 2020 election in New Zealand, for instance, when Labour won an absolute majority, the government engaged in unilateral decision making that accentuated existing social cleavages – central versus local government, rural versus urban communities, and Māori versus other New Zealanders in relation to Te Tiriti, for instance. In their turn, other political agents played upon these divisions. While in the past, genuine grievances and structural disparities have been addressed with bipartisan support through the Waitangi Tribunal, equal opportunities programmes or the creation of ministries to address the needs of women, Pacific Islanders and Māori, some politicians now depict these as forms of privilege, stoking popular resentment.

In the face of rising tensions, strong democratic checks and balances are needed. In New Zealand, those inside Parliament include the scrupulous avoidance of conflicts of interest, opportunities for public input and informed advice, select committees, and cross-party co-operation on matters of national importance. Those outside Parliament include a politically neutral public service, independent bodies such as the ombudsman, the auditor-general, the Waitangi Tribunal and the Climate Change Commission, a free, independent press, an independent judiciary, and universities as ‘critic and conscience’ of society.

campaigns, undermines democratic checks and balances. If wealthy citizens, corporates and think tanks can gain disproportionate influence through media campaigns, lobbying and campaign donations, and policies can be purchased as part of the electoral process, that undermines public trust in good governance.

A combination of these risks and failures has led to a catastrophic collapse of faith in democracy in many countries around the world, with authoritarian regimes a common outcome. As Benjamin Franklin, another of the founding fathers of democracy, once observed, ‘[a

## In Tairāwhiti in the wake of Cyclone Gabrielle, we saw how an unholy alliance between lobbyists, politicians and extractive industries can play out, when forestry waste swept downriver destroyed roads, bridges, fences, paddocks, orchards, vineyards, homes, livelihoods and lives.

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In recent times, however, almost all of these checks and balances have been weakened. Inside Parliament, urgency has been used to avoid public input and rigorous debate; ministers are awarding themselves powers to make unilateral decisions; and cross-party co-operation on matters of national interest is uncommon.

Outside Parliament, the investigative role of the press is being undermined by the rise of social media, where misinformation freely circulates; the impartiality of the public service has been compromised by direct ministerial controls; the statutory role of universities as ‘critic and conscience of society’ is challenged; and politicians are attacking the judiciary and independent bodies, including the Waitangi Tribunal and the Climate Change Commission.

At the same time, increased inequality in power and wealth, along with lobbying and the private funding of political

democratic] government is not establish’d merely by *Power*; there must be maintain’d a general Opinion of its *Wisdom and Justice*, to make it firm and durable.’<sup>3</sup> What would a wise and just government look like here in Aotearoa New Zealand?

To begin with, I think a wise and just government would seek a balance between collective responsibility and individual freedoms, rather than seeing these as ideological opposites. Both are fundamental to a thriving democracy.

Polarisation around ethnicity or ‘race’ is also dangerous. Unilateral decision making – in whatever direction – sparks the resentment that ignites ‘pernicious polarisation’. Discussions that exclude the descendants of the various rangatira and hapū who signed Te Tiriti, or the descendants of the incoming settlers, are cases in point. Te Tiriti is a relational pact, and all parties involved in its promises must be respected. Once again, it is a question of balance.

A wise, just government would also pursue long-term policies aimed at delivering thriving landscapes and communities across Aotearoa New Zealand. In Tairāwhiti in the wake of Cyclone Gabrielle, we saw how an unholy alliance between lobbyists, politicians and extractive industries can play out, when forestry waste swept downriver destroyed roads, bridges, fences, paddocks, orchards, vineyards, homes, livelihoods and lives. Industrial forestry, having lobbied long and hard to avoid environmental controls, inflicted crippling long-term costs on the local community and the regional economy (Salmond and Caddie, forthcoming).

Such policies are also self-defeating, with forestry companies in Tairāwhiti now losing their international certification for sustainability and access to key markets. The same could happen to agriculture and horticulture in New Zealand if we're not careful.

A wise, just government would also conduct its business out in the open. Like many others, I think that the links between politicians, lobbyists and funders in New Zealand are too opaque at present. It would be good to know, for instance, where the funding for the current, multi-stranded and very costly campaign to rewrite te Tiriti o Waitangi is coming from, when this is channelled through groups that are not currently required to report on their sources of income. The same applies to campaigns to weaken anti-smoking policies and environmental protections.

With well-designed processes, democracy can work at pace, and trading freedom for speed is dangerous. Furthermore, as we've seen in Tairāwhiti, destroying the environment for short-term profit is economically as well as ecologically self-destructive. It is also the opposite of localised democracy, where local people have a real say in decision making. Under such a regime, the likelihood of conflicts of interest is obvious. No government, I think, should be trusted with this kind of power.

Under MMP, too, with coalition governments, the relationship between the votes cast for particular parties and policy outcomes can be tenuous. Small parties hitch their wagon to larger ones and force through policies that at the time of election attracted very little support from the

electorate. Such disproportionate empowerment corrodes trust in Parliament and the democratic process.

Democracy is under siege in many countries, and the stratagems being deployed are well documented. Although the authors of studies of 'pernicious polarisation' offer no silver bullet for combating its threats to democratic checks and balances, they warn that responding in kind with vilification and reprisals only speeds up the process. Rather, they suggest casting light on such devices and those who deploy them; greater transparency and oversight of links between funders and politicians; and the deliberate strengthening of the middle ground through bipartisan policymaking, with wide civic engagement that reaches across ethnic and other boundaries, and well-moderated, inclusive conversations about divisive matters, in citizens' assemblies or on marae, for example.

In New Zealand, many of our ancestors came to create better lives for themselves and their children. This led to a robust independence coupled with a sense of social responsibility and the idea of a 'fair go' – a powerful combination. As citizens, we have the right and duty to demand honest, wise and fair governance from our leaders; and to help devise solutions.

As Pita Tipene has said,

The hapu is the chief of the chiefs. This is how it has been from time immemorial ... a rangatira is a person who weaves people together ... The rangatira is not above the hapu. The rangatira must listen to the people, in

Whakarongo! Whakarongo! Whakarongo!  
Ki te tangi a te manu e karanga nei  
Tui, tui, tuituiaa!  
Tuia i runga, tuia i raro,  
Tuia i roto, tuia i waho,  
Tuia i te here tangata  
Ka rongo te pō, ka rongo te pō  
Tuia i te kawai tangata i heke mai  
I Hawaiki nui, i Hawaiki roa,  
I Hawaiki pāmamao  
I hono ki te wairua, ki te whai ao  
Ki te Ao Mārama!

1 For an account of the experiences of the Scottish Highlanders, who were treated as 'barbarians' and 'savages', had their Gaelic language and customs suppressed and their lands taken, and many of whom were forced into exile, see, for instance, Hunter, 1995, pp.19–39.

accordance with tikanga. If they do not listen, they will be cast aside. (Waitangi Tribunal, 2014, p.31)

That is the true promise of te Tiriti. Instead of trying to divide us, we need leaders who will look far into the future, listen to the people, take the best strands of our ancestral legacies and weave us together.

What would this look like? I think that there are many examples of this kind of leadership in Aotearoa New Zealand. Think, for instance, of the multitude of charities across the country that work across these boundaries, caring for those in need, restoring local landscapes, supporting the arts and sport and strengthening community networks. Or the marae that in times of crisis, whether floods or earthquakes, open their doors to the wider community, so that people have food to eat and a place to sleep. Or the catchment groups where people from different backgrounds come together to heal our waterways.

This is democracy at the flax roots and grass roots, led by people trusted by their peers, who know how to make a positive difference. It is the opposite of top-down, divisive politics where self-interest rules and power and wealth are highly concentrated.

A number of community-based leaders have made their way into Parliament, across the political spectrum. I hope they will stand tall, and fight for wise, just governance in New Zealand – the kind that cares for land and people, and binds us together. Nā reira, e āku rangatira, kia kaha, kia toa! As my mentor Eruera Stirling used to chant:

Listen! Listen! Listen!  
To the cry of the bird calling  
Bind, join, be one!  
Bind above, bind below  
Bind within, bind without  
Tie the knot of humankind  
The night hears, the night hears  
Bind the lines of people coming down  
From great Hawaiki, from long Hawaiki  
From Hawaiki far away  
Bind to the spirit, to the day light  
To the World of Light.

2 Many thanks to Chris Wilson for making this point.

3 Benjamin Franklin to Joseph Galloway, 9–28 February 1769, Clements Library, <https://founders.archives.gov/documents/Franklin/01-16-02-0008>.



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Mike Reid

# Revitalising New Zealand's Democracy From the Bottom Up

## local government's contribution

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### Abstract

Established democracies across the world, with few exceptions, are grappling with the issues of growing distrust in public institutions and declining democratic participation. Governments have responded in multiple ways: by, for example, implementing strategies to address regional social and economic disadvantage, such as the United Kingdom's levelling up programme, and reforming electoral systems to address perceived unfairness, such as limits on political donations. There has, however, been little attention given to the role that local government plays, or could play, in a strong and resilient democracy. Councils play at least three major roles: namely, promoting active citizenship, building social cohesion, and strengthening community voice and choice. This article examines the first of those roles, promoting active citizenship, and sets out the reasons why it needs to be a priority for New Zealand councils.

**Keywords** local government, democracy, declining trust, active citizenship, deliberation

As mayors who are accountable every minute to our neighbours, we can inspire and lead. We can reinforce democracy with everything we do, because as the late Congressman and civil rights hero John Lewis said, 'democracy is not a state. It is an act'. (Myrick 2022)

The last three decades have not been particularly good for liberal democracy. Despite the triumphalism that followed the collapse of the Berlin wall, it took only a few years before opinion surveys began to highlight a declining trust in public institutions and growing discontent with liberal democracy (Institute for Public Policy Research, 2021). It was, and continues to be, a discontent that reflected citizen concern about the inability to control the forces governing their lives. Michael Sandel, who highlighted such concerns in his book *Democracy's Discontent*, argued that the discontent indicated an unravelling of the moral fabric of the community (Sandel, 1996). Nearly 30 years on, Sandel's observations seem even more salient, and not just in the United States.<sup>1</sup>

The belief that governments are too remote to care about the problems at the

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grassroots while primarily serving elites is undermining trust in public institutions and is associated with the rise of populist movements of the nationalist sort. Not only are people growing more critical of their political leaders; a growing number are also 'more cynical about the value of democracy as a political system, less hopeful that anything they do might influence public policy, and more willing to express support for authoritarian alternatives' (Foa and Mounk, 2016, p.7).<sup>2</sup>

Yet the reasons behind such attitudinal shifts towards the efficacy of democracy, both as an ideal and as a system, are less clear (see Giddens, 2000; Goodwin, 2018; Rashbrooke, 2018). There is more agreement about the existence of a problem than there is about its causes, or the remedies, but a critical factor is declining trust. In their report, *Trust Issues*, the Institute for Public Policy Research, a British think tank, argues that there are the two sets of factors causing this growing distrust, namely:

- government performance: this means the outputs (such as public services) and outcomes (such as social outcomes) that government delivers;
- government processes: this means the process by which these decisions are made (such as how well democracy functions). (Institute for Public Policy Research, 2021, p.29)

The first, the performance of government, concerns the belief that democratic governments, whether because of a lack of ability, or interest group capture, are unable, or unwilling, to address chronic social and economic inequalities, or address the major challenges societies are facing (also see Collier and Kay, 2021; Godfrey, 2023). This factor also involves the view that this failure of performance has led to widening social and economic divisions between communities, divisions that have undermined notions of collective solidarity/identity and diminished the willingness of people to contribute to the public good (Mounk, 2018; O'Ferrall, 2001; Gluckman et al., 2023).

The second, the processes of government, involves the belief that citizens are gradually being excluded from public decision making due to corporatisation, privatisation and the increasing reliance on experts. From this

While the importance of citizenship is not a new idea, dating back to at least Aristotle ... it has come back into favour in recent decades, largely in response to socio-economic forces that have had the effect of turning citizens into passive consumers ...

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perspective, the Brexit debate was the latest episode in a centuries-old contest between expert rule and participatory democracy (Guldi, 2016). Such processes have created vacant political and cultural spaces that have been exploited by advocates of strong leaders and supporters of xenophobic policies. The result is growing disengagement, which, as Reid and Schulze point out, results in an erosion of both trust and respect for institutions (Reid and Schulze, 2023, p.7).

These trends are present to one degree or another in the majority of established democracies (International IDEA, 2023) and Aotearoa New Zealand is no longer an exception, especially since the outbreak of the Covid-19 pandemic, which created a new constituency of citizens sympathetic to non-democratic narratives. The threats may not be existential, but they do serve to remind us that the health of our democracy cannot be taken for granted.

Local democracy can play an important role in strengthening our democratic narrative. Three critical roles are rebuilding trust in our public institutions by offering

voice and choice (addressing issues of central government performance); revitalising active citizenship; and strengthening the bonds between our increasingly diverse communities. This article examines the second of these factors, the need for councils to do more to strengthen active citizenship, noting the evidence that discontent with democracy appears directly related to a belief that individual agency is in decline.<sup>3</sup> It is a view which draws directly on the narrative, given prominence during Brexit, that the realm of political decision making is being undermined by technocrats and non-democratically accountable agencies. Consequently, there is a growing gap between the policymakers and legislators in Parliament and citizens, many of whom feel excluded from having influence on the decisions that affect their lives – a loss of agency (Goodwin, 2018). In short, the article considers the evidence for why strengthening individual agency and promoting active citizenship should be a priority for councils, which is not necessarily well understood in either central or local governments.

#### The importance of active citizenship

Loss of individual agency creates a problem of legitimacy (for the state) and relates directly to the growing distance between governments and their citizens,<sup>4</sup> the reframing of citizens as consumers, and the reduction of the public spaces needed to grow civic strength.<sup>5</sup> Most of all, loss of agency undermines the traditional notion of citizenship; that is, the belief that being a member of a polity comes with rights (and duties) to be actively involved in decision-making processes about the public interest, at all levels of community. As O'Farrell argued:

A citizen is one who participates in the civil community, either in government or in the deliberative or judicial functions of the polity. Citizenship is the means to involvement in a shared enterprise orientated towards the realisation of the common good; and political participation is the necessary vehicle for the attainment of the good. (O'Ferrall, 2001)

The importance of participation to the act of being a citizen is acknowledged from multiple perspectives. Rashbrooke (2018) argues that participation in collective decision making (which he also refers to as self-government) is one of the most fundamental of all human acts. Reinforcing its psychosocial importance, Benjamin Barber suggests that participation is essential if people are to fully realise their potential as human beings (see Traub, 2024). Both perspectives remind us that citizenship is a learned activity – practice matters.

While the importance of citizenship is not a new idea, dating back to at least Aristotle (Sabine, 1937), it has come back into favour in recent decades, largely in response to socio-economic forces that have had the effect of turning citizens into passive consumers (see New Citizenship Project, 2021). Alongside the growth in citizenship discourse there has been a new interest in the work of writers and theorists who spoke up for active citizenship in the past, such as Hannah Arendt (Elshtain, 2000; O'Ferrall, 2001; Applebaum, 2022; Weinman, 2019).

Arendt argued that being a citizen is to have a capacity to think one's own thoughts, take initiative and act spontaneously – all of which are given effect through politics, and all of which can be undermined by the professionalisation and compartmentalisation of modern life, leading to disempowerment (Applebaum, 2022). In an argument prescient to our current concerns about echo chambers, Arendt called for a common political language to enable citizens to understand the common world, communicate, and identify interests in common. In this context Arendt is echoing Alexis de Tocqueville who, in his study of American democracy in the early 19th century, found evidence that participation in local self-governing associations, such as town councils, enabled citizens to come together to discuss common needs and increase their awareness of the needs of others (de Tocqueville, 1969). Similar views also underpin the more recent interest in civic republicanism, with Sandel arguing that to be free is more than the freedom to choose one's own ends; it is also to share in self-rule, which means participating in shaping

It is by participating in the local polity that people acquire the skills and aptitudes necessary to become citizens, a role that local government is ideally placed to play.

the forces that govern the destiny of political communities (Sandel, 2000). Inherent in this notion of citizenship is the importance of local spaces in which communication and deliberation can occur. As John Dewey noted in the early 20th century:

'the public is a collective called forth by experience of common problems' ... the way that democratic societies deal with common problems is through public conversation – through what political theorists call 'public reasoning'. (Iverson, 2023)

However, conversation has the potential to be more than simply a collective way of solving problems. Arendt, who uses the analogy of the 'town square', argues that engaging in earnest debate involves experiencing a mutuality of interests. This is especially so where the subject of those conversations is defined by citizens themselves, rather than them being asked to provide feedback on matters defined by an external authority (such as providing feedback on a council consultation document). This importance of direct

engagement, or participation, was addressed in depth by the taskforce that reviewed the future of local democracy in Scotland in 2014. In their report, the taskforce concluded that participatory democracy doesn't just enhance transparency; it builds trust and ensures that policies reflect the community's voice and needs (Commission on Strengthening Local Democracy, 2014). Other benefits identified by the commission include:

- Citizens and government engaging in a more personal and meaningful way can generate a two-way learning process towards a more aware and active citizenship, and become, as a result, better informed and more responsive government actors.
- Citizens become better equipped and more able as a result of the knowledge and awareness that comes from real-life contact with officials.
- Citizens feel they have a stake in governance because they have opportunities to express their views and affect policy decisions.

The taskforce argued that a more responsive local governance system would lead to greater consensus, shared ownership, and citizens who are more likely to comply with local policy decisions voluntarily. It is by participating in the local polity that people acquire the skills and aptitudes necessary to become citizens, a role that local government is ideally placed to play. Municipalities, as de Tocqueville (1969) noted, not only give citizens the experience of government but also act as schools of citizenship. The Scottish Commission on Strengthening Local Democracy came to a similar conclusion:

Research evidence ... suggests that when local democracy is regarded by citizens as important in their lives, and where citizens are more engaged in the political life of their local community, then those citizens also tend to be more engaged and active within local civic society. (Commission on Strengthening Local Democracy, 2014, p.21)

Reinforcing this finding, a study on the impact of citizen participation in the Netherlands cities of Groningen and Eindhoven found that participation

increased respondents' understanding of decision-making processes, as well as providing the skills necessary for dealing with bureaucratic processes. The study also found that participation results in respondents having a more positive view of the municipality and being more willing to work with neighbours on local issues (Michels and De Graaf, 2010).

This proximity contributes to socialising democratic norms and building trust towards, and understanding of, local public institutions. It is an outcome that is in sympathy with the tradition of civic republicanism, which highlights the intrinsic value of political participation for the participants and, as O'Ferrall (2001) argued, reflects the highest form of living together that most of us can aspire to. He contrasts this notion of citizenship with what he calls the privatised and impoverished view of what it means to be a citizen, which, he notes, is long accepted and still current in democratic societies today.

#### A growing focus on local government and democratic participation

Increasingly, the municipality is being seen as a site for political engagement and civic transformation, a focus that has resulted in the emergence of new and innovative approaches to local governance. For example:

- The city government in Bologna is undertaking a reconceptualisation of how government might work in cooperation with citizens. Ordinary people, acting as commoners, have been invited to enter into a 'co-design process' with the city to manage public spaces, urban green zones, abandoned buildings and other urban resources (Carson, 2018).
- Cities like Barcelona, Seoul, Frome and Grenoble are experimenting with a poly-centric approach to governance in which policymaking is done at the grassroots level, empowering citizens' groups to make policy proposals (Troncoso, 2017).
- The Belgian region of Ostbelgien has sought to democratise the agenda-setting process by using both an agenda-setting citizens' council and a decision-making citizens' panel. The citizens' council is a longer-term body

New Local, a UK-based think tank, argues that, despite the high profile of recent national deliberative initiatives, deliberative and participatory activities are most likely to have impact at a local level ...

- that sits for 18 months and monitors the implementation of recommendations made by the shorter-term panel.<sup>6</sup>
- The Scottish government and COSLA, the Scottish association of councils, agreed in 2017 that councils will allocate at least 1% of their budgets through participatory budgeting processes.

Other developments of interest include the way in which the Kurdish cities in the north-east of Syria (Rojava) have adopted Murray Bookchin's concept of democratic confederalism and established municipalities based on the principles of participation and inclusivity (Rojava Information Centre, 2022).

Two recent reports from the United Kingdom throw light on what councils can do to strengthen democratic participation and strengthen local voice. The first is the report of the Newham Democracy and Civic Participation Commission (2023). The commission had two tasks: to review the borough's existing system of governance, including its directly elected mayoral model; and explore the way in which local citizens could be more involved in local decision making and the council's work.

Although not all of the commission's ten core recommendations are relevant to New Zealand, those most pertinent to the topic of this article are:

- that a permanent citizens' assembly, meeting twice a year, is established to consider important and emerging local issues;
- that the borough expand participatory and area-based democracy with a minimum of 20% of the council's community infrastructure levy allocated through neighbourhood or area-based participation. The process for setting neighbourhood priorities should be aligned with the council's annual budget-setting process;
- that a community-wide community governance review is carried out to co-produce, with local people, a framework on how devolution and area-based governance will work;
- that the borough work with local people to develop a statement of mutual expectations around participation and involvement, to be an integral part of the Newham mayoral model; and
- that a 'one Newham' partnership is established as the key vehicle for the council to engage with the voluntary and community sector.

Some of the critical themes in the commission's recipe for strengthening local democracy involve the creation of a permanent citizens' assembly, a focus on co-production with communities, and the empowerment of neighbourhoods. The commission's recommendations reflect a growing view that representative democracy, which generally engages with people only occasionally (during elections or formal consultations), is unable to meet people's expectations for having influence. Consequently, interest in deliberative and participatory approaches, which are designed to bring different voices to the decision-making table, has been growing. As Carol Harlow noted more than two decades ago, 'today the argument has shifted. Models of deliberative and participatory democracy are increasingly fashionable' (Harlow, 2002, p.1).

New Local, a UK-based think tank, argues that, despite the high profile of recent national deliberative initiatives, deliberative and participatory activities are

Deliberation brings together claims on public agendas and resources with reasons, and requires agents and institutions to listen to the reasons, weigh them against competing ones, and do so visibly.

Direct forms of participation are those in which citizens are personally engaged in providing input, making decisions and solving problems (Nabatchi and Leighninger, 2015, cited in Rashbrooke, 2018).

most likely to have impact at a local level (see Pollard, Studdert and Tiratelli, 2021). This reflects the degree to which people believe they are more able to influence decisions at the local than the national level. In terms of their ability to promote active citizenship, deliberative and direct forms of democratic participation can be constrained by their episodic nature and the fact that their existence and topic of consideration depend on the discretion of an authorising body, in this case a local authority. Representative deliberative approaches rank highly for their ability to make well-reasoned and researched recommendations reflecting the diversity of the affected community (which is also trust-enhancing in itself), but are unlikely to build citizenship skills amongst the majority of people, skills which are learned through practice. This is where participatory approaches, which are more broad-based and intended to involve large numbers of people, can help.<sup>7</sup>

To increase active citizenship, deliberative tools need to live alongside forms of engagement, especially those that are ongoing and occur in the context in which people live, work and play – in other words, ongoing and permanent mechanisms through which citizens can participate. Sandel makes this point when he states that ‘the formative aspect of republican politics requires public spaces that gather citizens together, enable them to interpret their condition, and cultivate solidarity and civic engagement’ (Sandel, 1996, p.349). More relevantly, he argues that contemporary issues make the politics of neighbourhoods more important as they constitute sites of civic activity and political power that can equip citizens for self-rule.

The significance of neighbourhoods to democratic government has received growing attention in recent years, the reasons for which were well summarised

by Leighninger in 2008 (see also Fyans and McLinden, n.d.). Leighninger concluded that neighbourhoods:

- aren't the only hubs for community, but they may still be the most important ones;
- are where conflict between residents and government is on the rise – over local land use decisions, crime prevention and policing strategies, traffic, environmental concerns, school closings, and so on;
- are often where new leaders first emerge;
- are the most immediate access points for confronting a wide range of public problems – and leveraging a host of community assets;
- are where you can foster cooperation, collaboration, and public work involving residents, government and other groups;
- are at least one important arena where government ‘of, by, and for the people’ can actually happen, on a regular, ongoing basis (rather than every once in a while, when a crisis occurs or a major decision approaches).

In short, neighbourhoods are a setting where politics can be reunited with community and culture – a place where people can maintain social connections, exercise political power, and feel like they are part of something larger than themselves (Leighninger, 2008, p.5). More recently, noting that neighbourhoods are the home to associational life at the local level, Fyans and McLinden identified three principles underpinning an ‘empowered’ community. They are:

- autonomy: residents are free to define the problems, or possibilities, of their neighbourhoods and are facilitated and supported to do so;
- participation: residents are brought into the process of local decision

making in a democratic and consequential way;

- results: residents’ engagement leads to tangible results for their neighbourhoods, with clearly defined pathways of accountability.

If participation is to lead to active citizenship, then approaches need to not only include representative deliberation such as citizen assemblies, citizen juries and citizen panels, but also include structured opportunities for communities to learn citizenship skills through participatory style mechanisms: for example, participatory budgeting, neighbourhood budgets, and processes for recognising (and incorporating into decision making) self-defined communities, whether communities of place, interest or identity. Local government, reflecting its democratic mandate, can play a key role in building civic strength. That role includes being stewards of the local commons and creating spaces (actual and virtual) within which political conversations and dialogue can occur in a non-threatening way, essentially facilitating public deliberation.

As Head notes:

Respect for plural forms of knowledge and experience is central to promoting democratic participation and more decentralised forms of civic discussion. Given the many forms and sources of policy-relevant knowledge and experience, it is argued that multiple venues and forms of discussion are necessary to address complex and contested issues and to improve trust and legitimacy in decision-making. (Head, 2023, pp.10–11)

Head emphasises the importance of public spaces that promote dialogue between communities, including iwi/Māori, to both give expression to the diversity of values and viewpoints in communities and, as a result, strengthen trust in our democratic infrastructure.

The concept of a ‘local commons’ involves identifying those matters that people have a common interest in and where processes for reaching agreement, or at least recognising differences, are critical for community well-being. Councils that take their democratic enhancing role

**Table 1: Citizen participation approaches**

New Zealand	Denmark	England	Scotland
Community boards which are primarily advisory.	Participation primarily through local civic, sports and cultural organisations. Limited use of service user boards at municipal level, some mandatory but with little influence.	Local referenda required to approve neighbourhood plans on planning and development.	Elected community councils give community views on planning and development, though concerns about representativeness and lack of influence.
Māori communities involved in co-governance over significant natural resources.	Little use of local referenda. This is now legally binding but unused and no citizen initiation.	Some local experimentation in the use of deliberative approaches. Low-level use of participatory budgeting.	Growth in use of participatory budgeting to allocate relatively small local budgets. Infrequent use of local advisory referenda.

Source: Scottish Government, 2021

seriously should be actively protecting, if not enhancing, the spaces, events and processes that constitute the commons within their jurisdictions, given that they are opportunities within which communities can recognise differences and identify matters in commonality. Head (2023) highlights this role in relation to the obligations inherent within te Tiriti o Waitangi, obligations that ultimately require engagement between communities of place and mana whenua. It is only at the local level that meaningful conversations to reconcile whānau and hapū aspirations with those of the community can be aligned, or mediated.

While local government plays a critical role in creating opportunities for diverse communities to interact, it can also contribute to the creation of civic-enhancing cultures, or civic infrastructure. High levels of civic infrastructure, supported by rules and processes in the managerial, political and civic domains, can encourage participation by incentivising citizens to mobilise.

#### Local government in New Zealand

Even though few, if any, make it a priority, New Zealand councils don't lack for reasons to promote democratic participation. In fact, promoting democratic participation is a duty that sits front and centre in its purpose, as set out in the Local Government Act 2002, which states that the purpose of local government is:

- (a) to enable democratic local decision-making and action by, and on behalf of, communities; and
- (b) to promote the social, economic, environmental, and cultural well-being of communities in the present and for the future. (s10)

Although a critical element of local government's purpose since 2002, the requirement to enable democratic local decision making by communities is not well understood. In fact, we have no information at all about the degree to which councils have intentionally sought to implement it, unlike the second part of the purpose, which is concerned with the 'four' well-beings.<sup>8</sup> Despite the lack of overt recognition, the case for New Zealand councils playing a more active role in building active citizenship has been made in recent years by both the Future for Local Government panel and the Helen Clarke Foundation.

The Future for Local Government panel was established to review and make recommendations about the potential role of local government at a time when it appeared that councils would be playing little to no role in traditional functions like the 'three waters' and town/city planning (and, in the view of some commentators, roading). Among its findings, the Panel emphasises the opportunities for councils to play a larger role in promoting well-being, building inclusive communities, and investing in local economic development (e.g., through anchor institutions). It also argues for a more participative form of local government:

local democracy needs to expand beyond voting and traditional forms of engagement towards greater citizen-led democratic participation and innovation. People need the opportunity to fully participate in decision-making on policies and issues that affect their futures and future generations.

The Panel recommends that local government and councils develop and invest in democratic innovations, including participatory and deliberative democracy processes. (Review into the Future for Local Government, 2023, p.82)

Similarly, Reid and Schulze, writing for the Helen Clarke Foundation and BERL, argue, in their report on strengthening civic life, that councils 'must commit to fostering genuinely engaged communities to prevent an erosion of trust and cooperation, and to improve the lives of the people that they represent' (2023, p.5). They recommend that councils become 'enablers of community-led development' (ibid.) by supporting mediating institutions and the people who facilitate communities of place, identity and interest.

Both reports highlight the fact that New Zealand councils have been slow to adopt innovative engagement and participatory approaches despite the options available to them, an observation also made recently by a comparative study undertaken by the Scottish government (see Table 1).

As Table 1 highlights, New Zealand councils tend to have a smaller palette of participation and engagement tools than countries like England, Denmark and Scotland; however, even in those countries the use of deliberative and participatory mechanisms is still in its early stages. It is telling that, when looking for evidence of innovative approaches to participation, the Scottish researchers could only identify community boards, which, when used well by councils, bring citizens closer to decision making, and the increasing number of co-governance arrangements between

councils and iwi/Māori (which will be examined in more detail in a later paper).<sup>9</sup>

If they are to be successful in deepening democracy and strengthening active citizenship, local governments in New Zealand will need to embrace their democratic purpose and establish new and innovative processes for meaningful engagement. Such processes must go beyond the episodic use of deliberative and participatory tools, noting the important role they play to embrace democracy as a core purpose. This means that elected members must start seeing themselves less as boards of directors and more as assemblies of citizens. In other words, councils need to aspire to be democratic spaces in which residents can come together as citizens and contribute directly to the political conversations needed to ensure their communities have sustainable and prosperous futures. It is a challenge that involves local champions, new systems of local representation and a willingness, amongst elected members, to embrace the diverse and plural voices of their communities.

Encouragingly, as noted by Wright, Buklijas and Rashbrooke (2024) in their article on deliberative practices in New Zealand over recent years, councils are beginning to make more use of such tools: for example, the use of citizens' assemblies to identify future options for Auckland's Watercare and priorities for Wellington City' Council's long-term plan. There are, however, many more interventions that councils could make to promote active citizenship, such as:

- create local forums to provide input into council decision making and where appropriate delegate responsibilities, such as empowering community boards or community committees as practised by Manawātū District Council;<sup>10</sup>
- make greater use of citizen governance options, including co-governance, co-commissioning and citizen panels, including citizen appointments on committees to improve inclusivity;
- invest in civics education by encouraging youth involvement and building relationships with educational institutions;
- examine and look to replicate successful co-governance initiatives between

It would be nice to think that central government and its relevant public agencies would be showing more interest in what councils could do, but to date local government's potential democracy-enhancing role is missing from public policy discourse.

- councils and iwi/Māori, such as the Mana Whakahono partnership agreement between Taupō District Council and Ngāti Turangitukua;
- ensure that deliberative and/or participatory approaches are used to frame options before consultation on major issues is undertaken;
- build enduring relationships with local media;
- ensure that a proportion of each annual budget is allocated through participatory budgeting mechanisms;
- support local and neighbourhood networks that are actively investing in civic infrastructure, including support for building organisational capability;
- redesign their own governance and decision-making structures to create democratic spaces which can reflect the plural nature of their districts and

facilitate the development of a strong civic culture.

When it comes to how they organise their governance arrangements and engage with communities, New Zealand's councils have considerable discretion, so we need to better understand why the adoption of deliberative and participatory techniques has been slow, particularly when compared to Australian councils, which have very similar systems of local government (Wright, Buklijas and Rashbrooke, 2024). While the question is yet to be properly researched, it is likely to reflect the design of our local government model, particularly the way in which the reforms introduced in 1989 took an instrumental approach (Reid, 2016a). As a result of those changes, New Zealand councils are now, on average, the fifth largest in the world by population and second largest in the world by area – both of which are factors inhibiting participation.<sup>11</sup> Other factors that are likely to have contributed to the slow take up include:

- representation – New Zealand councils have one of the highest ratios of citizens to councillors in the OECD (Reid, 2016b), making it more difficult for elected members to engage with, and represent, their constituencies;
- political culture – reflecting New Zealand's small number of councillors, there is a tendency for governing bodies to act more like boards of directors than elected assemblies. This diminishes their ability to represent the diversity of their communities;<sup>12</sup>
- managerialism – along with the public sector generally, organisational structures mirror those of corporations, with subject experts typically found as third-level managers, a phenomenon that largely preferences managerial above subject matter skills;
- processes – although designed to provide a mechanism through which citizens could determine the future direction of their communities, the long-term plan has become almost the opposite – a complex tool that can be used to restrict the ability of communities to participate in decision making, exclude unwanted voices and narrow the policy.<sup>13</sup>



Most of the challenges listed above are within the discretion of elected members to address, should they be motivated to do so.<sup>14</sup> What is needed, however, is greater recognition, from both the public and the government, of the role that councils play in our democracy, although it is not entirely clear where such recognition should come from. In the absence of a parliamentary commissioner for the state of our democracy, or equivalent, it will be up to non-governmental organisations and think tanks, including Local Government New Zealand, to take the lead.

### Conclusion

The case for local governments to see themselves at the forefront of efforts to strengthen, if not save, our civic and democratic cultures is well summed up by Svante Myrick, the mayor of Ithaca, when he states:

As mayors, we are alarmed by the looming risk of authoritarianism, and we are keenly aware that we are on the forefront of the effort to preserve people's faith in democracy ... we also know that when people feel ignored or abused by politicians and institutions, they reject those institutions ... They may look for answers in extremist groups or under destructive leaders. Mayors represent many people's most immediate connection to and experience with democracy. We need to make that experience a good one. (Myrick, 2022)

This article has sought to show that the belief that personal agency is in decline is contributing to both a distrust of public institutions and a tendency for people to reject democratic norms. It argues that the only way to address concerns about diminishing agency is to in fact strengthen active citizenship by increasing opportunities for citizens to be involved in meaningful decisions about the governance of their communities. Achieving this, however, has implications for how local government currently works, how local decisions are currently made, and for the range of public decisions that are made locally.

It would be nice to think that central government and its relevant public agencies would be showing more interest in what councils could do, but to date local government's potential democracy-enhancing role is missing from public policy discourse. This is not unique to New Zealand. As Elinor Ostrom points out, democratic systems that neglect local-scale governance have the effect of disincentivising civic engagement and unravelling the social fabric of real communities (see Kaye, 2020). The solution to the problem of democracy is not less democracy (by supporting more centralisation, corporatisation and bureaucratisation), but more democracy (by increasing the involvement of citizens in the decisions that affect their lives and communities and creating more spaces within which local conversations and deliberation can take place). To be meaningful, citizen participation requires a real shift in power and citizen control.

The community is the starting point of citizenship, as community enables citizens to truly feel and exercise their power and voices in a way that is respected by their fellow citizens. Governments' role in promoting community building and active citizenship should be to facilitate and support citizens ... empowering them to participate in their own development. (Bishop and Davis, 2001, p.181)

New Zealand local governments are well placed to promote active citizenship, whether developing spaces for communities to consider and deliberate on topical and future issues or shifting decision making closer to communities themselves. This objective is well-aligned with the purpose of the Public Service Act 2020, which places a duty on the public services to facilitate active citizenship (s11). This creates a real opportunity for the development of a joined-up approach to increasing active citizenship between central and local government (while noting that for the purpose of the Public Service Act, local government is not part of the public service). Changing to a more inclusive and collaborative model, however, will require

committed leaders, in both local and national organisations, prepared to advocate for more investment in local civic cultures. As Samuel Moyné noted in an article about the future of liberalism, agency 'doesn't just materialise – the conditions must be built for it' (Moyné, 2023, p.6). It is at the local level that this investment (which is not simply material) is needed.

- 1 The most recent assessment of the state of global democracy shows that the number of full democracies has fallen from 28% in 2007 to 24% in 2022, with a corresponding increase in the number of hybrid regimes like illiberal democracies (Economist Intelligence Unit, 2022). Some countries, however, have bucked the trend. Switzerland, Denmark, Norway, the Netherlands and Luxembourg are examples of countries where support for democracy has not only not declined but has reached all-time highs.
- 2 A recent survey by Onward (a UK-based think tank) found that young people in the UK are increasingly disillusioned with the efficacy of democracy as a way of governing. For example, it found that 61% of 18–34-year-olds think that 'having a strong leader who does not have to bother with Parliament and elections would be a good way of governing this country'. A 2024 IPSOS poll (<https://www.ipsos.com/en-nz/populism-global-advisor-survey-2024-nz-edition>) found that 66% of New Zealanders agreed that New Zealand 'needs a strong leader to take the country back from the rich and powerful', compared with a global survey average of 63%.
- 3 Further papers are prepared that focus on the practical measures councils can take to strengthen active citizenship, as well as the other two major roles that councils play which contribute to a strong democracy, namely their role in strengthening community cohesion (as highlighted by Gluckman et al., 2023) and their role as a check and balance on central government (by offering voice and choice).
- 4 Citizens in the wider sense of the word, not simply people who have citizenship in a polity.
- 5 Civic strength is a concept recently developed by the Young Foundation (2021) which involves three dimensions – public and social infrastructure, relationships and social capital, and democratic engagement.
- 6 By removing agenda-setting from either vested interests or politicians, the process – in theory – allows for matters of genuine public concern to be raised. In practice it means that things in the politically 'too difficult' basket get onto the agenda, and that political grandstanding has little effect on the process ([https://www.sortitionfoundation.org/paris\\_creates\\_permanent\\_citizens\\_council](https://www.sortitionfoundation.org/paris_creates_permanent_citizens_council)).
- 7 For a discussion on the similarities and differences of deliberation and participation see the OECD library at <https://www.oecd-ilibrary.org/sites/e133cc3c-en/index.html?itemId=/content/component/e133cc3c-en>.
- 8 Many councils report on the state of well-being in their jurisdictions. With regard to democratic participation, the tendency is to report on the rate of voter turnout, which is not, by itself, a helpful guide to the level of democratic participation.
- 9 What the research does not show is the degree to which many councils appear to actively diminish the ability of community boards to contribute to decision making, thus diminishing their scope for promoting active citizenship.
- 10 Manawatu District Council has a policy of establishing committees in all of its small villages and townships, of which there are almost 20, and supporting them to develop community plans as well as allocate community grants.
- 11 Calculated by the author using OECD and UCLG (United Cities and Local Governments) databases.
- 12 Many councils have now abolished their committee systems, which traditionally provided a mechanism for dialogue with their communities, in favour of centralising all decision-making with the governing body.
- 13 An indication of how the long-term plan can be used to diminish local participation is the growing number of councils which no longer consult on their annual plans. Consequently, the only formal opportunity for citizens to engage with these councils is the three-year LTP engagement process.
- 14 A possible disincentive is the fact that councillor remuneration is correlated with the number of councillors. A reduction in the number of members results in higher salaries for the remaining councillors, although proposals to change the number of councillors are ultimately appealable to the Local Government Commission.

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Stephanie Worboys

# Eroding Trust

## how democratic deficits have undermined the public's confidence

### Abstract

While political trust has declined in democracies the world over for several decades, New Zealand historically defied this trend. However, since 2021, New Zealand's political trust has also been on the decline. According to the Acumen Edelman Trust Barometer 2024, it now sits below the global average. This article explores the decline in political trust in New Zealand and argues that placing limits on the use of parliamentary urgency is one action we can take to rebuild it. Constraining the use of urgency will not fix our trust problem outright, but it constitutes a good place to start.

**Keywords** political trust, democracy, parliamentary urgency, unicameral, Bill of Rights Act 1990

Political trust has been on the decline across Western democracies for many decades (Kroeger, 2019; Vallier, 2022). New Zealand appeared to be immune to this trend, regularly ranking as one of the highest-trust nations in the world (Public

Service Commission, 2024). Recent evidence, however, suggests that trust is falling among New Zealanders (Acumen, 2022, 2023, 2024; OECD, 2024; NZ Parliament, 2023).

In New Zealand, waning trust has been attributed to a variety of causes: notably,

the state of the economy, the Three Waters proposal, the Covid-19 responses and the anti-vaccine mandate protests (Gluckman et al., 2023). Our falling trust has also been connected to other changes, such as rising polarisation (Chapple and Prickett, 2022), growing suspicion of the media (Acumen, 2023; Myllylahti and Treadwell, 2022) and low voter participation (Review into the Future for Local Government, 2023).

The data suggests that New Zealand is becoming a more distrustful and divided place. This article explores the decline in political trust in New Zealand. It argues that political trust has been negatively affected by many factors, including government governing undemocratically, and the failure of our institutions to prevent this. The article suggests ways in which political trust can be recovered. Although there are several changes that would increase trust, the article suggests that placing limits on the use of parliamentary urgency would be an appropriate first step.<sup>1</sup>

### Trust and democracy<sup>2</sup>

It will be helpful for what follows to briefly consider the nature of trust and democracy. The term trust refers to 'a

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person's belief that another person ... will act consistently with their expectation of positive behaviour' (OECD, 2024). Among other things, trust is beneficial because it facilitates cooperation (Lahno, 2017). Cooperation entails relying on the freely chosen actions of another person or group (Simpson, 2012). When we cooperate, we put ourselves in a position to be affected by the actions of the other person. This is a risk because we cannot know in advance what they will choose to do.<sup>3</sup> They may choose to do right by us, or take advantage of us instead. Trust responds to this uncertainty. When we trust a person, we willingly take this risk with the expectation that they are not going to act to our detriment (Kroeger, 2019; Lahno, 2017; Simpson, 2012).<sup>4</sup>

Generally, we enter into trust relations based on our assessment of the other party's competence and character (Lahno, 2017; Simpson, 2019).<sup>5</sup> In terms of competence, we trust people to do things we think they are capable of doing (Simpson, 2019). For instance, a person may trust her GP with her health, but not with her life savings. Additionally, we trust people when we believe that they have the right character or motivation. Ordinarily, to trust someone, the trustor needs to believe that the trustee is the sort of person who is going to do the right thing by her (Hawley, 2017; Lahno, 2017).

There are many types of trust. The most common is personal (or interpersonal) trust. Personal trust is the trust we place in those known to us (Patterson, 1999). Here, trust is typically based on our own experience of that person's competence and character. Social trust is the trust we extend to people we don't know (Freitag and Buhlmann, 2009; Patterson, 1999). Since we do not know them, we have little upon which to gauge their competence or character. Instead, trust is extended on the presumption that they will act cooperatively (Offe, 1999). This presumption typically relies on shared norms or binding laws (Freitag and Buhlmann, 2009; Patterson, 1999). For instance, we might extend trust to a stranger because we share a tribal affiliation or a religion (Lane and Bachmann, 1996). Law is the principal institutional structure that facilitates trust between strangers. Law does this by giving the trustee an incentive to act trustworthily

and the trustor recourse if they do not (Freitag and Buhlmann, 2009).

Political trust involves trust in people (such as political officials or parties) and trust in institutions (such as Parliament). Like all trust in people, trust in political officials largely depends on character and competence. Officials who are thought to be incompetent or corrupt will not be trusted; those who are believed to be competent and honest will be. Institutional trust is trust that an institution can be depended upon to function in the way it should. Trust of this kind is supported when an institution acts consistently and

their rule on others. In personal matters, each rules over him or herself, and in collective matters, each individual has a rightful say in those decisions (Warren, 2006b).

Since democracy is a system of collective self-rule of political equals, it is a form of government in which distrust of people, such as other voters and public officials, is always present. We have conflicting interests and different goals, and democracy threatens that we will be overruled by others. This is a situation of conflict, and conflict warrants distrust. Democracies address the distrust collective

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predictably, treats citizens impartially, and functions according to (and within the bounds of) its purpose (Gluckman et al., 2023; Listhaug and Jakobsen, 2017). Unsurprisingly, trust in public officials may rise and fall quickly. Institutional trust is the more fundamental aspect of political trust because citizens need to trust that the system of government is functioning as it ought and is able to deal effectively with untrustworthy actors within it (Kroeger, 2019; Listhaug and Jakobsen, 2017; Warren, 2006a).

A democracy is a form of government where the members of a society are engaged in a system of 'collective self-rule' (Warren, 2006a). Here, a community of equals rules themselves by making decisions together (Patterson, 1999). In its modern liberal form, democracy rests on two fundamental commitments: equality and freedom. The commitment to equality is the commitment to the idea that each person is the moral equal of all others. As moral equals, we are political equals; that is, since we are equal, no one has an inherent right to impose

self-rule warrants by tempering the risks of being overruled, which they do through their institutional design. This design includes a constitution and the separation of powers into the legislative, the executive and the judicial branches. Here, the separate powers check and balance each other. Checks and balances promote institutional trust *and* trust in public officials. If the institution is robust and functioning as it ought, the citizen can presume (barring evidence to the contrary) that public officials are acting within their prescribed limits and discharging their duties in a trustworthy manner. This is so because the institution limits what officials can do and, therefore, how the public can be harmed by trusting them (Listhaug and Jakobsen, 2017; Warren, 1999a, 2017b).

Democracies also promote trust by placing limits on how conflict is conducted between their members. Conflict is conducted democratically when conflict is conducted through speaking and voting rather than through violence or suppression (Patterson, 1999; Warren, 1999b, 2004,

2006b, 2017a). When conflict is conducted democratically, a genuine argument between political equals can be had. Here, each side has the opportunity to make their case to the other, attempting to persuade them or secure a compromise (Freitag and Buhlmann, 2009). Ideally, this leads to consensus; but if it does not, at least the losing side has had a fair hearing. However, when conflict is not conducted in this way – when people are denied the opportunity to have a say in the political decisions that affect them – conflict festers, and distrust grows.

#### The New Zealand context

Recent data suggests that New Zealanders no longer trust political leaders and government as they once did. For example,

Zealanders are genuinely represented in Parliament. Furthermore, only 36% said that Parliament dealt with issues of importance to them, down from 55% in the previous year (2021). And, perhaps most concerningly, only 60% (down from 68%) believed that ‘Parliament and democratic processes are accessible to them’ (New Zealand Parliament, 2023).

Similarly, the most recent OECD trust survey found that trust in the democratic functioning of the New Zealand political system had declined since its 2021 survey. Among those New Zealanders surveyed, fewer than half believed that Parliament fairly balanced the interests of all New Zealanders in its policy decisions. Likewise, only 40% believed that the government would abandon a policy if more than 50%

that occurred during this time. One standout example of this was the Three Waters proposal. The proposal not only lacked a clear mandate from the people; it was also deeply unpopular with them. Despite this, the government pursued it anyway. Furthermore, the government’s attempt to entrench the legislation was a ‘misuse’ of its power (Edwards, 2021, 2023). Entrenched legislation is legislation that is more difficult to change because it can only be amended or removed by a supermajority and is typically reserved for constitutional fundamentals (Geddis, 2022). Had Three Waters been entrenched, not only would the legislation have been made in defiance of the will of the majority of New Zealanders, but future majorities would have had trouble repealing it.

The Covid responses were likewise riddled with democratic deficits. For example, the Covid-19 Response (Vaccinations) Legislation Bill was controversial, but it was pushed through under urgency, making its way through Parliament in a single day (Penk, 2022). The public and the opposition had little opportunity to scrutinise the bill or influence its content before it was enacted into law. Given the legislation’s conflict with the New Zealand Bill of Rights Act 1990, these parts of the law-making process should not have been curtailed (Edwards, 2021; Penk, 2022). The use of urgency in this case was a concern voiced by many, including the chief human rights commissioner, Paul Hunt (Neilson, 2021).

These examples show that the decline of the public’s trust in political leaders has not been without cause. However, the loss of trust has not been limited to our leaders. Trust has also declined in government as a whole, indicating that institutional trust, the more fundamental component of political trust, has also been damaged.

The Three Waters proposal and aspects of the Covid responses revealed concerning weaknesses in the institutional design of our democracy. The regular use of urgency to pass legislation, the lack of a written constitutional document, the status of the New Zealand Bill of Rights Act, and the unicameral form of our parliamentary system mean that there are fewer checks and balances in New Zealand than in other democracies.

The [Bill of Rights] Act enshrines in law the fundamental civil and political rights of the person, but the Act is neither supreme law nor entrenched, which means the Act ‘may be amended or repealed in the same way as any other Act’.

in 2023, the Acumen Edelman Trust Barometer reported that our trust in political leaders declined five percentage points, and trust in government in general declined by six points, between their 2022 and 2023 reports (Acumen, 2022, 2023). Between their 2023 and 2024 reports, trust in political leaders fell again by five points, and trust in government fell a further three points. As of the 2024 data, New Zealand’s combined political trust score sits at 48 points, which is lower than the global average of 51 (Acumen, 2024).

As political trust has declined, so has political participation. According to a parliamentary survey published in 2023 by the Office of Clerk, the proportion of New Zealanders engaged with Parliament had ‘hit a new low’ of 13%. It reported that less than half of those surveyed (43%) believed that the views and interests of all New

of the population said they were against it, and roughly 30% thought it likely ‘that government would adopt opinions gathered in public consultation’. Additionally, fewer than half believed that the political system, as it currently operates, ‘allows people to have a say in what government does’ (OECD, 2024).<sup>6</sup>

During the period in question (2021–23), significant events unfolded in New Zealand that have had an impact on political trust. Deteriorating political trust has followed a sub-par performance by the previous Labour government in areas like healthcare, the economy (Edwards, 2022, 2023) and affordable housing,<sup>7</sup> among other things. Performance is a sign of competence, and competence is a component of trust.

Loss of trust may also stem from perceived breaches of democratic norms

Checks and balances function as safeguards on the use of power. Other democracies have multiple safeguards, but New Zealand is lacking in this regard. New Zealand is a unicameral system, which means it lacks the check of an upper house through which legislation must also pass (Ludbrook, 1990). Bicameral systems, by contrast, require legislation to ‘get by two different sets of representatives, sampling the spirit of the country in two different ways’ (ibid.; Waldron, 2008). Our system also gives the executive much more power than other democracies. In the United States, for example, the House and the Senate operate separately from the executive. Here, instead, Parliament is ‘dominated by the executive’. The committee a bill goes to, for example, is chosen by the executive, which means the executive chooses the kind of pushback the bill will be exposed to. Since the executive chooses the pushback that will be received, ‘the outcome of virtually all legislative process is predetermined and little negotiation takes place’ (Gluckman, 2022).

In addition, we do not have a single constitutional document, and our courts provide only a marginal defence against bad laws. These issues have been especially pertinent to the Bill of Rights Act. The Act enshrines in law the fundamental civil and political rights of the person, but the Act is neither supreme law nor entrenched, which means the Act ‘may be amended or repealed in the same way as any other Act’. In other words, the Act and the rights it protects can be overruled by a simple majority vote. Furthermore, since the Bill of Rights Act is no different from any other Act, the courts do not have the ‘power to strike down legislation that is inconsistent with it, which was the case when prisoners’ voting rights were restricted (Cooke, 2020; Ludbrook, 1990).

In the voting case, the court ruled that restricting prisoners’ voting rights violated their rights under the Act, but there was nothing the court could do beyond making this judgment. As Cooke explains, the court has ‘no power’ to enforce its ruling ‘because in New Zealand the courts cannot ever over-rule the clear wish of Parliament’ (Cooke, 2020). Thus, even though the courts can make a declaration of inconsistency, if Parliament wishes to

curtail individual rights, it can. Although we may be dismayed by this, we should not be surprised. In view of parliamentary sovereignty, the Act itself (section 4) allows for a majority vote to curtail the rights protected by the Act. Furthermore, the Bill of Rights Act is not breached by another enactment if any curtailments of the rights contained within it are ‘reasonable’ and ‘appropriate to a free and democratic society’ (Mapp, 1994). Since what counts as ‘reasonable’ and ‘appropriate’ is a matter of interpretation, the Act is weak.

Let us now consider the use of urgency. To become an Act, a bill must pass through multiple stages. After it is introduced, it goes through three readings, with the first

The upside is that urgent business can be dealt with quickly, but a downside is that the ability of the public and the opposition to influence the content of the legislation is curtailed. Unfortunately, the standing orders place few limits on the use of urgency; only three, in fact. As Mueller explains:

general business must be completed; it can only be moved by a government minister; and the minister must inform the House with some particularity why the motion is being moved ... as long as the moving Minister gives any reason, the urgency motion will be put to the question. If the government commands

... one immediate action that could significantly improve trust is to reform the use of urgency – an issue that has been raised many times over the years, sadly without much coming of it ...

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two followed by a committee stage. This process allows the public and the opposition time to grow familiar with the bill and consider its implications. The select committee stage follows the first reading and is the only stage in which the average citizen can have a direct say in the proposed legislation, which is done through making submissions to the committee. In the later stages, the public can only indirectly influence the legislation through their representatives (Mueller, 2011).

Parliamentary urgency is used to extend the sitting time of the House and to speed up certain business. As it concerns the latter, urgency allows the government to waive stand-down periods between readings and sometimes even to waive the select committee stage (Geiringer, Higbee and McLeay, 2011). In other words, urgency enables the government to circumvent ‘constitutional processes’, effectively providing a way for it to dispense with its own legislative rules to speed things along.

the majority of the House, the motion will pass. No other safeguards for the use of urgency ... exist. (Mueller, 2011)

Put another way, a majority government can use urgency to circumvent constitutional processes on any matter for any reason it wishes.

Due to the ease with which it can be used, passing laws under urgency has become part of the status quo in New Zealand (Geiringer, Higbee and McLeay, 2011; Mueller, 2011), both with the previous Labour government and with the current National-led coalition government (Rawhiti-Connell, 2023; Ruru and McConnell, 2024). In the 2017–20 parliamentary term, 65 out of 258 bills introduced by the government used urgency in at least some part of their passage (26%). In the 2020–23 parliamentary term, 86 out of 233 bills introduced by the government used urgency in at least some part of their passage (37%). So far in the current

parliamentary term, there have been 78 government bills introduced by the government, and 16 have been under urgency in at least part of their passage (20%).<sup>8</sup> Although these figures are not as high as in some parliamentary terms (Geiringer, Higbee and McLeay, 2011), the use of urgency to pass controversial legislation has damaged the public's trust.

### The way forward

Political trust would be improved if we placed more limits on governmental power. Over the years, many suggestions for this have been raised and discarded, such as returning to a bicameral system, increasing the number of MPs, or entrenching the Bill of Rights Act (to name a few). Such changes would be significant and would require a more thorough examination than this article allows. However, the fact remains that we need more checks and balances. It is time that we had an open and honest discussion about how this might best be achieved.

However, in the meantime, one immediate action that could significantly improve trust is to reform the use of urgency – an issue that has been raised many times over the years, sadly without much coming of it (ibid.; Standing Orders Committee, 2023).<sup>9</sup> Urgency is a convenient device that allows the government to get more done by extending the House's sitting

hours and expediting the passage of certain bills. Uncontroversial legislation may benefit from being passed quickly, allowing the House to use its scant time on bills that require thorough scrutiny and debate. Likewise, a device that allows Parliament to close loopholes in existing legislation as soon as they are recognised is a boon (Geiringer, Higbee and McLeay, 2011). From a trust perspective, however, urgency undermines the integrity of Parliament by enabling it to waive its own rules and dispense with public participation in the law-making process, often with little more than the executive's eagerness to advance its own agenda as justification.

Although urgency is not altogether bad, it is objectionable that one procedural device performs two disparate functions, one to extend the House's limited sitting time and the other to waive procedural rules to accelerate legislation. In view of this, these powers should be separated into two distinct provisions in the standing orders. In the first of these, the standing orders should be amended to include an 'extended sitting' power (ibid.). In the second provision, the standing orders should require a supermajority, perhaps a two-thirds majority, in order to pass legislation under urgency (Coughlan, 2018). This would require a degree of bipartisanship, which would make it more likely that the procedural rules would only

be waived in situations such as a national crisis or to close glaring loopholes in existing legislation, and not whenever it is convenient for the government of the day. Admittedly, this will not solve our trust problem completely, but it constitutes a good place to start.

<sup>1</sup> The trust data used in this article provides insights into our recent past. Surveys were conducted between 2021 and 2023, with publication typically in the following year. Keep in mind that the current national confidence in government and its leaders may differ from what these figures indicate. Also, note that during this time, the Ardern Labour government was in power in New Zealand. This limitation is inherent to the dataset.

<sup>2</sup> For a more thorough discussion of the concept of trust, democracy and the relationship between them, see Worboys, 2024.

<sup>3</sup> We do not know if a stranger will betray us. Nor do we know what a close associate will choose when the time comes. In both cases, what they do is up to them. However, a betrayal by someone we have known and trusted for a long time, such as a friend or family member, may be more damaging than a betrayal by a stranger.

<sup>4</sup> This is a common way to conceptualise trust, but there are others. For an overview of the various ways to conceptualise trust and their shortcomings, see Simpson, 2012.

<sup>5</sup> Not all trust is extended for these reasons. Sometimes we extend trust spontaneously, as a gesture of goodwill or based on a gut feeling.

<sup>6</sup> As of 2024, the OECD has conducted two trust surveys. The first was conducted in 2021 and published in 2023; the second was conducted in 2023 and published in 2024.

<sup>7</sup> I owe this point to an anonymous reviewer.

<sup>8</sup> Numbers are accurate as of 1 May 2024; see parliament.nz.

<sup>9</sup> According to Geiringer, Higbee and McLeay (2011), the use of urgency has been an issue almost as long as the urgency motion itself. Most recently, the Standing Orders Committee received a recommendation to make changes to the standing orders regarding urgency. However, the recommendations were not taken up because the committee could not come to an agreement (see Standing Orders Committee, 2023).

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# Reviving the Proposal For a Parliamentary Budget Officer

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## Abstract

The 2019 proposal that New Zealand create a parliamentary budget officer should be revived, but with certain changes. First, the parliamentary budget officer should not be asked to estimate the cost of political parties' electoral platforms, since that is not a proper function of an officer of Parliament, and the political sensitivity and resource intensiveness of such costings could interfere with the officer's ability to help Parliament hold the executive to account. Second, the parliamentary budget officer should have a broader scope to comment on public finances than was envisaged in 2019. Third, the creation of a parliamentary budget officer should be accompanied by consideration of other ways of strengthening Parliament's effectiveness in scrutinising public finances, such as having a member of the opposition chair the Finance and Expenditure Committee.

**Keywords** budgeting, fiscal management, public finance, Parliament, independent fiscal institutions

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In 2019 the government proposed creating an independent fiscal institution that would both provide costings of political parties' electoral platforms and help Parliament scrutinise various aspects of public finances (Cabinet, 2019). The idea of creating an independent fiscal institution was in line with international trends and with earlier suggestions for New Zealand (Ter-Minassian, 2014, pp.22–3; Wilkinson and Acharya, 2014, section 6.3; OECD, 2017, p.32; International Budget Partnership, 2017; Transparency International New Zealand, 2013, p.80). It was welcomed by almost all those who responded to the Treasury's consultation document (Treasury, 2019, p.1). But the then leader of the opposition National Party expressed scepticism about the independence of the electoral costings, and the then speaker of the House opposed the use of an officer of Parliament to perform such costings, and the proposal was dropped. Since then, however, the deputy leader of the National Party (now minister of finance) and several others have called for the proposal's revival (Coughlan, 2022; IMF, 2022; OECD, 2022; Crampton, 2023).

## Fiscal problems

There has been much to admire about the management of public finances in New Zealand since the mid-1990s. Most notably, a run of budget surpluses reduced debt to very low levels, allowing the government to run big deficits in response to the global financial crisis, the Canterbury earthquakes and Covid-19. Underlying these positive fiscal outcomes were a set of laws and practices whose strong points have been well documented (e.g., Treasury, 2018, pp.8–13).

But there are also troubling signs (Ball et al., 2024). For one thing, the tendency of governments of all stripes to reduce debt in good times seems to be fading, raising the possibility that it will eventually take a fiscal crisis to restore that tendency. Though running a big deficit during the Covid-19 lockdowns made sense, the deficit remained high even when the lockdowns ended and the economy was overheating (Treasury, 2023; IMF, 2023, pp.9, 33). At that point, it was fuelling inflation and pushing interest rates higher.

Government debt is rising quickly. The Treasury's preferred measure of net debt rose from nothing in 2007 to 17% of GDP in 2022, and is forecast to reach 23% of GDP in 2025 (Treasury, 2024, 2023, Table 2.1). The IMF's measure of the gross debt of 'general government', which includes the debt of local government, rose from a low of 16% of GDP before the global financial crisis to an estimated 46% of GDP in 2023 and is forecast to reach 52% in 2026 (IMF, 2023b).

Debt is forecast to fall slightly after that, but although Treasury's fiscal forecasts have historically been well regarded (Ter-Minassian, 2014; Frankel, 2011), doubts have recently been expressed about the reliability of the policy assumptions supplied to the Treasury by ministers. First, there is the question of how much new spending the government plans during the forecast period (Crampton, 2023). Then there is the question of whether ostensibly temporary spending programmes will actually end as scheduled (Willis, 2023). In both cases, ministers can improve the forecasts by under-reporting their future spending intentions. (One well-known case of the political gaming of medium-term fiscal forecasts comes from the United

... the tendency of governments of all stripes to reduce debt in good times seems to be fading, raising the possibility that it will eventually take a fiscal crisis to restore that tendency.

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Kingdom, where every year ministers state that they plan to increase fuel taxes with inflation and every year they defer the increase.) These problems suggest that the rules for forecasting should be updated.

Whether or not debt falls later this decade, the ageing of the population is expected to cause it to rise rapidly over the following decades. Climate change and related needs for the renewal and improvement of infrastructure are likely to add to the problem. In the baseline scenario of the Treasury's most recent long-term projections, which assume no change in major spending and tax policies and are thus not forecasts of what is expected to happen, net debt reaches nearly 200% of GDP in 2061 (Treasury, 2021). The long-term problem has been understood for many years, but little has been done to solve it.

At present, the headline fiscal indicators, of the debt and deficit, are chosen by the government. They have some advantages, but also some problems. They are not found on the face of the financial statements (they are not generally accepted accounting practices); nor are they drawn from international statistical standards. This makes them hard to compare

internationally and increases the risk that a future government will change them arbitrarily. Moreover, they exclude the value of the government's physical assets and its non-debt liabilities and therefore its net worth, and they give no indication of the size of the long-term problem.

Lastly, there are long-standing doubts that the government is getting good value for money from its spending on health, education, transport and other services. Behind these doubts are several more specific concerns. Widespread cost overruns in transport projects, for example, suggest there is a systemic problem with the realism of the initial budgets. More generally, budgets and other financial reports seem not to tell politicians and the public what they need to know about how the government is spending its money, what services are being delivered, and what is being achieved as a result.

## Little expert commentary

Despite the seriousness of these issues, they attract little expert commentary. This is worrying for two reasons. The first is that it makes the problems less likely to be solved. The second is more specific: it is that the rules that encourage fiscal responsibility rely for their effectiveness on public discussion of the government's plans and performance. These rules require the government to report its fiscal intentions and fiscal outcomes in a transparent manner and to pursue a responsible fiscal policy – for example, by aiming to run a balanced budget on average over time and to keep debt at a prudent level (Public Finance Act 1989, section 26G). But the rules allow room for interpretation (for example, about what level of debt is prudent), and they may not be legally enforceable (Huang, 2008). 'Public opinion [thus] becomes the chief means of ensuring compliance with the principles' (Wilson, 2023, p.540). If there is no public reaction to breaches of the rules, there may be nothing to stop a government from flouting them.

From their introduction in 1994 until 2020, the rules nevertheless worked well (see Buckle, 2018; Gill, 2018; and, on the problems of stricter rules, Blanchard, Leandro and Zettelmeyer, 2021). Successive governments set out fiscal plans in

quantitative terms that made the plans transparent and created accountability. In the 2019 budget, for example, the government said its short-term fiscal intention was to ‘reduce the level of net core Crown debt to 20% of GDP within five years of taking office (subject to any significant shocks to the economy)’ (New Zealand Government, 2019, p.124).

But in the Fiscal Strategy Report for the 2020 budget, published in May of that year, the government said that its intention was ‘to allow the level of net core Crown debt to rise in the short term to fight COVID-19’ (New Zealand Government, 2020, p.40). Letting debt rise was surely reasonable, but the absence of a numerical target makes the statement too vague to create any accountability and seems inconsistent with the Public Finance Act 1989, section 26K(1). The magnitude of the Covid shock no doubt made it exceptionally difficult to judge at first what was reasonable, and even conducting analysis and making decisions would have been operationally difficult in the first months of the pandemic. The vague approach was, however, continued in the Budget Policy Statement and then the Fiscal Strategy Report for the 2021 budget and the Budget Policy Statement for the 2022 budget, being remedied only in the following Fiscal Strategy Report. Yet there was little public reaction (see, however, Wilkinson, 2021).

Crucially, unlike many other rich countries, New Zealand has no independent fiscal institution of the kind that could report on whether the government had complied with the fiscal-responsibility rules. Other countries’ independent fiscal institutions are diverse in their forms and functions (von Trapp, Leinert and Wehner, 2016; Davoodi et al., 2022), but all potentially create a source of expert opinion on fiscal issues that is independent of the ministry of finance. Several countries have more than one such institution. Austria and Ireland, for example, have both a fiscal council that reports on the government’s compliance with fiscal rules and a parliamentary budget office that supports the Parliament’s analysis of the budget; and Austria also has a private research organisation, the WIFO, that does the official economic forecasts.

[A parliamentary budget officer, created as an officer of Parliament,] would have as much independence from the executive as is possible for a public entity in New Zealand, and it would build on New Zealand’s constitution, which gives Parliament ultimate control of spending, taxing and borrowing ...

Also noticeable is that Parliament’s Finance and Expenditure Committee does not offer the technically informed criticisms of fiscal management that its counterparts in some other countries do. Opposition MPs on the Finance and Expenditure Committee criticise the government, but the committee itself tends not to. This is partly because of New Zealand’s unicameral parliamentary system of government. In Australia’s bicameral system, by contrast, the governing party or coalition may have a minority in the upper chamber of Parliament, meaning that body and its

committees may be more critical of the government. But even the UK House of Commons is a more powerful critic than New Zealand’s House of Representatives: its Public Accounts Committee and Treasury Select Committee often make forceful, bipartisan criticisms of fiscal management (e.g. Public Accounts Committee, 2020; Treasury Select Committee, 2023; and, more generally, Stapenhurst, Jacobs and Eboutou, 2019, Figure 2).

#### An officer of Parliament to fill the gap

The creation of an independent fiscal institution would not directly solve any fiscal problems, and it is by no means the only reform that should be pursued to address the problems just discussed, but it would help the Finance and Expenditure Committee scrutinise public finances, raise the profile of fiscal issues and improve the quality of public debate about them.

An independent fiscal institution could take various forms.

- It could be a private institution that was completely independent of the government.
- It could be a new independent Crown entity (as defined in the Crown Entities Act 2004) that, though part of the executive, operated at arm’s length from ministers (like the Electoral Commission).
- The auditor-general could take on the function, as in France and Finland and as suggested by the auditor-general here (Controller and Auditor-General, 2019).
- It could be a new officer of Parliament who, like the auditor-general, ombudsman and parliamentary commissioner for the environment, reports directly to Parliament (see Wilson, 2023, ch.55).

On balance, the 2019 choice of an officer of Parliament is a reasonable one. Such would have as much independence from the executive as is possible for a public entity in New Zealand, and it would build on New Zealand’s constitution, which gives Parliament ultimate control of spending, taxing and borrowing and requires it to scrutinise the executive’s performance in carrying out the functions that it has been delegated. Though the

parliamentary budget officer's functions could be performed by the auditor-general, that would require the auditor-general's staff to develop competencies that were quite different from its existing expertise.

The creation of a parliamentary budget officer would also respond to more general calls for Parliament to be better at scrutinising the executive and debating policy issues in an informed and constructive manner (Caygill, 2010; Boston, Bagnall and Barry, 2019; Palmer, 2023; Standing Orders Committee, 2023). As Peter Gluckman and his colleagues have noted,

Within our single house of parliament, the executive – the cabinet and ministries – is not strongly held to account. Parliamentary question time has become primarily an entertainment rather than informative: point-scoring rather than policy elucidation seems to be the primary objective. Select committees are weak. (Gluckman et al., 2023, p.9)

The creation of a parliamentary budget officer would not preclude the establishment of other organisations, including one in civil society. The creation of a private organisation would, however, require a commitment of funding sufficient to hire, retain and develop the necessary skills and organisational capability over many years; and the creation of a parliamentary budget officer would make it harder to raise that funding. Yet if funding were available, a private organisation could criticise the government in a more forthright way than a parliamentary budget officer would be likely to.

The parliamentary budget officer should have a broader range of functions in relation to helping Parliament hold the executive to account than was envisaged in 2019 (Cabinet, 2019). As in that proposal, the officer should be required to assess the government's compliance with its fiscal strategy and to comment on the Treasury's economic and fiscal forecasts and projections. But the officer should also be required to assess the government's compliance with the fiscal-responsibility rules, and should be permitted (like the

... the sensitivity of electoral platform costings – illustrated by the then National Party leader's reaction to the 2019 proposal – could undermine the parliamentary budget officer's role as a trusted adviser to the Finance and Expenditure Committee and to Parliament.

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auditor-general) to make recommendations – for example, on whether Parliament should change its procedures for considering fiscal issues, or whether the Public Finance Act should be amended to improve the quality of published information on public finances. The officer's functions could also include encouraging public debate on fiscal issues.

#### Electoral costings

The parliamentary budget officer should not, however, provide costings of political parties' electoral platforms, since this is not a natural function of an officer of Parliament (though it is done by the Australian Parliamentary Budget Office). In 1989 the Finance and Expenditure Committee determined, inter alia, that an

officer of Parliament 'must only be created to provide a check on the arbitrary use of power by the executive' and 'must only discharge functions that the House itself, if it so wished, might carry out' (quoted in Wilson, 2023, p.650). The clerk of the House stated in his submission on the 2018 discussion paper that 'the provision of independent and non-partisan analysis of the financial implications of political party policy proposals is unsuitable as a function for an Officer of Parliament, because it would not involve acting on behalf of the House as a check on the exercise of Executive power' (Clerk of the House, 2019, p.5). Trevor Mallard, former speaker of the House, has made a similar point (see Coughlan, 2022). If electoral platform costings were a minor, ancillary function of the parliamentary budget officer, it might nevertheless be reasonable for the officer to do the costings even though they were not consistent with the Finance and Expenditure Committee's criteria (Wilson, 2023, p.650), but that would not be the case.

Moreover, the sensitivity of electoral platform costings – illustrated by the then National Party leader's reaction to the 2019 proposal – could undermine the parliamentary budget officer's role as a trusted adviser to the Finance and Expenditure Committee and to Parliament. Such costings are likely to involve subjective estimates, and even an expert and genuinely non-partisan body could easily arrive at estimates that seemed unfair to at least one political party. Any breakdown in trust would hinder the ability of the officer to support parliamentary scrutiny, especially on issues on which cross-party cooperation might be expected.

Whether a separate entity should be established to cost electoral platforms is unclear. On the one hand, a well-informed electorate is desirable. On the other, if there is a case for more public funding of political parties' electoral platforms, it is not clear that it should be tied to estimating the fiscal costs of the platforms: analysis of the platforms' likely benefits would also seem useful. If electoral costings were to be funded, and not done by the Treasury (see Treasury, 2018, p.22, n.13), a new independent Crown entity could be formed with just this function, or political parties

could be given funding for the purpose and allowed to contract with third parties.

#### Possible complementary reforms

The creation of a parliamentary budget officer could be accompanied by other measures to strengthen its effects. We mention a few possibilities without intending necessarily to endorse them.

- The Finance and Expenditure Committee could be chaired by a member of the largest opposition party instead of, as at present, an MP from the governing party or coalition. That would be consistent with the practice of the Regulations Review Committee (Wilson, 2023, p.309) and with the public accounts committees of the UK (UK Parliament, n.d.) and many other Commonwealth countries (McGee, 2002, pp.66, 97), as well as with a proposal made in New Zealand when the Finance and Expenditure Committee's predecessor was created (Nash, 1962).
- The Finance and Expenditure Committee could be split into two committees. Its functions are broad, encompassing not only the *ex ante* and *ex post* scrutiny of public finances, but also the examination of monetary policy and financial regulation. Countries such

as Finland, Ireland, the Netherlands and Sweden have two committees with responsibilities relating only to public finances. (The division of responsibilities varies: in some, one committee examines the estimates and another the accounts; in others, one committee specialises in spending, another in taxation – for examples, see von Trapp, Leinert and Wehner, 2016.)

- Membership in the Finance and Expenditure Committee could be made more attractive for backbench government MPs. One reason UK select committees are more effective than the Finance and Expenditure Committee is that the House of Commons includes many more government MPs with little chance of becoming ministers, so membership of an important committee is attractive. That creates a consideration in favour of increasing the number of MPs or reducing the size of Cabinet – an issue with implications that, of course, go beyond the effectiveness of the Finance and Expenditure Committee. Reducing the salary differential between backbench MPs and ministers might also help.
- The submission of the budget to Parliament could be brought forward to allow it to be passed before the fiscal

year begins. There are practical difficulties in altering the budget timetable, but New Zealand's delay is unusual (OECD, 2019, Figure 5.5) – and seemingly has its origins in the English Parliament's tactics many centuries ago for delaying the approval of spending partly to encourage monarchs to first spend their personal resources (Schick, 2002, p.18).

The creation of a parliamentary budget officer would be an opportunity for (further) consideration of such options.

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# Fiscal Accountability to te Tiriti o Waitangi mechanisms and measures

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## Abstract

This article investigates possible models for strengthening fiscal accountability to te Tiriti o Waitangi. We utilise the spheres of influence framework set out by Matike Mai Aotearoa (2016), with a rangatiratanga sphere, a kāwanatanga sphere and a relational sphere. We outline tax-like practices in the rangatiratanga sphere and how the kāwanatanga sphere resources itself. We then explore expectations and protocols for accountability within the respective spheres, before proposing three possible models to strengthen fiscal accountability in line with te Tiriti o Waitangi. These models include a Māori tax commissioner, a Waitangi Tribunal kaupapa inquiry into or including fiscal authority, and an independent Māori tax authority.

**Keywords** constitutional transformation, fiscal accountability, te Tiriti o Waitangi, taxation, rangatiratanga

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**T**he Tiriti o Waitangi permitted kāwanatanga to the British Crown and guaranteed tino rangatiratanga to Māori.<sup>1</sup> This established an enduring relationship, with legal obligations between Māori and the Crown to act in good faith. Good faith requires accountability. Yet this enduring relationship also reveals the contradiction at the heart of New Zealand. The Crown has resourced itself through breaches of te Tiriti, and it establishes and funds mechanisms to hold itself accountable as a partner to te Tiriti. To avoid accountability, it can disestablish and defund these mechanisms at any time.

This article is based on a recent research report that set out to examine the ways that the Crown can hold itself to account to te Tiriti. Between the time it took to start and finish writing the research report, many mechanisms put in place to make the Crown accountable for obligations to te Tiriti have been repealed, are at risk, or have been threatened (Ruru, 2024). This is despite or in spite of the solidarity affirming the importance of te Tiriti demonstrated since the coalition government came to power in late 2023, including a record



50,000 people gathering at Waitangi on 6 February 2024 (Human Rights Commission, 2023; Piper, 2024).

Te Tiriti is ‘always speaking’. That is, it is relevant ‘across all public policy areas, and at all times’ (Tawhai and Gray-Sharp, 2011, p.11). While many tangata whenua and tangata Tiriti want the Crown to be accountable under te Tiriti, it often falls disproportionately on tangata whenua to hold the Crown to account. This requires significant resources, and when the Crown claims near-exclusive right to revenue raising through taxation, resourcing for rangatiratanga is fundamentally constrained. Resourcing rangatiratanga ensures that te Tiriti o Waitangi is not only ‘always speaking’, but is always heard. We need to explore ways to advance this accountability, and one possibility includes strengthening fiscal accountability. By fiscal accountability, we broadly mean the appropriate raising and spending of public funds, and, in this context, appropriate raising and spending that is in line with te Tiriti.

This short article follows the approach set out by Matike Mai Aotearoa, the independent working group on constitutional transformation. The landmark report sets out a vision and options for constitutional models in Aotearoa that affirm tikanga Māori, te Tiriti and He Whakaputanga o te Rangatiratanga o Nu Tirenī (the Declaration of the Independence of the United Tribes of New Zealand). The models reflect the ‘different spheres of influence’ the Waitangi Tribunal has conveyed that te Tiriti provides (Matike Mai Aotearoa, 2016, p.28).<sup>2</sup> Several of the models put forward include a rangatiratanga sphere of influence (Māori authority), a kāwanatanga sphere of influence (Crown/government authority), and a relational sphere of influence where Tiriti partners work together on issues that require shared authority. The models initiate an ongoing dialogue for those seeking a good faith honouring of te Tiriti and have been the subject of growing affirmation about how to take te Tiriti forward. These dialogues invite detailed consideration, including around possible financial implications. It is these implications that we explore here. Each of the spheres outlined in the Matike Mai

models will have different expectations and protocols for strengthening fiscal accountability in line with te Tiriti. Exploring possible accountability concepts and frameworks within these spheres, we present some pressing questions and ideas to address fiscal accountability to te Tiriti.

In the next section we provide a brief context outlining tax-like practices in the rangatiratanga sphere, and how the kāwanatanga sphere resources itself at the expense of the rangatiratanga sphere. We then set out the coverage of expectations and protocols for accountability within the respective spheres, before proposing possible models to strengthen fiscal accountability. These possibilities are not suggested to correspond to a specified fiscal regime. Nor are these options silver bullets for accountability. They offer a starting

collection of fines, enforcing of social protocols, subscription fees for flour mills, and levies for access to hunting (Scobie et al., 2023). As part of resistance to the Crown’s dog tax, dog taxes were also collected from some Māori by Tāwhiao and Te Kauhanganui, the Kīngitanga ‘House of Assembly’ (Williams, 1969). Comyn refers to the Crown’s dog tax and other measures as enforcing colonial rule, but draws attention to Te Kauhanganui’s resistance asserted in the *Thames Advertiser* in 1894 when it stated that Māori could not ‘be forced to pay either rates or taxes without the Treaty being broken’ (Comyn, 2023, p.118).

Taxation has resourced the kāwanatanga sphere, at the expense of the rangatiratanga sphere, gradually erasing Māori fiscal authority (the ability to tax and spend)

## Taxation has resourced the kāwanatanga sphere, at the expense of the rangatiratanga sphere, gradually erasing Māori fiscal authority (the ability to tax and spend) through Crown assumptions.

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point for advancing accountability to te Tiriti alongside constitutional transformation, as this transformation takes place.

### Taxation, rangatiratanga and kāwanatanga

Māori never ceded sovereignty, and had their tino rangatiratanga over lands, villages and resources affirmed in te Tiriti (Waitangi Tribunal, 2014). Prior to and in the decades following the signing of te Tiriti, Māori were engaging in tax-like practices to raise collective revenues and assert rangatiratanga. These included customary distribution practices: harbour dues, toll ways, stock grazing fees and fines, and joint stock subscriptions following contact. In addition, local or hapū-level activities carried out from the 1850s by komiti rūnanga, as well as Kīngitanga representatives later, extended to the

through Crown assumptions. This challenges rangatiratanga by recasting Māori from sovereigns to engage with to citizen subjects of the Crown. But promises under article 3 of te Tiriti have also failed to manifest within tax policy over time, reinforcing inequity in the tax system. For a large period of the 19th century, Māori disproportionately funded the Crown through an effective capital gains tax and customs duties without representation (Hooper and Kearins, 2003). Today there is inadequate consultation and inclusion of tangata whenua in tax policy development (Marriott, 2021; Scobie and Love, 2019).

These breaches impose an effective double taxation on Māori, where restrictions on rangatiratanga are imposed despite article 2, on top of inequitable tax policy under article 3. The breaches are also out of step with the United Nations

Declaration on the Rights of Indigenous Peoples, which confirms indigenous peoples' right to self-determination, including approaches and systems for financing their autonomous functions. This is how fiscal authority and accountability to Māori has played out to date. But it does not have to be this way. An enduring accountability, which takes fiscal authority seriously, could be a pathway to strengthening both the rangatiratanga and kāwanatanga spheres, and especially the relational sphere where they meet and move forward together. But what are the

integrity in relationships and are important for understanding what should be done to maintain accountability between parties. Accountability in Māori society must be understood within a set of reciprocal obligations. Obligations are enforced by a careful attention to both tradition and public opinion (Mead, 2003). As people act to honour and respect agreements, norms or ways of working together, mana is bestowed on them and further trust in the relationship is gained (Haemata Limited, 2022). In instances where parties deviate from an agreement, the mana of

give an accurate account, to be answerable and to respond to judgements on agreed obligations (Auel, 2007). But it is only attainable when public institutions recognise the relations of power and power asymmetries that shape the demands of those answers and obligations (Pansardi and Bindi, 2021). Public accountability in the kāwanatanga sphere can be understood in three key ways, as conceptualised by Bovens, Schillemans and Hart (2008).

Democratic accountability is created via procedural mechanisms that delegate power and responsibilities to elected representatives. Democratic processes legitimise the expectations against which specific actors honour their responsibilities, as intended in the Westminster parliamentary model, and accountability is measured by the way representatives or ministers adhere to delegated roles and responsibilities. Democratic accountability encourages transparency and demonstrations of trustworthiness, but the quality of accountability hinges upon how institutional structures designate responsibilities.

Constitutional accountability seeks to temper concentrations of power in individual representatives by upholding societal rules and norms. These instruments highlight normative non-conformity and transgressions, but do not necessarily demand answers or actions to restore relationships or prevent recurring transgressions. New Zealand relies predominantly on this type of public accountability and this often limits opportunities to enhance accountability and trustworthiness (New Zealand Institute of Economic Research, 2023).

Learning accountability creates a feedback loop highlighting why and how failures to uphold responsibilities and obligations have occurred. The aim is to create transparency and mechanisms that reinforce the specificities, actions or practices required for upholding responsibilities and obligations, to establish proactive change and prevent further failures. This improves the robustness of answers to accountability and of the mechanisms for accountability themselves, future-proofing against scenarios of declining public accountability.

## The aim is to create transparency and mechanisms that reinforce the specificities, actions or practices required for upholding responsibilities and obligations, to establish proactive change and prevent further failures.

expectations and protocols for fiscal accountability across the various spheres of influence?

### Accountability within the spheres of influence

To explore a range of possible mechanisms for accountability to te Tiriti, it is important to grasp the fundamental principles guiding accountability from both rangatiratanga and kāwanatanga perspectives. In doing so, we can assess how these may be exercised within and across different spheres of influence.

### *Te ao Māori and accountability*

The Māori constitutional system is based on tikanga which stems from a series of values that regulate political power, including whanaungatanga, mana, manaakitanga and utu (Godfery, 2016). These characterise Māori politics at a larger scale, but also at a functional level, and must be studied together in aggregate. Tikanga is a guide to strong and trusting relationships. As such, concepts like pono, aroha, mana, whanaungatanga, kotahitanga and manaakitanga ensure

either or both parties is compromised, and actions must be taken to restore mana for the sake of the relationship. The relational nature of trust in te ao Māori means active reciprocity is critical to accountability; without tangible steps towards restoration of the agreement and relationship, accountability cannot be achieved.

Trust and relationships are founded on interpersonal, intergroup or shared experiences and the histories of exchanges or agreements are acknowledged as ongoing. Accountability cannot be maintained without meaningful engagement and sustained acknowledgement of what the relationship means according to all parties' values and world views. This should be reflected in processes rather than in outcomes only, and extends towards the reparation of trust.

### *Kāwanatanga and public accountability*

Situated within its historical origins, accountability is a form of story-telling or account-giving that is always shaped by social and power relations (Bovens, Goodin and Schillemans, 2014). Public accountability reflects this: it means to

Some of these approaches and expectations overlap and some would be difficult to reconcile. But the Matike Mai approach requires that we think about spheres of influence, and the relationship between these spheres.

#### Proposed accountability models

Here we propose three mechanisms for accountability based on the various Māori and non-Māori aspects of accountability outlined above. First, we propose a Māori tax commissioner to enhance learning and democratic accountability in the kāwanatanga sphere. Second, we propose a kaupapa inquiry into fiscal authority to enhance learning accountability in the relational sphere. Finally, we propose an independent Māori tax authority to strengthen the rangatiratanga sphere and constitutional accountability. We view these as proposals for further discussion and possible steps towards realising the vision of Matike Mai.

#### *Māori tax commissioner*

The Māori tax commissioner could work within an independent tax commission, an independent authority to oversee tax policy proposed by Sawyer (2020), to hold accountability from within the kāwanatanga sphere. As New Zealand does not have any permanent independent entities to oversee tax policy, this commission would establish an important mechanism for monitoring and improving the tax system. The commission could be governed by its own board and operate at 'arm's length' from the Crown under legislation similar to that for existing 'independent' Crown entities. The National Audit Office in the UK is one model that demonstrates how this type of entity promotes independence of oversight in tax policy (Sawyer, 2020).

A Māori tax commissioner could hold an important role within this autonomous body, working across current kāwanatanga tax departments and workstreams within Inland Revenue and the Treasury, monitoring and providing feedback to improve analysis and standards. Inspired by Kukutai et al.'s (2023) proposed chief Māori data steward, the Māori tax commissioner would look to tikanga, te ao Māori and mātauranga Māori to improve

kāwanatanga tax policy, establishing processes and structures accounting for the rights and interests of Māori, particularly under the articles of te Tiriti. The commissioner could also work alongside Māori communities to improve accountability to Māori for existing budgetary frameworks like He Ara Waiora (see Treasury, 2023) and to establish new frameworks for te Tiriti accountability in tax policy.

A Māori tax commissioner would establish the settings for learning accountability in the kāwanatanga sphere. The role is feedback focused, working to

above. It remains subject to the political whims of the Crown for resourcing. Additionally, if there is no requirement to enact recommendations and integrate advice from the commissioner, the Crown can delay or avoid implementing changes to tax policy. Introducing a Māori tax commissioner requires cooperation at the executive and departmental level. Given the recent actions taken under current kāwanatanga, this role is unlikely to proceed or succeed without advancing Māori rights to fiscal authority under te Tiriti and the UN Declaration on the Rights of Indigenous Peoples. Careful

Mechanisms need to highlight where accountability is absent and demonstrate where the Crown must realign policy and practices with te Tiriti, reflecting concepts of learning accountability.

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establish direct and regular oversight with agencies and departments to ensure that structures and systems support te Tiriti obligations. The commissioner would report on how functions are upholding obligations to te Tiriti on a regular basis, providing transparency and detailed recommendations. This provides ways for different workstreams to understand specific obligations and responsibilities in their work, clarifying where changes must occur and the appropriate avenues through which to do this. The commissioner and the independent tax commission could also enhance democratic accountability by providing transparency on how tax policy is meeting te Tiriti obligations and the measures elected representatives are taking to support this work. This requires reporting structures and legislation that ensure that the medium- to long-term kāwanatanga commitments and objectives are made clear and publicly available, and ringfenced funding to protect the role ongoing.

This role introduces a break from the reliance on the constitutional accountability common in New Zealand, but is unlikely to avoid the core contradiction noted

attention and advocacy are required to ensure that a Māori tax commissioner role is integrated within the kāwanatanga sphere. These considerations indicate the need to strengthen accountability using existing mechanisms, especially the Waitangi Tribunal.

#### *Waitangi Tribunal kaupapa inquiry into fiscal authority*

The precise jurisdiction or workings of a relational sphere for accountability requires further development. One consideration for accountability in the relational sphere are the mechanisms that would make explicit how Crown-Māori partnerships are maintained to honour te Tiriti. Mechanisms need to highlight where accountability is absent and demonstrate where the Crown must realign policy and practices with te Tiriti, reflecting concepts of learning accountability. As a permanent commission of inquiry investigating breaches of te Tiriti, the Waitangi Tribunal contributes to this. The argument above indicating that there have been breaches to fiscal authority according to articles 2 and 3 of te Tiriti lays the ground for a Waitangi

Tribunal kaupapa inquiry into fiscal authority. Kaupapa inquiries examine nationally significant breaches of te Tiriti. This involves the comprehensive review of historical breaches and the contemporary impact these have for Māori, providing the scope to investigate the widespread implications involved in the denial of rights to fiscal authority. This would assist in laying the groundwork for shifting practices in tax policy in the kāwanatanga and relational spheres, and may also support steps towards establishing fiscal jurisdiction of the rangatiratanga sphere.

Rather than a new inquiry, evidence for fiscal authority within the rangatiratanga sphere is likely to be included in existing kaupapa inquiries, like the economic

is statutorily obligated to establish ‘the truth of what happened’ concerning the Treaty, claimants and Māori more broadly when examining evidence related to historical inquiries (Waitangi Tribunal, 1995, p.293). This can ultimately counter ongoing attempts to promote ‘objective’ narratives and has over time ‘unraveled carefully woven Crown myths’ (Mutu, 2019, p.161). In this way, the inquiry process and the Tribunal can be tools for accountability in line with some Māori as well as kāwanatanga accountability concepts.

The Tribunal is bound by the jurisdiction imposed on it by the Crown and its recommendations are not legally binding. Without an obligation to fully implement recommendations, the Crown

and jurisdiction of the Tribunal are at significant risk under proposals set out in each of the coalition agreements between National and New Zealand First and ACT that seek to redefine the principles of te Tiriti (New Zealand National Party and ACT New Zealand, 2023) and ‘[a]mend the Waitangi Tribunal legislation to refocus the scope, purpose, and nature of its inquiries back to the original intent of that legislation’ (New Zealand National Party and New Zealand First, 2023, p.10). The government has also signalled that a review of the ‘focus and scope’ of the Tribunal is to take place (RNZ, 2024). The Tribunal, however, remains an important option for establishing evidence that bolsters accountability within the kāwanatanga sphere and could support changes for fiscal authority in the rangatiratanga sphere.

While the executive within the kāwanatanga has significant amounts of centralised power, technically dependent on the electoral system and the will of voting citizenry, the rangatiratanga sphere derives its power from mana and rangatiratanga, and relationships with land and one another.

#### *Independent Māori tax authority*

An independent Māori tax authority could strengthen ongoing accountability in the rangatiratanga sphere. Key responsibilities would be to provide an independent monitoring mechanism that identifies how the Crown can meet its obligations to te Tiriti and to explore resourcing opportunities for the rangatiratanga sphere. An existing model for assisting to build this type of independent entity exists under the National Iwi Chairs Forum. The National Iwi Chairs Forum works across a number of important issues and has rejected attempts to bring its work under the control of the Crown (Mutu, 2019). For example, the monitoring and reporting on the Crown’s implementation of the UN Declaration on the Rights of Indigenous Peoples is carried out under the forum.

The Māori housing authority proposed by Menzies and Paul (2023) reflects the potential structure of this authority. Like the Māori housing authority, the Māori tax authority would be independently appointed, and work in collaboration with iwi, hapū and Māori organisations to oversee opportunities for fiscal accountability from the Crown according to tikanga Māori. Gathering its own data with Māori, the authority would analyse solutions and establish a range of evidence from which to hold the Crown to account.

The second role for the authority would be to strengthen opportunities for further

development inquiry, which already refers to ‘control of taxation and revenue’ (Waitangi Tribunal, 2024, p.2); or the Constitutional Kaupapa Inquiry (Wai 3300) that commenced in December 2022. Inquiry themes for Wai 3300 include national models of Māori self-government; tino rangatiratanga, mana motuhake, autonomy, and self-governance; kāwanatanga; and constitutional legitimacy and sovereignty (Ministry of Justice, n.d.). The Constitutional Kaupapa Inquiry has so far included an urgent hearing in May 2024 on the Treaty Principles Bill and Treaty clause review.

A kaupapa inquiry provides the space for the linking up of powerful evidence and for Māori to be heard. This lays further foundations for undoing colonial myths concerning fiscal authority. The Tribunal

is not necessarily prompted to break with colonial myths and narratives that would bring about more significant shifts in power and accountability (Mutu, 2019). The extent of trust gained from this accountability mechanism between Māori and the Crown relies, therefore, on how the Crown responds to and acts on demonstrated breaches. This means inquiry outcomes lean to a great extent on constitutional accountability, subject to the political whims of the Crown. As discussed, this often undermines lasting accountability and prevents structural changes to avoid further breaches of te Tiriti.

Persistent politicisation of the Tribunal has threatened its resources and operation, with significant reductions in funding or its abolition tabled on several occasions (Hamer, 2015). In addition, the purpose

resourcing. This entails advancing te Tiriti and fiscal authority education, and identifying possible central claims and strategies while supporting localised ones. The mandate and the autonomy of hapū and iwi are also necessary considerations. In Canada, the First Nations Tax Commission is a shared governance institution that approves the property tax laws set by indigenous governments. Although not independent (comprising a majority of federal government-selected members), the First Nations Tax Commission 'regulates, supports and advances First Nation Taxation' (First Nations Tax Commission, n.d.). While this body educates and assists First Nations to instate tax systems, it also oversees the integrity of the system and the reconciliation of taxpayer interests to the leaders of the Nations. In 2023 the First Nations Fiscal Management Act was amended to expand the mandates of the commission to 'better support First Nations' to establish local revenue laws and support local revenue service agreements (Crown–Indigenous Relations and Northern Affairs Canada, 2023).

Without self-determined oversight of fiscal authority and issues, Māori are denied the right to fully and genuinely pursue economic, social and cultural development. Taking the capacity-building and general organising aspects of the Canadian model, while maintaining the independence of, for example, the National Iwi Chairs Forum, an independent Māori tax authority could strengthen rangatiratanga. This provides, in part, for

the rights of Māori agreed to in te Tiriti and affirmed in the UN declaration, and establishes one possible avenue for rangatiratanga accountability in the fiscal sphere.

#### Conclusion

This short article has drawn attention to both the enduring relationship set out in te Tiriti, and the enduring contradiction where the Crown funds its own accountability. To overcome this contradiction and advance the enduring relationship, the kāwanatanga sphere must be accountable. The rangatiratanga sphere must also be accountable, but, more critically, contain the capacity to hold the kāwanatanga sphere to account. This requires enduring processes between the rangatiratanga and kāwanatanga spheres that progress relational or learning accountability.

Accountability is shaped by power. While the executive within the kāwanatanga has significant amounts of centralised power, technically dependent on the electoral system and the will of voting citizenry, the rangatiratanga sphere derives its power from mana and rangatiratanga, and relationships with land and one another. The short-term view of the kāwanatanga sphere can be a significant challenge for accountability, but the long-term view of the rangatiratanga sphere is a source of power. We can see this power manifesting today as struggles move out of the formal relational sphere that has been dictated by the kāwanatanga sphere, back onto the land to demand accountability

through, for example, the support for te Tiriti witnessed on occasions like Waitangi Day 2024. Tangata whenua and many tangata Tiriti are pursuing transformation towards a more just world and see honouring te Tiriti as fundamental to this transformation. To paraphrase Bargh and Tapsell (2021), the transformation must be 'tika' and for this to be tika, rangatiratanga must be strengthened.

In this context, we put forward some brief proposals inspired by Matike Mai for advancing fiscal accountability within and between the spheres of influence. These should be understood as proposals for discussion, discussion which we welcome. These proposals also offer opportunities for future research. This research could include deepening these proposals with historical and comparative approaches or presenting other proposals that overcome the contradiction detailed here while affirming the enduring te Tiriti relationship.

<sup>1</sup> Kāwanatanga is generally translated as 'the complete right to government', while tino rangatiratanga is generally understood as 'the unqualified exercise of chieftainship': see Kawharu, 1998.

<sup>2</sup> See Waitangi Tribunal, 2014, p.22.

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# Assessing The Potential for School Lunch Programme Ka Ora, Ka Ako to Enhance Education, Sustainability and Health Goals

## Abstract

The Ka Ora, Ka Ako school lunch programme introduced in 2020 provides nutritious lunches to around 220,000 students in low-advantage schools. While the food security impacts of this programme have been well documented, its potential to enhance outcomes in other areas of public policy is underappreciated. We conducted a policy analysis to map the programme's intersection with current public policy agendas in education, sustainability and health in Aotearoa New Zealand. We conclude that Ka Ora, Ka Ako can be a powerful platform to effect broad societal outcomes through alignment with school curricula, concerted effort to reduce carbon emissions, and commitment to delivering highly nutritious foods to all students in qualifying schools.

**Keywords** school meal programmes, food systems, sustainability, policy outcomes, public health, wellbeing, children

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Aotearoa New Zealand's food system is deeply 'troubled' (King, 2023). The latest *State of Food and Agriculture* report released by the Food and Agriculture Organization of the United Nations uses true cost accounting to report on the environmental, health and social costs of agrifood systems across 154 countries (Food and Agriculture Organization, 2023). In 2020, the hidden cost of food in New Zealand was estimated to be US\$22,007 million, shared between environmental costs (greenhouse gas and nitrogen emissions, \$9,887 million) and health costs from the burden of disease (dietary patterns, \$12,119 million). Globally, every dollar of agricultural value added generates 31 cents of hidden environmental costs. In New Zealand, given our unique profile, with high economic and social reliance on the dairy, beef and lamb industries, this is likely to be even higher.

One important metric demonstrating the failure of the current New Zealand food system is food security (Rose, 2021). One in five New Zealand children are reported to live in households that experience food insecurity (Ministry of Health, 2023a);

however, the rate is higher for children of Pacific and Māori ethnicity and children living in neighbourhoods of higher deprivation (Gerritsen et al., 2023). Recently published data from the Programme for International Student Assessment (PISA) shows that 14% of New Zealand students missed a meal at least once a week due to lack of money, compared with 8% across the OECD. In addition, by age 15, New Zealand students with any degree of food insecurity were two to four years behind their food-secure peers in academic scores in reading, maths and science (OECD, 2023). Concurrently, New Zealand faces an epidemic of childhood obesity: 13.5% of children aged 2–14 years were classified as living with obesity in 2022/23, further demonstrating our food system’s inability to meet children’s nutritional needs. Only 5.4% of children in this 2–14 age group eat the recommended daily amount of vegetables (Ministry of Health, 2023a). Meanwhile, about half of five-year-olds’ energy intake comes from ultra-processed foods – typically, energy-dense products that are high in sugar, unhealthy fats and salt, while low in dietary fibre, protein, vitamins and minerals (Fangupo et al., 2021).

In 2020, in response to rising food insecurity concerns and as part of the national Child and Youth Wellbeing Strategy (Department of the Prime Minister and Cabinet, 2019), the New Zealand government introduced healthy school lunches in targeted low-advantage schools, calling the programme Ka Ora, Ka Ako (be well, and thereby learn well). In an adapted universal approach, all students in targeted schools receive daily free nutritious lunches from either an external provider (commercial caterer) or an internal (on-site school cook) provider, or delivered by or in partnership with a local iwi/hapū. The programme was introduced based on the global evidence that universal school lunch provision improves food security (Huang, Kim and Barnidge, 2016; Lindberg et al., 2022), dietary quality (Andersen et al., 2014; Asakura and Sasaki, 2017; Sabinsky et al., 2019), health (Bartelink et al., 2019; Holford and Rabe, 2022), educational outcomes and student behaviour (Aldintag et al., 2020; Gordon and Ruffini, 2018, 2021). Ka Ora, Ka Ako

The primary reasons for introducing Ka Ora, Ka Ako were to improve nutrition and food security at the student level, and local employment at the community level.

now serves approximately 220,000 students (New Zealand Government, 2022), of whom 48% are Māori (Vermillion Peirce et al., 2022). A wide variety of lunches are provided through 156 approved suppliers, including hot lunches (e.g., spaghetti and meatballs, butter chicken) or cold lunches (e.g., wraps, sandwiches), usually with fruit, dips, carrot sticks and other vegetables to meet the nutrition guidelines.

Early evaluations show the programme reduced hunger and improved school functioning and intake of healthy foods among all participating students (Vermillion Peirce et al., 2022; Vermillion Pierce et al., 2021), and removed barriers to attendance for the most underserved students (Ministry of Education, 2024b). The kaupapa Māori evaluation of the iwi and hapū social procurement and partnership model extended these findings, reporting that this model fosters a sense of community in schools, contributes to broader food security and resilience for whānau, and provides a vehicle for the incorporation of mātauranga and tikanga Māori concepts, both at school and at home (Ministry of Education, 2023a).

The primary reasons for introducing Ka Ora, Ka Ako were to improve nutrition and food security at the student level, and local employment at the community level.

After around three years of delivery in the majority of schools, the potential for this programme to produce broader benefits is becoming evident (Garton et al., 2023; McKelvie-Sebileau et al., 2023), though these wider benefits are yet to be articulated into a clear broad purpose for the programme.

In Budget 2024, the National-led government committed two further years of funding for the programme at a significantly lower investment (\$239 million per year, reduced from the current \$323 million per year). In the new model for 2025–26, there will be no change to the programme for primary learners in years 0–6; however, students in years 7–13 will receive an ‘alternative provision model’ involving schools ordering bulk deliveries of food from a central supplier up to a value of \$3 per child/day. This substantial reduction in investment in the lunches for this age group from the current \$6.52–\$8.29 per child/day is accompanied by substantial cuts to Ministry of Education staff for the programme, including almost all the nutrition team.

In the context of the current government’s announced review and redesign of Ka Ora Ka Ako beyond 2026, it is timely to articulate how this programme fits into food systems more widely, and contributes to broader national goals in sustainability, education, economy and health.

The aim of the study reported in this article was to conduct a policy analysis, utilising a systems perspective, to describe the potential outcomes of the Ka Ora, Ka Ako school lunch programme in its current (2024) form, in relation to other national policy and strategic initiatives for health, educational, sociocultural, environmental and economic outcomes. Our objective was to demonstrate the potential value of Ka Ora, Ka Ako in prospectively supporting a wide spectrum of current national policy priorities, as an aid to political decision making regarding the programme’s future.

## Methods

### Study design

We carried out a qualitative policy analysis of the potential value of Ka Ora, Ka Ako to support wider government policy priorities. This included policy document



review and informal consultation with policy officials and other knowledge end users to help us navigate the policy environment and sense check the results to ensure accuracy and relevance. Data was collected between September and December 2023.

Policy analysis is a well-established approach to shedding light on the intersections between interests, ideas and institutions as they relate to a given policy (Walt et al., 2008). Applied prospectively, policy analysis can be utilised to: formulate an effective response to policy problems before actions are carried out; provide timely advice towards meeting policy objectives that are sensitive to local contextual factors and constraints; and reveal policy windows and identify the information and resources required to drive policy change in a particular setting (Buse, 2008; Reeve et al., 2021). Our study drew mainly on the third of these purposes, using the debate about the future of Ka Ora, Ka Ako as a policy window to define the wider settings and policies that the programme can influence. To some degree, the second purpose is also included, because each of the policy areas that the programme can influence have their own contexts and constraints. Our intent was to be responsive to concurrent political debate regarding the value of the school lunch programme and future government investment in Ka Ora, Ka Ako.

#### **Theoretical framework**

The research was guided by well-established theory of policy process and policy change (Walt et al., 2008; Walt and Gilson, 1994; World Health Organization, 2012), as well as systems science (Meadows, 2008), considering the potential synergies between Ka Ora, Ka Ako and other in-school initiatives or national programmes. Specifically, we consider school food programmes to be part of the wider interconnected food system involving producers, supply chain, industry, retail, food preparation and consumers (King, 2023), and hypothesised that potential synergies could be identified in any of these areas.

We applied a logic model based on previous work by the research team (Garton et al., 2023), which reviewed the

Of note, the data collection for this analysis was completed prior to the general election and does not represent the policy framework for the National-led coalition's triennium in government (2023–26).

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international literature on the primary outcomes of school lunch/meal programmes. This previous work allowed us to identify the areas of government policy that intersect with the established Ka Ora, Ka Ako programme outcomes.

#### **Document review**

The lead author carried out a desktop analysis of all relevant national government policies in place and all relevant announced policy reform. The websites of all government ministries related to the logic model (Education, Environment, Health, Te Puni Kōkiri, Social Development, Primary Industries) were reviewed to identify current government policies and new policies and strategies announced (up to October 2023, prior to the change of government). The findings were reviewed in consultation with the research team and additional areas were added based on researcher knowledge.

Once the policies and frameworks were identified, we reviewed the content and outcomes of these policies, identifying the overlap with established or potential outcomes of the Ka Ora, Ka Ako programme. These Ka Ora, Ka Ako

outcomes related to the child, whānau, school, community and food systems areas as identified in Garton et al. (2023).

#### **Informal consultations with policy officers and stakeholders**

We held informal consultations with public servants from the Ministry of Education and the Ministry for the Environment who work closely with the school lunch programme, as well as conversations with school principals, commercial caterers and waste minimisation specialists from the not-for-profit and local government sectors. We also spoke with groups running other food-in-schools programmes across New Zealand. The purpose of these consultations was to help navigate the policy environment to identify key government policies and pathways that Ka Ora, Ka Ako could potentially influence and to sense check the potential policy impacts for accuracy and plausibility. Formal interviews were not conducted because the public servants were not in a position to provide analyses or comments on a current government programme. For this reason, ethics committee approval was not sought and those who helped guide the research team knew that the discussions would not be recorded, analysed or quoted. Since the discussions depended on the different navigation and sense-checking needs of the research team, a formal sampling strategy, template guide of questions, or discussion recordings were not used.

#### **Coding and analysis**

The lead author coded data deductively, based on the domains of the applied logic model, using Microsoft Excel software. Building on our earlier analysis that documented the observed and potential outcomes of the programme based on the literature available (Garton et al., 2023), we then organised these with respect to policy sectors in both a tabulated format and a visualisation.

Of note, the data collection for this analysis was completed prior to the general election and does not represent the policy framework for the National-led coalition's triennium in government (2023–26). However, the primary purpose was to describe the pathways via which a healthy

**Table 1: Main potential outcomes of school meal programmes and their intersection with government policy sectors**

School meal programme potential outcomes*	Domain	Policy sector
Mitigating food insecurity	student/whānau	health, social development
Promoting nutritional awareness	student /whānau	health
Cultivating lifelong healthy eating habits	student /whānau	health
Enhancing mental health	student	health
Enabling better learning environments	school	education
Impact on food waste	environment	environment
Fostering environmental awareness	environment	environment
Promoting sustainable agriculture	environment	environment, primary industries
Supporting local economies	economy	employment, primary industries
Integrating cultural diversity/ mātauranga Māori	community	Te Puni Kōkiri
Strengthening social equity	community	Ministry for Social Development

\* Based on the literature review by Garton et al. (2023), each of these potential outcomes is supported by evidence (i.e., has been observed in New Zealand evaluations of Ka Ora, Ka Ako or is supported by systematic reviews of relevant international school food programmes).

school meal programme can enhance the areas. The policy reforms due to political outcomes of policies in multiple other leadership changes may change the details

of some of these pathways, but not the substantive conclusions of the study.

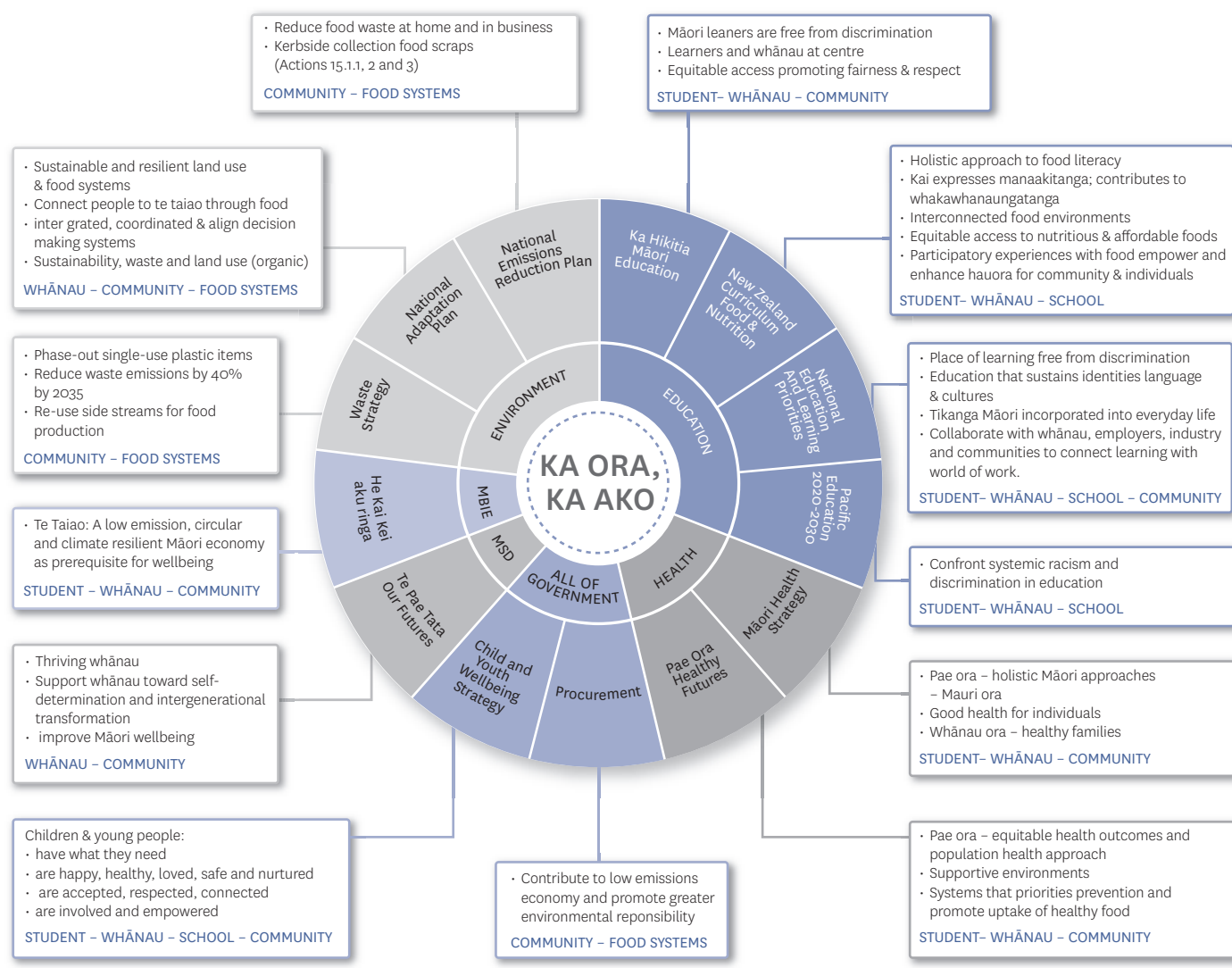
**Results**

**Impact sectors**

Table 1 describes the main evidence-supported outcomes of school meal programmes with respect to their domain of influence and related governmental policy sector, including: education, health, social development, Māori wellbeing and development, environment, primary industries, and Business, Innovation and Employment.

The policy document review data and stakeholder consultations allowed us to identify 13 existing policies in these areas and analyse how the healthy school lunch programme has contributed, or could contribute, to amplify the desired outcomes of these policies. This analysis revealed the breadth of policy areas that interact with

**Figure 1: Ka Ora, Ka Ako programme ‘ripple out’ effect into other priority areas of government policy and reform**



Ka Ora, Ka Ako, and the system of interactions. That is, the Ka Ora, Ka Ako programme influences outcomes in these policy areas as well as being influenced by the policies from these sectors. For example, reducing the number of hungry students will help to achieve the goals of the national education and learning priorities, and the structure of the curriculum refresh could affect how much Ka Ora, Ka Ako could be used for educational purposes.

Figure 1 illustrates the main policies and outcomes to which *Ka Ora, Ka Ako* contributes based on an analysis of each

sector and its relevant policies. The text in the boxes is extracted directly from policy document goals and outcomes. It shows Ka Ora, Ka Ako at the centre of the figure, with wide-reaching impact into outcomes in Environment, Education, Health, Social Development, Business, and Māori development, clearly placing this school lunch programme within the broader policy context and within the wider food system. The level of impact is indicated in each boxed text by child, whānau, school, community and wider food systems. For more information on the levels of impact

of the school food programme, see the modified socio-ecological model in Garton et al. (2023). Level of impact is indicated in each boxed text by child, whānau, school, community and wider food systems (see Garton et al., 2023 for more detail).

Table 2 gives more detail to these relationships, describing how Ka Ora, Ka Ako can enhance the desired outcomes within each of the domains of education, health and environment. The potential to enhance each of these sectors is included in the discussion.

**Table 2: How Ka Ora, Ka Ako can enhance the outcomes within each of the domains of education, health, environment, and business and procurement**

Policy	Outcomes extracted from policy and strategy documents	How Ka Ora, Ka Ako enhances these outcomes
<b>Education</b>		
Statement of National Education and Learning Priorities	<p><i>Objective 1: Learners at the centre</i></p> <ul style="list-style-type: none"> <li>Priority 1: Ensure places of learning are safe, inclusive, and free from racism, discrimination and bullying.</li> <li>Priority 2: have high aspirations for every learner/ākonga, and support these by partnering with their whānau and communities to design and deliver education that responds to their needs, and sustains their identities, languages and cultures.</li> </ul> <p><i>Objective 3: Quality teaching and leadership</i></p> <ul style="list-style-type: none"> <li>Priority 5: Meaningfully incorporate te reo Māori and tikanga Māori into the everyday life of the place of learning.</li> </ul> <p><i>Objective 4: Future of learning and work</i></p> <ul style="list-style-type: none"> <li>Priority 7: Collaborating more with whānau, employers, industry and communities. Support learners/ākonga to see the connection between what they're learning and the world of work.</li> </ul>	<ul style="list-style-type: none"> <li>Universal free school meals create safe and inclusive learning environments, breaking down barriers such as discrimination and stigma.</li> <li>Students eating together (consistent with tikanga Māori) contributes to social cohesion.</li> <li>Reciprocal relationship whereby children's healthy consumption affects that of their parents, and vice versa.</li> <li>Providing the same food for everyone, eating together, and learning about the kai is mana-enhancing and fits with whānau aspirations.</li> <li>Through inclusion of an iwi/hapū provision model and engagement processes, including teaching and learning around kai and strengthening school connections with Māori businesses and iwi, Ka Ora, Ka Ako provides a pathway for integration of mātauranga Māori in school lunch provision.</li> <li>Through inclusion of an iwi/hapū provision model and engagement processes, including teaching and learning around kai and strengthening school connections with Māori businesses and iwi providers, Ka Ora, Ka Ako provides a direct pathway for integration of mātauranga Māori in school lunch provision.</li> <li>Through teaching about kai and sharing meals, Ka Ora, Ka Ako provides a platform to incorporate te reo Māori and tikanga.</li> <li>In all schools, the ability to eat the same food together offers opportunities for manaakitanga and whanaungatanga.</li> <li>By involving students in the creation of menus, production and distribution of meals, Ka Ora, Ka Ako provides a platform to learn practical food science skills. Opportunities for Pathway students.</li> <li>The far-reaching benefits of Ka Ora, Ka Ako and flow on effects extend into communities and industry through relationships with suppliers, job creation and employment for whānau.</li> </ul>
Te Mataiaho – Curriculum Refresh – updated draft released in Term 4, 2023 – Food & Nutrition 'Five big ideas'	<ol style="list-style-type: none"> <li>Approaching food literacy holistically enhances health and wellbeing for individuals, whānau, and community.</li> <li>Kai as expression of manaakitanga unifies individuals, whā nau and communities, and contributes to whakawhanaungatanga.</li> <li>Interconnected food environment navigated through personal, interpersonal &amp; societal perspectives.</li> <li>Equitable access to nutritious and affordable food lies within social justice principles of fairness and inclusivity.</li> <li>Participatory experiences with food can empower and enhance hauora of both community and individuals.</li> </ol>	<ul style="list-style-type: none"> <li>Providing the same nutritious food to all learners within a school promotes equity outcomes and values of manaakitanga.</li> <li>School lunches provide holistic opportunities for students to be involved in food preparation, consumption and disposal.</li> <li>Free school meals provide equitable access to nutritious kai and all students eating the same food offers inclusivity and contributes to nutritional learning.</li> <li>The holistic learning outcomes of the new curriculum provide unique and powerful opportunities for the school meal programme to be integrated into schools' educational goals, developing learners' capabilities.</li> </ul>

Policy	Outcomes extracted from policy and strategy documents	How Ka Ora, Ka Ako enhances these outcomes
Ka Hikitia, Māori Education Strategy	Outcome domains <i>Te Tangata</i> : - Māori are free from racism, discrimination and stigma in education.  <i>Te Tuakiritanga</i> - Identity, language and culture matter for Māori learners	<ul style="list-style-type: none"> <li>· Inclusion of tikanga Māori around kai and sharing meals provides opportunity for inclusion of language and culture for Māori students. Universal approach reduces stigma and discrimination.</li> <li>· Through the direct inclusion of an iwi/hapū provision model and engagement processes, including teaching and learning around kai and strengthening school connections with Māori businesses and iwi providers, Ka Ora, Ka Ako provides a pathway for integration of mātauranga Māori in school lunch provision.</li> </ul>
Pacific Education Action Plan	Confront systemic racism and discrimination in education.	<ul style="list-style-type: none"> <li>· Universal free school meals create safe and inclusive learning environments, breaking down barriers such as discrimination and stigma.</li> </ul>
<b>Health</b>		
Child and Youth Wellbeing Strategy	<ul style="list-style-type: none"> <li>- Children and young people have what they need</li> <li>- Children and young people are                             <ul style="list-style-type: none"> <li>° happy and healthy</li> <li>° loved, safe and nurtured</li> <li>° accepted, respected, connected.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>· Universal free school meals provide food security and good nutrition to children, enhancing health outcomes as well as providing a nurturing and equitable environment in schools where children feel cared for without stigma</li> </ul>
Pae Ora (Healthy Futures) and Te Pae Tata – Interim New Zealand Health Plan 2022	<ul style="list-style-type: none"> <li>- Pae Ora aims to improve equitable health outcomes and implement a population health approach.</li> <li>- Pae Ora legislation implements the five strategies from the WHO Ottawa Charter for Health Promotion: strengthen community action; create supportive environments; and build healthy public policy.</li> <li>- Pae ora Action 4 – Make healthy choices the easy choice.</li> <li>- Implement a system that prioritises prevention and promotes the uptake of healthy food.</li> <li>- To kai as expression of manaakitanga, implement evidence-based policy interventions to address health priorities for Māori, including obesity and diet.</li> </ul>	<ul style="list-style-type: none"> <li>· Universal free school meals provide food security and good nutrition to children, enhancing health outcomes as well as providing a nurturing and equitable environment in schools where students feel cared for.</li> <li>· Nutritious free lunches provided in schools creates a health-promoting, supportive environment in schools.</li> <li>· School meal programmes are an equitable health prevention strategy targeted at students living in lower-income neighbourhoods.</li> <li>· Nutritious school meals can contribute to lower obesity and improved nutritional intake.</li> </ul>
He Korowai Oranga: Māori Health Strategy and interim update Pae Tū: Hauora Māori Strategy	<ul style="list-style-type: none"> <li>- Pae ora includes Mauri ora - good health for individuals and whānau ora - healthy families.</li> <li>- Pae ora envisages a platform on which Māori can live with good health and wellbeing in an environment that supports them to flourish and thrive.</li> <li>- Pae ora affirms holistic Māori approaches – strongly supporting Māori-led solutions.</li> <li>- Outcome 1: Whānau, hapū, iwi and Māori communities can exercise their authority to improve their health and wellbeing. This requires system shifts that better enable whānau, hapū, iwi and Māori communities to thrive as Māori, and create healthy and sustainable environments and communities in which to live and raise children.</li> </ul>	<ul style="list-style-type: none"> <li>· Children receiving food at school contribute to lessening the financial pressure on families to purchase school food items. Children also learn and influence their families with broader (healthier) nutritional preferences.</li> <li>· Through the iwi/hapū model, Māori have the right to self-determine their aspirations for health related to kai according to their kawa and tikanga.</li> <li>· Nutritious free lunches provided in schools creates a health-promoting environment in schools.</li> </ul>
<b>Environment</b>		
Waste Strategy	<ul style="list-style-type: none"> <li>- Phase-out of a range of single-use plastic items and hard-to-recycle plastic packaging by mid-2025</li> <li>- Reduce emissions from waste by 40% by 2035</li> <li>- Greater opportunities to re-use side streams for food production (e.g. grains from brewing used in crackers)</li> </ul>	<ul style="list-style-type: none"> <li>· Large-scale school meal programme offers leverage for procurement policies for food criteria and packaging. Recycling and composting opportunities become available regionally and nationally as minimum feasible volume is reached.</li> </ul>
Emissions Reduction Plan	<ul style="list-style-type: none"> <li>- Actions 15.1.1, 2 and 3 to reduce food waste at home and in businesses and support kerbside collection</li> </ul>	<ul style="list-style-type: none"> <li>· If schools are producing a volume of food waste, kerbside collection of scraps so they can be reused may be possible. Uptake and participation are likely to be higher at a school than for households.</li> </ul>
Adaptation Plan	<ul style="list-style-type: none"> <li>- Sustainable resilience land-use and food systems</li> </ul>	<ul style="list-style-type: none"> <li>· Localised food production, shorter distribution chain between producer and consumers.</li> </ul>

Policy	Outcomes extracted from policy and strategy documents	How Ka Ora, Ka Ako enhances these outcomes
<b>Business / Social Services / Procurement</b>		
He kai kei aku ringa – Māori–Crown Economic Growth Partnership 2023	<ul style="list-style-type: none"> <li>- Te taiao: a low emissions, circular and climate-resilient Māori economy as a prerequisite for wellbeing</li> <li>- Mana tuku iho: Māori identity in the economy enables Māori success</li> <li>- Mana whanake: building foundations for the future</li> </ul>	<ul style="list-style-type: none"> <li>• Including Māori businesses as suppliers of the programme which in turn enhance the Māori economy.</li> <li>• Mātauranga Māori shared and connections created around growing and eating food, and diversifying supply chains through the iwi/hapu provision model may contribute to greater food system resilience at a larger scale.</li> <li>• Iwi/hapū model enables Māori economy success.</li> </ul>
Te Pae Tata – Healthy Futures – Māori Strategy and Action Plan	<ul style="list-style-type: none"> <li>- Key shift 3: Kia takatū tātou: Supporting long-term social and economic development. We will support Māori aspirations.</li> </ul>	<ul style="list-style-type: none"> <li>• With 50% of students receiving school lunches of Māori ethnicity, Ka Ora, Ka Ako supports financial stability for whānau Māori and long-term development.</li> <li>• The Iwi/hapū model supports and diversifies supply chains through the iwi/hapu provision model.</li> </ul>
Procurement	<ul style="list-style-type: none"> <li>- Government commitment to achieving positive environmental outcomes through sustainable procurement by buying low-emissions and low-waste goods, services and works (Rule 2o).</li> </ul>	<ul style="list-style-type: none"> <li>• The scale of Ka Ora, Ka Ako can be leveraged to contribute through procurement policy to low emissions and low waste school lunches.</li> </ul>

## Discussion

At the 2023 United Nations Framework Convention on Climate Change conference of the parties (COP28), school lunches were recognised as an important social protection for food security and nutrition (Conference of the Parties to the United Nations Framework Convention on Climate Change, 2023). Moreover, planet-friendly school meal programmes are increasingly recognised as an investment in tackling food systems' climate, environment, biodiversity and food sovereignty challenges (Pastorino et al., 2023). Previous evaluations of Ka Ora, Ka Ako have documented how the programme enhances satiety, wellbeing and school functioning for most learners, particularly those in greatest need (Vermillion Peirce et al., 2022; Vermillion Pierce et al., 2021; Ministry of Education, 2024b), and has a ripple-out effect creating positive impacts for whānau, schools, community and potentially the wider food system (Garton et al., 2023; McKelvie–Sebileau et al., 2023); and how the iwi/hapū partnership model enhances outcomes for Māori learners and communities (Ministry of Education, 2023a)

Despite this relatively rich base of evidence of impact from New Zealand and internationally, and a very positive value for investment analysis (Toro and Swinburn, 2024), the associate minister of education, David Seymour, voiced opinions that the programme was a 'huge waste' of taxpayers' money and that the food loss and food waste was unacceptably

high (Swift, 2024). Budget 2024 continued the programme for a further two years, but with over \$100m per year being cut from provision for years 7–13. It remains unclear what criteria (if any) will be used to evaluate the outcomes of this new model for nutrition, learning, food insecurity and local economies.

The present discussion demonstrates how a well-designed and well-implemented Ka Ora, Ka Ako programme can enhance policy outcomes within education, health and the environment. It takes a systemic view where food and feeding are not considered in isolation, but are considered to be widely interconnected, context-dependent and both influenced by, and influencers of, the broader environment (King, 2023).

### Curriculum connections

The ways in which Ka Ora, Ka Ako can enhance outcomes in education through alignment of its goals with the Ministry of Education's New Zealand Curriculum are robust and multiple (Ministry of Education, 2023c). While these alignments may be considered indirect benefits, the importance of this learning opportunity should not be underestimated. Students can see the values and practices they are learning in the health and nutrition curriculum in the ways they share healthy school lunches within their school communities (Garton et al., 2023; Ministry of Education, 2023c).

In the New Zealand Curriculum, food and nutrition education sits within the

health and physical education subject area, guided by the whakataukī (proverb): He oranga ngākau, he pikinga waiora (positive feelings in your heart will raise your sense of self-worth) (Ministry of Education, 2023c). The pathways for nutritious meals at school to enhance the learning outcomes in food and nutrition, and the broader area of the health curriculum, are clear. The five big ideas in the food and nutrition curriculum listed in Table 2 clearly link to the objectives of the school meal programme. These curriculum ideas, reinforced through the school meal programme, involve a holistic and participatory approach to food literacy, an interconnected food environment, and equitable access to nutritious food (Garton et al., 2023). In addition, curriculum materials state that gaining a holistic understanding of our food environment requires the inclusion of diverse Māori and Pacific world views such as attitudes, values, beliefs and perspectives; and that learning about food offers lifelong skills contributing to students' own health and wellbeing, as well as that of their whānau and wider community. Social justice and sustainability are also present in the curriculum, which describes the recognition of food inequities and injustice and describes how students' learning will develop care and concern for others and the environment. Ka Ora, Ka Ako aligns with these goals and can directly contribute to these learning outcomes (Vermillion Peirce et al., 2022; Ministry of Education, 2023a; Garton et al., 2023; Glassey et al., 2023).

### Health connections

Alignment and intersection with other government policies, such as the Child and Youth Wellbeing Strategy, Pae Ora and the Māori Health Strategy, are also demonstrated (Department of the Prime Minister and Cabinet, 2019; Ministry of Health, 2023d, 2023c). While improved nutritional health of the population in general and children and Māori in particular contributes to these policies, New Zealand lacks any specific strategic policy documents or policy goals for nutritional health. This is a startling policy gap, given that overweight/obesity and dietary risk factors are two of the biggest causes of loss of disability-adjusted life-years in New Zealand (7.55% and 5.82% respectively, compared to tobacco at 6.95%) (IHME, 2024). Diet-driven diseases such as obesity, diabetes and dental caries are high-prevalence, high-cost diseases in New Zealand (Ministry of Health, 2023b; Hipgrave, 2021; Barton and Love, 2021; PwC, 2021), with no specific prevention policies or strategies in place.

Universal free school meals provide food security and good nutrition to children, enhancing health outcomes as well as providing a nurturing and equitable environment in schools where children feel cared for without stigma (Vermillion Peirce et al., 2022; Garton et al., 2023; Yu, Lim and Kelly, 2019; Leos-Urbel et al., 2013). Providing nutritious free lunches in schools is an equitable health strategy that creates a health-promoting, supportive environment in schools, contributing to improved nutritional intake and reduced obesity (Bartelink et al., 2019; Holford and Rabe, 2022).

### Public food procurement policies

Ka Ora, Ka Ako is a large public procurement initiative involving the purchase, transport, preparation and consumption of food costing about \$1.8 million per school day (Ministry of Education, 2021). Government procurement in New Zealand is guided by rules that help to 'promote broader environmental, social, cultural and economic outcomes' (New Zealand Government, n.d.). The rules align with the government's expectations that procurement can be leveraged to achieve broader outcomes, promoting public value. The Ministry of Health

Major improvements have been made since the beginning of the programme to remove any non-recyclable single-use plastic packaging, which aligns with the goals of the revised national waste strategy, which phases out various types of single-use packaging between 2021 and 2025 ...

acknowledges that food-purchasing decisions by health sector (and all government) institutions exert a powerful influence on food production, processing and supply and import activity (Ora Taiao New Zealand Climate and Health Council, 2021; Te Whatu Ora Health New Zealand, 2023). In this sense, any embedded requirements around nutritional value (or environmental impact) have the potential to incentivise shifts in the food system. The volume of food procurement involved in Ka Ora, Ka Ako has the power to affect local food supply systems, and potentially national food supply – for example, when ingredients are required in the menu that are not produced in New Zealand (such as brown rice). Currently, procurement appears fragmented and, while there are

pathways to more social and sustainable procurement through internal school models and iwi/hapū models, the focus of the current National-led government is to use government procurement power to source cheaper, shelf-stable food which can be transported around the country (Ministry of Education, 2024), rather than purchasing local, more environmentally friendly supplies of fresh food for schools, as recommended by the World Health Organization and implemented in other jurisdictions internationally (World Health Organization, 2021; Soares et al., 2013; Sonnino, 2009). This represents a policy difference between recommended and existing best practice and the proposed new model for New Zealand.

### Environmental sustainability connections

One of the four priority outcomes of government procurement rules is to support the transition to a net zero emissions economy and assist the government to meet its goal of significant reduction in waste (New Zealand Government, n.d., rule 20). While this only applies to designated contracts (such as supply of military rations), the emissions produced by the meals served in Ka Ora, Ka Ako have been measured as part of the Carbon Neutral Government Programme. The Ministry of Education recently conducted its first evaluation of greenhouse gas emissions for 2022, estimating that the Ka Ora, Ka Ako programme emits 71,655 tonnes of CO<sub>2</sub> equivalent across the year (Ministry of Education, 2023b). This was the third-largest sector of emissions for the Ministry of Education (following construction and transport). Taking into account the full food life cycle from production and distribution to consumption and waste, food emissions were primarily from the 100,000 school lunches served each day through Ka Ora, Ka Ako, with a small amount coming from in-school canteens (tuck shops) where it was possible to estimate emissions from food.

Another specific sustainability focus of the programme is food packaging, as around 75% of lunches are made off-site and transported to the schools by external caterers. Major improvements have been

made since the beginning of the programme to remove any non-recyclable single-use plastic packaging, which aligns with the goals of the revised national waste strategy, which phases out various types of single-use packaging between 2021 and 2025 (Ministry for the Environment, 2023). Recently, the Ministry of Education released the Ka Ora, Ka Ako 2023 waste minimisation guidance and legislation update (Ministry of Education, n.d.), providing recommendations on how suppliers and schools can minimise food waste and create procurement and waste management plans. The guidance details the food recovery and packaging waste hierarchies, aligning with the ministry's 2030 waste sector target to reduce greenhouse gas emissions from the sector by 42% (Ministry of Education, 2023b). However, efforts are still required to find appropriate long-term solutions for the 'compostable' packaging that has replaced much of the single-use plastic packaging. The Ministry for the Environment position statement on compostable packaging sets out some of the principles of how compostable packaging can be used in a circular economy approach to help divert food waste from landfill, as well as some of the challenges (Ministry for the Environment, 2022). In our experience in regional New Zealand, while these products are biodegradable and theoretically compostable, there are no facilities to accept them for composting as they may lengthen time required for composting, or due to concerns around contamination from added chemicals and toxins such as per- and polyfluoroalkyl substances (PFAS) (WasteMINZ, 2023). With the volume of Ka Ora, Ka Ako lunches, this is an area that requires further work, including, for example, investigating opportunities to include school food scraps in kerbside collection which will be introduced in urban areas by 2030 (Ministry for the Environment, 2024), and potentially converting food waste to waste-to-energy sites such as the Ecogas site in Reporoa. However, we note that these initiatives may require capital funding, and with the school lunch programme model 'under review' until 2026, this makes investment riskier until sustainable funding is ensured. Moreover, it is possible that the new

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programme delivery model announced for secondary schools to come into effect from 2025, relying on bulk deliveries of shelf-stable foods, will increase packaging waste.

#### *Other diverse opportunities offered by the scale of Ka Ora, Ka Ako*

Importantly, the organised structure of the Ka Ora, Ka Ako programme and the volume of food moving through the schools provides opportunities to reduce food waste through menu design, student engagement in menu design, food rescue, side-stream products and compost production. The programme has previously been criticised based on anecdotal evidence of excessive food surplus (untouched lunches) and food waste (partly eaten lunches) (Stewart, 2024). Existing evidence of food surplus being about 5–10% is in line with standards for public provision of food (Toro and Swinburn, 2024), but there is very little data on the programme's food waste. One New Zealand analysis of food waste from school lunchboxes analysed the proportions of types of food in school rubbish bins, noting that sandwiches, fruit

and vegetables and dairy were much more commonly wasted than processed energy-dense foods (Dresler-Hawke, Whitehead and Coad, 2009). With fluctuating attendance rates in schools, ensuring there are lunches for all students means some surplus food is inevitable. The redistribution of these uneaten lunches can enhance social justice and equity goals, enhancing outcomes in the social sector.

The ability to reduce emissions from school food at scale offers opportunities for targeted actions that can be implemented collectively, monitored and evaluated. Options that are already being implemented through Ka Ora, Ka Ako for positive environmental benefits are composting in schools of food waste, redistribution or reuse of surplus food and improvements to food packaging. However, the bulk of the school lunch emissions come from the inclusion of beef and lamb in the menus. Introducing meat-free days and changing the type of meat included, as other countries have done in their school meals, could have a large impact on these emissions and contribute to pathways for achieving our carbon budgets, legislative targets and nationally declared contributions. For example, in an effort to reduce greenhouse gas emissions, France implemented a meat-free Monday in school meals in 2019, and now requires 50% of ingredients to be sustainable and 20% to be organic (Ministère de L'agriculture et de la Souveraineté Alimentaire, 2022).

Identifying the way other countries have incorporated sustainability in their school lunch programmes provides insights into potential pathways for Ka Ora, Ka Ako. In a review of initiatives to improve the sustainability of school lunches, Gardner et al. (2023) identified three clear interventions for the sustainability of school meal programmes: reduce waste (in packaging and food) – primarily involving educational interventions for students, with some degree of success; change menu composition using climate-conscious menus (primarily reducing consumption of red meat in school lunches); and sustainable food system education using school gardens. Dos Santos et al.'s review aligns to this list, indicating that sustainable distribution of meals and making sustainability universally part of the school

curricula are paramount (Dos Santos et al., 2022). It should be noted, however, that most of the reviewed studies were undertaken in a school canteen-type environment as opposed to the New Zealand environment, where, for the most part, individual lunch portions are delivered by an external caterer (Vermillion Peirce et al., 2022). Critically, the concept of reducing meat consumption to increase health and reduce carbon footprints is relatively unpopular in New Zealand, with only 22% of New Zealanders already doing this to limit their contribution to climate change and an additional 35% ‘likely’ to do this, compared to 19% and 43% globally (Ipsos Global Advisor, 2022). New Zealand Health Survey data from 2018–21 indicates that 93% of New Zealand adults eat red meat (Bradbury et al., 2024).

Finally, we note that since the introduction of Ka Ora, Ka Ako, we have observed a ‘mindset evolution’ in programme approach from an initial focus on alleviating food insecurity by feeding hungry children. This quickly evolved into a desire to offer healthy and nutritious food that could change nutritional behaviours for life and offer health and wellbeing benefits. The programme that was initially called the Free School Lunch programme (RNZ, 2020) was rapidly rebranded as the Free and Healthy School Lunch programme (New Zealand Government, 2020) and then given its name Ka Ora, Ka Ako. Since 2022 we have observed a further shift towards sustainability concerns in food waste and packaging with the introduction of a Ministry of Education role of lead advisor for sustainability and collaboration with Ministry for the Environment teams. Guidance has been released on how to reduce food waste and packaging (Ministry of Education, n.d.). These are encouraging signs and show how the programme has been able to broaden its approach, recognising the potential for impact on the food system at all levels. With ongoing feedback from students, schools, providers and communities, it will continue to evolve.

#### **Opportunities to create equitable outcomes for ākonga Māori**

While not the primary purpose of this article, it is important to acknowledge the potential for this programme to create

There is mounting international and national pressure for food systems to address these multiple goals and this requires a transformation beyond the current paradigm of considering food only as an economic commodity.

equitable outcomes for ākonga Māori (Māori students), who make up around half of the learners receiving the lunches. With higher food insecurity for Māori children (Ministry of Health, 2023a) and higher rates of nutrition-related disease (Ministry of Health, 2019), this is a key feature of the programme. The introduction of the iwi and hapū social procurement model and roles for kaupapa Māori nutrition advisors indicate the desire to incorporate tikanga Māori into the programme, as reports from principals in schools with a strong mātauranga Māori focus had indicated that they felt challenged in aligning their values and their mātauranga Māori-bound teaching practices with Ka Ora, Ka Ako, in particular due to the strict nutritional guidelines (Glassey et al., 2023). Overall, this work shows that understanding is growing about how Ka Ora, Ka Ako fits within the wider New Zealand food system.

#### **Strengths and limitations**

A key strength of this study is its timeliness and relevance to current policy debate.

In addition, the support of policymakers and other stakeholders, such as school principals and lunch providers, in navigating the policy landscape and sense-checking our analyses added robustness to the mapping of these potential policy benefits of Ka Ora, Ka Ako. Integrating a systems perspective with existing theoretical frameworks for policy analysis strengthened the analysis, providing a more complex and nuanced view of the intersections of the school lunch programme across sectors of government and levels of society.

Policy analysis research can be challenging for ‘outsiders’ like our research team who are not immersed in the policy processes, whereas the ‘insiders’ who are immersed are in no position to conduct that research or even be formal interviewees for sensitive policy areas. Because there was no likelihood of obtaining formal interviews with policymakers and thus to use their analyses of policy potential for Ka Ora, Ka Ako that we were seeking, we opted for engagement with them on the terms that would be safe for them, yet helpful for the research team. We integrated a range of policy perspectives and drew upon an interdisciplinary research team (with expertise across public health, mātauranga Māori, political science and systems modelling) to ensure a robust analysis, but we acknowledge that some major documents may have been missed. Finally, as noted earlier, a changing political context and set of government priorities means that some of the identified policy synergies may no longer be in place at the time of publication.

#### **Conclusion**

The Ka Ora, Ka Ako free, healthy school lunches programme is much more than a feeding programme to reduce food insecurity. This policy analysis demonstrates how it has multiple co-benefits and can be a powerful platform to advance policy goals on equity, health, education, climate change and other environmental objectives. There is mounting international and national pressure for food systems to address these multiple goals and this requires a transformation beyond the current paradigm of considering food only as an economic commodity. New Zealand has many strategic policy objectives which



Ka Ora, Ka Ako could enhance, but an identified clear policy gap is the absence of any policies on food for health. Many countries have strategic policy approaches to reducing the nutritional health burden of obesity and non-communicable disease. Obesity and poor diet are the largest risk factors in New Zealand for preventable disease and food for health policies are urgently needed.

Ka Ora, Ka Ako will be under review until a new model is unveiled in 2026, and it will be important for this review to recognise the wide scope of the

programme's impact, and consider opportunities to explicitly align the programme to these broader health, education and sustainability policy objectives. In the interim, it will be particularly important to evaluate the new delivery model in intermediate and secondary schools against the government's policy priorities, to ascertain the potential ripple effects and impacts at scale.

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Neil J. Ericksen

# Creating Flood Disasters

## New Zealand's oscillating history

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### Abstract

Using a three-part framework to evaluate choices for adjusting to floods in New Zealand, factors influencing floodplain policies and practices since 1950 are identified. Each change came after severe regional flooding. Early emphasis was on enlarging channels and raising stopbanks, and on post-disaster relief. These responses enhanced urban floodplain development, and disasters when systems failed. Periodically, attempts to improve land use planning and building management, including requirements for flood hazard maps, met stiff resistance from developers, property owners and growth-oriented local politicians, resulting in changed legislation. Policy and practice thereby oscillated several times in response to prescriptive/coercive and devolved/co-operative mandates. Underpinning all has been poor understanding of flood frequency statements on the part of at-risk people.

**Keywords** flood hazard, disaster potential, coercive–prescriptive, cooperative–devolved, policies and practices

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### Flood hazard and types of adjustment to floods

Flooding of settlements in New Zealand has for decades been a serious problem (Cowie, 1957). In the past 70 years, scores of floods have damaged urban areas. All regions have been affected by floods, most multiple times. They have caused severe socio-economic disruptions and cost billions of dollars in losses.

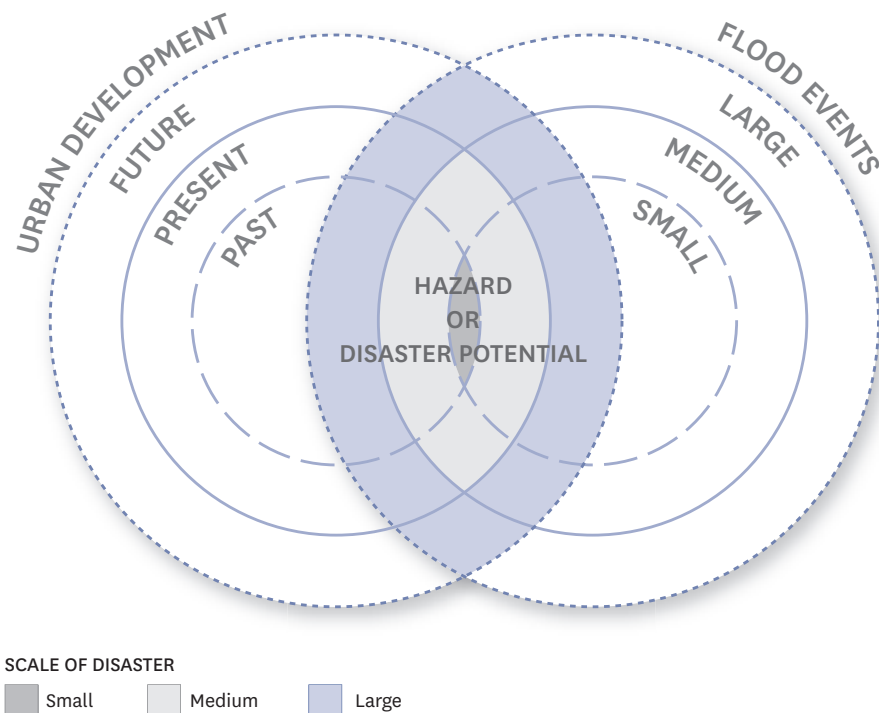
Flood hazard is defined by size of flood event and extent of human use in a flood-prone area. Continued encroachment into these areas characterises 'flood hazard creation' and 'disaster potential' (Figure 1).

Policies and practices for dealing with flood problems can be categorised into the three types shown in the chart in Figure 2. It shows that by the mid-1980s, New Zealand relied mostly on the first and third options (darkest shading), downplaying modifying flood-loss potential through measures for managing land use and buildings. The consequences of this bias for disaster creation are considered in this article.

### Modifying flood cause and effects

When natural state catchments are transformed for human uses, waters from intensive rainfalls move more quickly down the stream system, especially when urban development paves over the soil

Figure 1: Flood hazard creation caused by size of flood event and extent of human use (development) in a flood-prone area



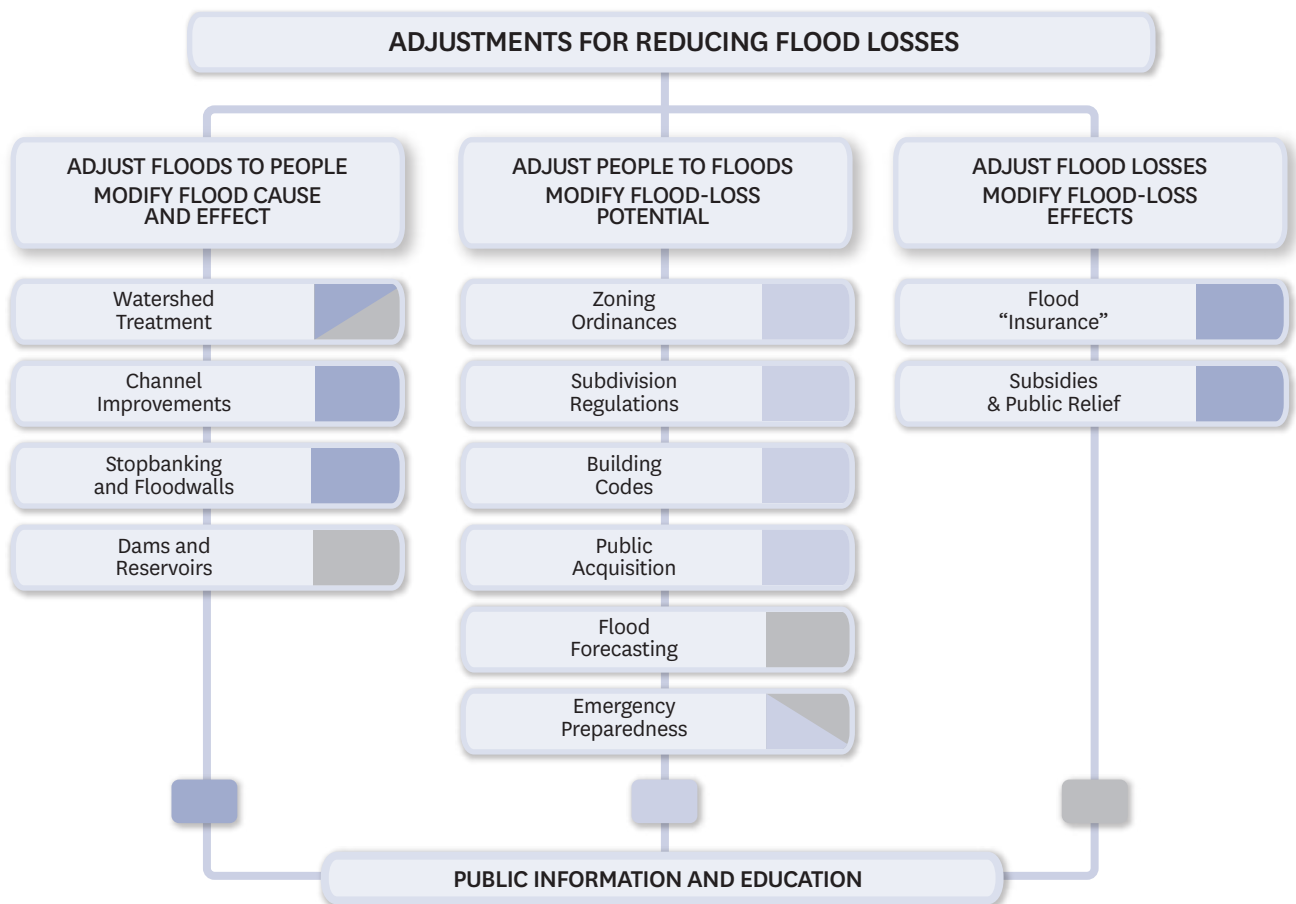
with concrete. Thus the 1-in-100-year flood may become more like a 1-in-75-year flood.

**River control works**

Society favoured river control works and storm water drainage, especially after the passing of the Water and Soil Conservation Act 1967. It incentivised councils by relatively strong institutional arrangements and subsidies from central government.

However, reliance on flood control and upstream catchment management increases flood hazard by encouraging intensification of development within protected areas. For example, channel widening and stopbank raising along Manganone Stream (Palmerston North) commenced in 1920. Successive floods led to extending channels and raising stopbanks ever wider and higher five times over 50 years, each encouraging more

Figure 2: Adjustments for reducing floods losses: adjust floods to people; adjust people to floods; and adjust flood-loss effects.



**MEASURES USED IN NEW ZEALAND AS OF THE MID-1980s**

Strong Adoption Moderate Adoption Weak Adoption

Source: Ericksen, 1986, p. 240

intensive agriculture, then urban development. By mid-1970, stopbanks had grown level with eaves of adjacent houses – all at risk from the greater-than-designed-for flood; and none, it is assumed, flood-proofed (Ericksen, 1986, p.134).

Stopbanks are quite prominent landscape features, but studies show many people living nearby fail to realise their function. Those who do simply take for granted they won't fail due to breaching, overtopping or both. But they can fail, as happened along the Tūtaekurī and Ngaruroro rivers in Hawke's Bay during flooding in February 2023. A recent study

on physical works, and this may not be the most appropriate approach to mitigate flood risk in future' (Ministry for the Environment, 2008, p.29).

The worrying scale of historical stopbanking and its ongoing maintenance by councils is shown in recent inventories, leading to calls for 'provisions to restrict inappropriate development in flood-prone areas, including those behind protective structures' and 'resources and support ... to allow local councils to compile more rigorous and consistent (residual) flood risk information and to actively engage with the public for better flood risk

Auckland were severely stressing storm water and waste water systems. Thus, Auckland Council has been daylighting some storm water drainage systems in order to increase green space and decrease hard surfaces. Some were shown to have averted damage to nearby buildings in the 2023 floods. But others failed badly, as in Wairau Valley on the North Shore, where several multi-purpose wet and dry detention ponds were overwhelmed. The Sunnynook 30-year plan says much about the multi-functions of these ponding areas, but nothing of their flood-retention function, nor what citizens should do if ponds are overwhelmed (Auckland Council, 2018).

Planning decisions for creating sponge cities will be conditioned by past land use decisions and increases in rainfall intensity from climate change, and strong drivers for intensification or infill housing in urban areas that increase run-off and reduce permeability.

#### Modifying flood-loss effects

At the right of Figure 2 are measures for modifying flood-loss effects, including insurance and relief funds. By the mid-1980s they were being strongly adopted, and since then have been refined in their expansion.

#### Insurance

Historically, because few people insured against natural hazards, the government created the Earthquake and War Damage Commission in 1945 to provide affordable insurance, funded by a levy placed on all fire insurance policies of private insurance companies (Earthquake Commission, 2023). Significant natural disasters subsequently led to the Earthquake Commission Act 1993, with the commission being renamed the Earthquake Commission (EQC) and given control of the Natural Disaster Fund. Cover for commercial properties was removed from the fund in 1994 to encourage better uptake with private insurers. Soon after, household contents cover was also removed.

In the past 20 years, the private insurance industry has trended towards risk-based pricing for residential dwelling insurance, where premiums are tailored to specific risks faced. Increasingly, insurance

Stop-banks are quite prominent landscape features, but studies show many people living nearby fail to realise their function. Those who do simply take for granted they won't fail due to breaching, overtopping or both. But they can fail, as happened ... in February 2023.

compared people's awareness of flood schemes and risks, using survey data and EQC (Earthquake Commission) damage claims, to flood hazard maps. It found notable areas where they don't align (Walsh, Paulik and Robertson, 2020).

Emphasis on funding flood control works changed in response to evidence presented in *Creating Flood Disasters: New Zealand's need for a new approach to flood hazard* (Ericksen, 1986), and neoliberal reforms in the mid-1980s which curtailed government subsidies (Bewick, 1988; Campbell, 1988; National Water and Soil Conservation Authority, 1987).

Severe regional flooding in 2002 and 2004 led the Ministry for the Environment to investigate flood risk management, including funding, affordability and governmental roles. Its 17 case studies found 'river management ... highly reliant

awareness and outreach' (Fu et al., 2023).

Prior to the 2023 flood disasters, Local Government New Zealand petitioned government for \$197 million in support of 80 ready-to-go flood management infrastructures for upgrading flood protection, and to augment \$215 million given in 2020 for a joint-venture programme aimed at completing 55 flood protection projects (Local Government New Zealand, 2019). The proposals don't highlight other flood-loss mitigating measures, such as land use and building management.

#### Daylighting storm water systems

In recent years programmes like Auckland's Making Space for Water have aimed to create a sponge city (Mercier, 2023). This programme started because tens of thousands of flood-prone homes across

companies consult council flood maps in order to reassess risks. They also now take account of property-specific mitigation efforts (for example, building elevation) in risk assessment. This is reflected in premiums charged.

The Canterbury earthquakes of 2010 and 2011 led to a public inquiry into the Earthquake Commission, and thence to the Natural Hazards Insurance Act 2023 (Earthquake Commission, 2023). Its primary objective is to clarify the role of EQC in reducing the impact of natural hazards on people, property and the community.

The government has been considering residential flood insurance issues in the context of increasing risk-based pricing and exacerbation of underlying risks by climate change. In April 2022, Cabinet invited the Treasury to consult on these issues and examine options to intervene in the insurance market (Reserve Bank, 2022; Treasury, 2022).

Over a decade ago, Smart and McKercher (2010) found no historically significant trend in the occurrence of river floods. Rather, floods tended to cluster in certain decades, and this varied across the country. The reported increase in insurance claims at that time therefore reflected increased population in at-risk areas.

The Insurance Council of New Zealand expects insurers to pay out \$3.5 billion for property damage caused by the 2023 storms; and that insurers may restrict or refuse new cover for homeowners in highest-risk areas and consider risk-based pricing for commercial businesses (Gallagher Brokers, 2023).

### **Relief funds**

Over decades, relief for individuals, communities and businesses affected by extreme climatic events has broadened to involve many government agencies. In response to the 2023 disasters, the Department of the Prime Minister and Cabinet has listed grants available for three main entities: local authorities (five types of grants); businesses (four types of grants and loans); and communities (three types of grants). The lead agencies include: the Department of Internal Affairs, the National Emergency Management Agency (NEMA), Civil Defence Emergency

Management (CDEM), the Department of the Prime Minister and Cabinet, Treasury and the Ministry of Business, Innovation and Employment, the Ministry for Primary Industries, the Ministry of Social Development and Te Puni Kōkiri (Department of the Prime Minister and Cabinet, 2024). In addition, upon application the government can make contributions to a mayoral or disaster relief fund in order to quickly help communities recover from emergencies. For years, much relief funding enabled reinstatement of homes and businesses within the same vulnerable locations, although increasingly with building elevation and, more recently, buy-outs of worst-affected homes.

professional and council planners to review emergency responses and reasons for flood hazard creation (Ministry of Civil Defence and Emergency Management, 2009). Meanwhile, the Ministry for the Environment was researching the state of play in 17 flood-prone communities and had the dozen statutes dealing with flooding reviewed (McSweeney, 2006; Ministry for the Environment 2008). This led to the ministry providing local councils with guidelines for better preparing for future flooding (Ministry for the Environment, 2010). With this background, measures for modifying flood-loss potential are outlined below.

## The government has been considering residential flood insurance issues in the context of increasing risk-based pricing and exacerbation of underlying risks by climate change.

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### **Modifying flood-loss potential**

After 1950, incremental shifts towards better uptake of land use planning and building practice came in response to several disastrous regional floods. But by the mid-1980s their adoption was still relatively weak. This led to the Resource Management Act 1991 (RMA). Links between the RMA and the Building Act 1991 were examined and amendments made to remove inconsistencies (Cashin, 1993). In the decade following the passing of the RMA, several conferences and workshops were held to explain and explore its application and emerging issues (e.g., Blakely, 1994; Hull and Coory, 1994, 1995; Centre for Advanced Engineering, 2002).

When serious regional flooding occurred in 2002, the Climate Change Office in the Ministry for the Environment had the means for evaluating economic losses from the community flooding analysed (Walton et al., 2004). A regional flood in 2004 led to a workshop involving

### **Flood forecasting**

New Zealand has long been favoured with a centralised weather forecasting service which has grown in sophistication through computer modelling linking local, regional and global climate systems. This is important for short-term localised emergencies and longer-term forecasts for farmers.

Forecasting is essential for providing information in a form of use to emergency planners and ought to come from one authoritative source. In turn, emergency planners must speedily provide pertinent information to relevant council personnel and floodplain dwellers when declaring an emergency.

### **Emergency preparedness**

Emergency planning grew from the 1950s. Each legislative change for improving effectiveness came in response to a major disaster, especially flooding. Early on, local politicians objected to the term

'disaster' declaration, so it was changed to 'emergency' declaration. When over 10% of councils had failed to develop a civil defence plan, it was made mandatory in 1968. Eventually, declaring an emergency passed from civil defence personnel to local politicians, who generally had little enthusiasm for civil defence and land use planning (Ericksen, 1986, p.178–9).

Since 2000 there have been 61 local and 17 regional emergency declarations in response to flooding, seven caused by

be formalised, reflecting similar recommendations made in prior disaster responses and which had informed the 2023 Emergency Management Bill.

An internal evaluation of the NEMA in Wellington found that it was not only unprepared for the extreme events, but also lacked leadership, experience and depth to deal with them (NEMA, 2024).

#### *Land use planning*

In the long run, neither flood-protection

A year after major flooding in Wellington, the government made the Town and Country Planning Act 1977 more prescriptive. Serious regional flooding happened in Southland and Otago in 1978 and again in 1980. By the time new legislation was being considered in the mid-1980s,

developers and local councils had blunted legislative gains for regulating subdivision and building in hazard-prone areas by successfully lobbying government to make amendments to the planning acts. Local councils had little to fear from central government for not complying with its regulatory prescriptions. And developers could expect minimal penalties for violating development consents (May et al., 1996, pp.46–7).

Consequently, one third of 103 flood-prone communities with more than 1,000 people identified in a 1967 study did not have flood maps in their district plans in 1983, making land use management to reduce flood exposure intractable (Ericksen, 1974). Thus, flood hazard and disaster creation grew.

Adjustments to flooding require flood-prone area maps. By the mid-1980s there were three obstacles to uptake by councils, apart from technical difficulties in producing maps: perceived legal implications; lack of subsidies to councils from central government for mapping (which the RMA had the potential to address); and perceived adverse effects on land values, which case studies in the 1990s showed to be something of a myth (Ericksen, 2005; Montz, 1992, 1993).

#### *Implementing the RMA*

Following Cyclone Bola in 1988, the parliamentary commissioner for the environment recommended to government legislative changes aimed at sustainable management of natural and physical resources. Persistent flood disasters indicated unsustainable development.

The resource management law reform process (1988–90) integrated many statutes into the RMA. It emphasised an integrated planning approach to natural resources and hazards. For floods this meant relying less

... a government inquiry into emergency responses [in early 2023] found that 'The emergency management system is not fit-for-purpose' [and] that 'There is a major disconnect between communities and CDEM agencies.' Therefore 'Urgent system change is required,' and must 'recognise the role of iwi Māori

tropical or ex-tropical cyclones. One might assume that this led to refinements and improvements in the emergency preparedness system. However, a government inquiry into emergency responses to Cyclone Hale (8–12 January 2023) and Cyclone Gabrielle (12–16 February 2023) found that 'The emergency management system is not fit-for-purpose' and that 'There is a major disconnect between communities and CDEM agencies.' Therefore 'Urgent system change is required,' and must 'recognise the role of iwi Māori throughout the system' (Ombler et al., 2024, pp.13–14, 16).

These findings and recommendations reflect those given in independent reports prepared for Auckland and Hawke's Bay (Bush, 2023, 2024). The latter showed that CDEM did not plan for worst-case scenarios. Yet a very similar climatic event and disaster had occurred in 1938 (Grayland, 1963). It was recommended that iwi/Māori involvement in CDEM structures

works nor emergency preparedness, flood insurance and relief funds will lessen 'disaster creation'. Instead, councils need to better adjust use of flood-prone land through land use and building measures aimed at reducing the flood hazard. Like other adjustments, changes to legislation aimed at measures for reducing catastrophe potential were stimulated by damaging floods.

#### *Requiring land use plans*

Poor uptake of land use plans by councils under the 1926 Town-planning Act led to them being made mandatory in 1953, a year when widespread regional flooding occurred twice. In the 1960s councils were required to map and disclose natural hazards in their district plans and 'provide as far as practicable against land being used for purposes for which it was not suitable ... unless otherwise mitigated'. By 1970, only 70% of councils had an operative district plan (Ericksen, 1986, p.148).



on engineering controls and more on reducing loss-susceptibility through land use and building management. Indeed, the 13 recently established regional councils would no longer receive subsidies supporting new flood control works or amending existing ones. It was for the local councils to solve local problems without being coerced or monitored by government agencies.

The co-operative and devolved RMA sought to encourage a flexible approach to adopting flood loss-reducing measures within local councils (Berke, Dixon and Ericksen, 1997). However, optimism of staff soon waned because the government did not provide for councils the promised national policy statement, national environment standards and guidance, technical assistance, or funding needed to encourage them to boldly adopt.

There were also budget cuts, including to the new Ministry for the Environment and Department of Conservation slated to provide policy guides and technical assistance to councils (May et al., 1996). Thus, a decade after implementation of the RMA, research on the quality of sampled district council plans found that too many good policies in plans were poorly implemented, leading to poor outcomes, due in part to the 'managerialism' (i.e., private enterprise practices aimed at measuring outcomes) that accompanied government reforms in the mid-1980s (Ericksen et al., 2003).

Moves to increase transparency and accountability in councils further entrenched functional splits, making it difficult to deal with issues (e.g., storm water and flooding and catchment management) in a 'comprehensive' and 'integrated' manner. Policy and regulatory aspects of planning were typically separated and unproductive rivalry often occurred. As well, both policy and regulatory units were separated from the engineering units managing storm water and flooding, which were separate from the emergency management unit. This silo effect still prevails.

All this meant differing views on flood management. Engineers still sought asset solutions to flood problems, while planners sought land use management and avoidance solutions. In general, local politicians working to shorter time frames tended towards the former, thereby

avoiding conflict with property owners and developers.

Nevertheless, regional councils responded well to the RMA by developing long-term plans for areas at threat from riverine flooding, which included the range of adjustments for relevant local councils to consider (e.g., Wellington Regional Council, 1997). The extent of adoption by local councils overall is unknown.

The Ministry for the Environment reviews and recommendations of 2008 and its guidelines of 2010 influenced councils through plan changes and reviews, which were required to be done every ten years.

The Building Act 1991 introduced a uniform performance-based New Zealand Building Code, replacing individual by-laws of local government. It aimed to protect life, rather than property.

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Improving mapping of flood spread and depth therefore became increasingly important for councils.

#### *Building codes*

The Building Act 1991 introduced a uniform performance-based New Zealand Building Code, replacing individual by-laws of local government. It aimed to protect life, rather than property. The local government codes were extended to include performance requirements for 10% (1-in-10-year) floods. The Building Act 2004 repealed the earlier legislation, but not the intent of the natural hazard provisions.

These provisions are contained in sections 71–74 of the Building Act 2004, which outline: a natural hazard; when building permits must be refused if land is subject to hazard; when consents can be granted, with a condition requiring notification of the consent; and steps needed to be taken after notification, such as entering details of natural hazards on the record of title for the land and when they can be removed.

The Building Code requires residential buildings and community care facilities to be built at a higher elevation than the flood level of a 1-in-50-year event. But it does not require a flood protection standard for commercial buildings (Ministry for the Environment, 2010, p.23).

In a recent critique of the Building Act 2004, Brook says:

Within the act, hazards are not necessarily something to be too concerned about ... Section 72 accepts that an existing risk of natural hazard ... should not prevent building work going

ahead, as long as the work will not make the situation worse. The clear implication is that Section 72 allows land developers and lawyers, who will push the law to its limits in court if necessary, to build a house on land subject to natural hazards, and sell it, often to unsuspecting buyers. The law really can be an ass, and if we are to learn from the tragic events of 2023, some of it, particularly pertaining to building consents, needs to change. (Brook, 2023)

In late 2023, the Ministry of Business, Innovation and Employment issued guidance to councils on sections 71–74. Using section 73, councils should endorse the title to show a building is on hazardous land (Ministry of Business, Innovation and Employment, 2023).

#### *Land information memorandums*

The Local Government Official Information and Meetings Act 1987 required councils to provide identifiable natural hazards information, such as the likelihood of

flooding and its potential severity, in a land information memorandum (LIM) for intending property owners. But some councils had yet to comply by 2022.

Using the return period statement in LIM reports (e.g., 100-year flood) misleads property owners. For example, a resident in West Auckland said that when he bought his house 'the LIM mentioned flood risk was 1 in 100 years so it was acceptable, but flooding happened nearly every month' (*New Zealand Herald*, 12 May 2023). Research 50 years ago in 23 countries showed that 90% of people sampled

and ongoing problem with building and maintaining assets in dumb places ... Beyond the enhanced provision of hazard information [in the Bill], it is also long past time that councils do more to simply stop development in high hazard zones, particularly those identified around our coast and in known flood zones' (Orlano, 2022).

#### *Flood-proofing buildings*

Making foundations of buildings watertight against groundwater is long practiced. But above ground, houses,

options for flood-prone buildings under different flood risk conditions (Roberti, 2012).

Elevated buildings, especially houses, are increasingly common, but in the absence of contingent measures they fail, as happened in several suburbs of Auckland in the 2023 floods.

#### *Managed retreat*

In towns experiencing repeated floods, some existing and intending property owners either elevated their building or relocated to higher ground. After a large flood affected Ōpōtiki in 1964 (population c.2,750), calls were made to move the town onto the adjacent Hukutaia hills to the west. Instead, the government recommended enlarging stopbanks and allowing moving to higher ground already underway to evolve naturally (Ericksen, 1974). Currently, Ōpōtiki District Council plans to use proposed new fast-track consenting legislation for a plan change to expand and intensify housing on the hills (*Ōpōtiki News*, 13 June 2024).

On the other hand, when the small township of Kelso, Otago (population c.300) was hit by large floods in 1978 and 1980, early calls for rebuilding and providing new river protection eventually gave way to the government facilitating relocation in 1982 (MacKenzie, Bond and Stephenson, 2022).

In the last few years, calls for managed retreat as an adaptation option have heightened due to the observed increase in the frequency of large flood events and anticipation of sea level rise. An Expert Working Group on Managed Retreat was established by the government in 2022 to help inform its review of relevant planning legislation. It showed how predetermined plans for relocating buildings and people to safer areas could be implemented (Ministry for the Environment, 2023). Recently, consideration has been given to relocating 12,000 people in South Dunedin away from flood-risk land (de Pont and Wong, 2023).

#### *Adjusting to climate change*

In 2019, the government established an independent Climate Change Commission under the Climate Change Response (Zero Carbon) Amendment Act 2019

...a 10-year time horizon for property owners would provide a better signal, such as the 100-year or 1% flood having an almost '10 percent chance of being equalled or exceeded in a 10-year planning period'

thought a 100-year flood would not come again for 100 years, even though its annual exceedance probability (AEP) in a single year is 1%. When given the probability statement, 75% of those sampled understood its meaning (White, 1974). It was later suggested that a 10-year time horizon for property owners would provide a better signal, such as the 100-year or 1% flood having an almost '10 percent chance of being equalled or exceeded in a 10-year planning period' (Ericksen, 1986, ch.3).

A 2023 amendment to the Local Government Official Information and Meetings Act is more prescriptive of what constitutes a LIM. It should contain understandable information and identify hazards and impacts (including potential ones) affecting land in a district, and their cumulative or combined effects. But councils do not have to create new information for each LIM. The Act also amends the definition of natural hazards to include effects of climate change.

About sections 44B and 44C, the Insurance Council of New Zealand chief executive observed: 'New Zealand has a real

businesses and utilities were not until more recent times made waterproof against flooding. Permanent flood-proofing includes: sealing foundations and walls against seepage; strengthening walls to resist hydrostatic pressure; installing drain sumps and pumps; locating electrical switches and points above flood elevations; and elevation of buildings. Contingent measures are those taken upon receipt of adequate flood warning, including: installation of watertight windows and door closures; provision for moving content out of reach; and provision for emergency operation of electricity and water services (Shaeffer, 1960).

In 2010, the Ministry for the Environment provided six options to councils for managing future flood risk, including use of non-regulatory methods such as 'siting and designing buildings to minimise risk' (Ministry for the Environment, 2010, p.30). Soon after, the Business Research Association of New Zealand (BRANZ) provided for councils (and others) a building protection decision framework with a range of adaptation

to monitor the progress of national adaptation plans and to advise on barriers to implementation and the effectiveness in addressing the most significant risks from climate change and to recommend how barriers may be overcome. The Act had multi-party political support, as well as support from across the business, NGO and other communities.

While much of government's agenda focused on emissions controls, other programmes were pursued. Specialists mapped the spatial effects on the country's floodplains and coasts while allowing for climate change. For example, NIWA has been updating its rainfall and flood-forecasting models in order to produce new riverine and coastal flood maps for use by regional councils. They in turn can better identify flood-prone properties and coping strategies (NIWA, 2023). Thus, the Northland Regional Council's updates showed over 17,000 additional flood-affected properties under a warming climate, increasing the total to 40,000. Maps show the extent for 10%, 2% and 1% annual exceedance probability floods (Northland Regional Council, 2021).

To help achieve its national adaptation plan for climate change, the last Labour-led government proposed new legislation. It intended having a national planning framework to help guide councils into better land use practices vis-à-vis climate change and natural hazards, including riverine and coastal flooding. This is not unlike what was proposed for natural hazards under the RMA.

The new, but short-lived, legislation, the Natural and Built Environment Act and Spatial Planning Act, were to replace the RMA, together with a proposed Climate Change Adaptation Act (Ministry for the Environment, 2021, 2022). It had a modicum of prescription and coercion, encouraging councils to achieve better outcomes in managing flood risks by moving away from decades of minimising land use and building management measures.

The damaging storms of 2023 led to amending the RMA emergency and recovery provisions to give councils flexibility in assisting community recovery. And, mid-year, the government supported councils in buying out and better protecting

cyclone and flood affected risk category 3 properties.

A recent study highlights two main needs:

First, a clearer national directive of how flood risk and residual risk should be managed is urgently needed, particularly for guidance on the regulatory provisions to restrict inappropriate development in flood-prone areas, including those behind protective structures. Second, more dedicated resources and support are necessary to allow local councils to compile more rigorous and consistent

people) waned by 1990 after research showed that stopbanking encouraged hazardous floodplain development and neo-liberal reforms curtailed government subsidies for their construction. Prospects under the current National-led coalition suggest a swing back to fast-tracked stopbanking developments.

Repeated regional floods over decades ensured that measures that modify flood-loss effects (i.e., adjust flood losses) increased. Insurance became better targeted to risks and public relief funds deepened and structures broadened.

Efforts by government to legislate for measures aimed at modifying flood-loss

... catastrophe potentials will continue to grow unless more effective land use and building measures are adopted in urban New Zealand that can reduce and avoid further exposure to floods.

(residual) flood risk information and to actively engage with the public for better flood risk awareness and outreach. (Fu et al., 2023)

In early 2024, the newly elected National-led coalition government quickly repealed the new legislation in favour of developing a 'fast-track' approach for infrastructure projects and quicker development decisions, with no clear way forward for how to avoid flood catastrophes and any replacement of the RMA likely to move closer to protecting private property rights. And so, the pendulum swings.

#### Conclusion

Since 1950, three types of adjustment to floods have been variously used in New Zealand. Changes in emphasis typically followed major flood disasters and government reviews of legislation.

Reliance on measures that modify flood causes and effects (i.e., adjust floods to

potential (i.e., adjust people to floods) through land use and building management have oscillated between: somewhat coercive and prescriptive (1970s); somewhat devolved and co-operative (1990s); more coercive and prescriptive (2022); and likely somewhat laissez faire (2024).

Flood protection works, emergency preparedness, flood insurance and relief funds do lessen the flood-loss burden for communities and individuals. But they do not resolve the issue of disaster creation. Indeed, catastrophe potentials will continue to grow unless more effective land use and building measures are adopted in urban New Zealand that can reduce and avoid further exposure to floods.

In the book *Creating Flood Disasters* (Ericksen, 1986), 18 cases showed how urban development had encroached onto historic flood-prone land by the mid-1980s. It would be instructive to update those cases, in order to show not only the extent of continued encroachment, but also the nature of land and building management.

The main lessons from this overview are that while the integrity of existing river protection systems must be maintained, building on the most vulnerable flood-prone land ought to stop. Where building occurs on less vulnerable land, it ought to be permanently and contingently flood-proofed. For this to be effective, a high-quality flood warning and emergency system is required. In support, floodplain mapping should continue apace and, as for LIM reports, the planning flood should reflect the planning horizon of ordinary citizens. If this is taken to be ten years, then the 100-year or 1% flood has an almost 10% chance of being equalled or exceeded in their ten-year planning period.

Over many years, staff in the Ministry for the Environment and its partner agencies have toiled long and hard to have legislation moved in the direction of encouraging local government into better land use and building practices in natural hazard areas. In order to move beyond entrenched local attitudes, a well-tailored community flood hazard education programme is needed aimed at civil defence and council staff, councillors, renters, property owners and developers.

An education programme could include: 1) understanding floods and their frequencies; 2) understanding flood hazard creation; 3) interpreting flood hazard maps and LIMs; 4) understanding their

implications for land values; 5) enhancing alternative measures for reducing flood losses, such as permanent and contingent flood-proofing of buildings and utilities; 6) developing past prophesies for at-risk communities to illustrate how disaster potential and flood losses change over time in response to each adjustment type; and 7) developing scenarios of future losses and savings under the adjustment types (Ericksen, 1975a, 1975b). Any education programme has to be salient and ongoing to be effective, and, while costly to develop and maintain, should be resourced to be long lasting.

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# Navigating Choppy Waters

## why are we always arguing about risk and uncertainty in marine multi-use environments and what can we do about it?

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### Abstract

Arguments about risk and uncertainty are prevalent in marine decision making. Different, often invisible, starting positions of those involved – regarding world views, academic disciplines and positionality – are often responsible. Broadly agreed collective outcomes depend on uncovering these influences. In this article we prioritise navigating multiplicity and plurality rather than constraining them. An iterative cycle of reflection and an openness to make changes are central. However, such a cycle must consider how risk assessment tools open or close possible futures, how evidence is best presented to decision makers, and how mātauranga Māori is reshaping risk perceptions and is the decisive intervention in creating improved decision-making spaces.

**Keywords** risk–uncertainty relations, plural and conditional evidence, world views, disciplines, positionality

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Planners and policymakers are very familiar with the complexity of decision making in the marine environment arising from often competing and conflicting activities; from a range of owners, rules, governance arrangements, actors and interests. Navigation of risk and uncertainty arguments are often a core component of disputes over what ‘has been happening’, what ‘should happen next’ and ‘why’. This article argues that risk and uncertainty perceptions are products of both changing regulatory regimes of government and the knowledge and assumptions economic and environmental actors bring to their decision making in often volatile settings. Although the socially constructed and plural nature of risk and uncertainty is not a new concept (Jasanoff, 1999; Stirling, 2010), we offer a unique Aotearoa New Zealand perspective on the multiplicity and plurality of risk and uncertainty in the marine environment and offer a way to approach these choppy waters.

### An evolving landscape of risk and uncertainty

Aotearoa might be seen as land/coast/seascape domains actively created by

ongoing natural resource extraction and use by a multiplicity of small and big investors seeking, for the most part, to make a profit. The emphasis, nature and direction of this evolution has been broadly allowed and facilitated by governments laying down both explicit and implicit rules about economic priorities and investor conduct. For our purposes, we identify radical shifts in regulatory regimes since the mid-20th century in Aotearoa: an era dominated by ‘think big’ national development investments to complete the ‘industrialisation’ of Aotearoa; a period beginning in the late 1980s of neoliberal economic reform and introduction of new public management that mirrored developments elsewhere in the world; and, most recently, a return to highly centralised resource use scrutiny with fast-track consenting legislation (Pawson and Biological Economies Team, 2018; Lewis et al., 2024; Scobie and Sturman, 2024).

Beck’s *Risk Society* (Beck, 1992) first recognised the deep societal implications of neoliberal regimes with the sudden and pervasive need to be ‘risk and uncertainty aware’. This was a world where decision making was being devolved to individuals, entities and institutions. Jasanoff (1999) went further, maintaining that ‘risk is impossible to ignore for anyone professionally concerned with the making and evaluation of environmental policy’. This was a sharply different context from the heavy-handed centralist era that existed previously.

Significantly, two Acts, the Resource Management Act 1991 and the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012, introduced a new order of resource governance and management in Aotearoa. A key feature of the legislation was the attempt to de-politicise consenting processes relating to investment proposals. It was accompanied by increasing application of broad science knowledge to assist decision making. A parallel development of great importance in this era was the Treaty of Waitangi settlement process beginning in the 1990s, which gradually funded iwi and hapū aspirations, giving them increasing investment and decision-making presence in the field of economic and environmental relations (Bargh, 2012; Makey and Awatere, 2018;

Many uncertainty typologies for policymakers have been developed since ... including by those ... who describe the types of uncertainty as inexactness, unreliability and ignorance.

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Pawson and Biological Economies Team, 2018; Lewis et al., 2024; Scobie and Sturman, 2024). The research reported in this article relates to major knowledge developments about risk and uncertainty in 21st-century Aotearoa as seen from the changing perspectives and understanding of the research teams involved.

Alongside political, social and economic change sit a diverse set of often fragmented and siloed literatures which pay attention to the notion of risk and uncertainty, each from a particular academic position and grounded in their specific epistemology and ontological perspective (Taarup-Esbensen, 2019). Many focus on a particular scale (the individual, society, legal entities) or a particular set of activities (decisions, strategic planning, businesses management); some are quantitative while others are qualitative, or a mix of both. In some cases, perception of risk and uncertainty are treated together, while in others they are treated separately (Stirling, 2010; Taarup-Esbensen, 2019).

In an extensive review, Taarup-Esbensen (2019) argues that thinking regarding the perception of risk appears to follow three overlapping traditions, each presenting a slightly different position along a spectrum of thinking. The first, the techno-scientific perspective, is where risk

is informed by scientific knowledge and data, and causality and uncertainty are important. Perception of risk appears to mean how different individuals understand the ‘real’ risk. ‘Real’ risk is defined quantitatively as the probability of experiencing particular negative outcomes (Wilson, Zwickle and Walpole, 2019, p.777). In this tradition, the difference between perception of risks and ‘real’ risk can be closed by effective (science) communication. Most of the science and engineering disciplines sit within this tradition and pay attention to how risk can be quantified, explained and managed through risk assessment practices. It is worth noting that decisions in the marine environment have typically lent heavily on numerical concepts of what risk and uncertainty can be known and described (Clark et al., 2021)

The second, the cognitive perspective, views risk perception as a more subjective phenomenon that is modified by human behaviour, cognitive biases, culture, social norms and values. Grounded in psychology and behaviour sciences, this tradition originated in the 1960s when scholars began exploring the reasons for the gap between ‘real’ risk and individual and public perceptions of risk (Sjöberg, 2000; Wilson, Zwickle and Walpole, 2019). This involves a convergence on the idea of perception of risk ‘as a feeling’ instead of a probability (Wilson, Zwickle and Walpole, 2019), which shifted the emphasis from risk communication to understanding the factors that influence perceptions.

The third tradition, qualitative social science perspectives, sees risk perception in a situated sense-making or meaning-making process that accounts for, and is influenced by, social, cultural, economic and political contexts. Here, more qualitative perspectives on risk can be presented which link risk perception with culture, histories and narratives, power and politics (Beck, 1992; Douglas, 1992; Jasanoff, 1999; Taarup-Esbensen, 2019). Risk and risk perception are understood as complex phenomena that are shaped by society at large. This has enabled the formulation of non-technical, accessible and easily debatable risk and uncertainty dimensions to be sketched out.

In reality, the categories have very porous boundaries and continue to blur

Figure 1: Mātauranga Māori concepts in terms of risk and uncertainty

Whakapapa: provides a place or whenua baseline for assessing responsibility and environmental risk.

Kaitiakitanga: describes the interface between the spiritual and the physical dimensions of natural resource management (NRM). It is a process that regulates human activity with te taiao.

Mauri: the form of value that indigenous risk management responds to.

Mana: fundamental importance of natural resources for well-being of the wider environment, not just for humans. (Hyslop et al.)

Source: Sustainable Seas, 2023

together over time as research and practice evolve. They are nevertheless a helpful initial framing.

The longstanding controversies over uncertainty in the academic literature go back to 1920s debates between Knight and Keynes (Dimand, 2021). Many uncertainty typologies for policymakers have been developed since (Walker et al., 2003), including by those (e.g., Funtowicz and Ravetz, 1990) who describe the types of uncertainty as inexactness, unreliability and ignorance. Walker et al. (2003) present uncertainty as a three-dimensional matrix based on where the uncertainty is located in a decision-making model, the level of uncertainty, and whether the uncertainty is due to imperfect knowledge or inherent variability of the subject matter. Diverse sets of knowledge, values, perceptions, economics, political and social contexts relevant to policymaking are acknowledged and included. Stirling (2010) provides an uncertainty matrix and reveals the tensions between efforts to arrive at probabilities (in the science tradition) and those concerned with possibilities, opportunities and outcomes (a more discursive and open range of interpretations). Stirling's synthesis highlights the interplays of knowledge of any kind that can go into decision making and the power of interests that can modify and direct interpretations that favour particular investment hopes. Hanna, White and Glavovich (2020) offer similar insights suggesting that uncertainty is a contagion spreading outwards from technical assessments into governance, financial, political and socio-cultural domains. Like Stirling, Hanna, White and Glavovich suggest that action and change are more likely to arise from a 'focus on the relations between forms of knowledge and coordinating interactions between the diverse arenas'.

Each author brings a slightly different lens to the problem, which supports Stirling's (2010) conclusion that policymakers need to be cognisant of the multiplicity and plurality of perceptions of risk and uncertainty to avoid an 'inadequate response to imperfect knowledge'. We argue that it isn't just a plurality of knowledge that's important, but a plurality of methods across different disciplines, to provide a broad lens through which to approach risk and uncertainty in real-world decision making.

#### *Another way? Te ao Māori perspectives on risk and uncertainty*

We are fortunate in Aotearoa to contribute to the international risk and uncertainty conversation in unique ways. To appreciate the uniqueness, some definitional aspects need to be introduced (see Figure 1). Whakaaro Māori does not separate uncertainty from risk, focusing less on mitigating 'undesirable' outcomes and more on enhancing mana, restoring mauri and managing the (marine) environment in a more holistic way that is cognisant of the relationship between people and places (Hyslop et al., 2023).

A connection between people and places, and an inherent view of the world as a complex, integrated and interdependent whole, are fundamental attributes of Māori thinking about risk and uncertainty.

Given the discussion so far, multiple perceptions of risk and uncertainty need to be uncovered, explored and navigated to make the process of achieving agreed collective decisions more possible. Our starting point is to acknowledge that people think about risk differently and are often at loggerheads over 'what is at risk and for whom' and 'how uncertain are we'. Experts, stakeholders, iwi/hapū and the wider public all hold positions on, and

perceptions of, risk and uncertainty that decision makers must navigate, guided by legislation, policies and plans, to make decisions. Many of the differences in how risk and uncertainty are perceived may not be immediately clear and may emerge as contestation over other issues. For example, disagreement over numerical model parameters, or the relative merits of different models, may be more about the impact a decision is perceived to have on an interest or desired outcome than the elements of the model itself. The debate over the suitability of the model to be used to inform a decision may be a staging ground to manage or avoid the perceived risk an action has on something of value.

#### *The research journey*

This article proceeds in a somewhat unorthodox manner to outline how we gradually, and iteratively, obtained risk and uncertainty insights, and how we made a switch to policy-bridging efforts around our findings. The strength of our approach has been the authors' (Māori researchers, social scientists and ecologists/modellers) ability to draw on ten years of research in the mission-led Sustainable Seas National Science Challenge projects (Sustainable Seas, 2024a, 2024b). This has generated a holistic lens through which to view perceptions of risk and uncertainty. Our journey has continually applied interdisciplinary mixed-method approaches using local and international literature reviews, interviews, workshops, case studies, and analysis of secondary documents (reports, policy and plans, media webpages, evidence statements from consent processes under the Resource Management Act).

Phase 1 of Sustainable Seas (2016–19) sought to establish national and place-based overviews of marine resource use concerns, with special attention to the proliferation of participatory processes at the local level and their role in advancing ecosystem-based management in the marine setting. A key outcome was recognition of the importance of diversity in participation itself and comparable aspects of diversity expressions of desired outcomes. Good process allows constructive conversations to develop and mutual understandings to be agreed on, and a focus on community/collective definition



of ends and means can result (Le Heron, Le Heron, Logie et al., 2019b). Because diversity is place-based and grounded, no single recipe for success exists, nor should it. In essence, each participatory process that was researched had to be worked through enactive agency (Le Heron, Le Heron, Blackett et al., 2019) accounting for embracing diversity. We carried the message of diverse narratives forward in our later research. In Phase 1 we had minimal understandings of risks and uncertainties, but we were very attentive to providing evidence that ecosystem-based management as a concept needed to be unpacked and grounded in its development.

In Phase 2 (2019–24) three research groups were tasked with collaborating to move forward the theoretical, conceptual, empirical and policy-bridging frontiers of risk and uncertainty research in Aotearoa and internationally. We also sought to expand existing ecological risk assessment tools in ways that allowed them to consider a variety of knowledge sets. A wrestle with the multiple disciplinary positions of how perceptions of risk and uncertainty could or should be understood shifted us towards a more pragmatic, grounded approach where we sought to observe and interrogate how perceptions played out in decision making in socio-ecological systems influenced by politics, culture, regulations, economics and unequal power.

Our exploration of data from document analysis, interviews and participant observation across three case studies: mangrove management (Le Heron et al., 2022); Okura housing development proposal at the northern boundary of Auckland City; and a Chatham Rock Phosphate seabed mining proposal on the Chatham Rise (see Sustainable Seas, 2023). And a revisitation of a thought exercise from a Phase 1 conference workshop (marine wind farm location exercise (Blackett et al., 2020; Le Heron, Le Heron, Logie et al., 2019a)) showed that no single disciplinary tradition fully explained the interaction between actors. Each set of methods and practices were attentive to some factors or scales, and missed others. In short, we noted that plurality and multiplicity of thinking were key to explaining what occurred in each decision-making process. By combining different

**Table 1: Invisible forces on perceptions of risk and uncertainty**

<p><i>Positionality</i> is a common concept in the social sciences (Warf, 2010) which refers loosely to the place people stand. It includes how individuals and groups engage directly in their environment and everyday world, their personal situation, their lived experiences and what their interests and desired outcomes are. Cognitive biases, social and cultural norms, interests and values are all relevant (Sustainable Seas, 2023, 2024b, 2024a).</p>
<p><i>Disciplines</i> schools of thought and training with collective rules and norms regarding how perceptions of risk and uncertainty could or should be known and described: e.g., technological perspective (Taarup-Esbensen, 2019). Each discipline typically has a preference for a certain type of tool, or for certain knowledge or outcomes that should be included, which may be different from another.</p>
<p><i>World views</i> affect how we (as individuals or as groups) think the world works, should work and might be made to work. In the Aotearoa context, three dominant world views are especially discernible:</p> <ul style="list-style-type: none"> <li>• the dominant social paradigm, which mandates doing things for oneself and values highly profit making, and views the world's resources and human ingenuity as limitless (Dunlap and Liere, 1984; Dunlap et al., 2000; Thomson, 2013);</li> <li>• the new environmental/ecological paradigm, which gives priority to preserving ecological processes in harmony with people, and views the world's resources as limited (ibid.);</li> <li>• te ao Māori world view, which grounds principles and actions in place relating to people and ecology for collective short- and long-term benefits (Harmsworth, Awatere and Pauling, 2013; Harmsworth, Awatere and Robb, 2016)</li> </ul>

Source: modified from Sustainable Seas, 2023

disciplinary traditions, we suggest that perceptions of risk and uncertainty appear influenced by three frequently invisible factors: disciplinary training, world views and positionality. Explorations of these hidden influences are cited in Table 1.

In the final year of Phase 2 we distilled our research and refined knowledge processes into digestible, useful and useable knowledge for those involved with policymaking at ministerial and CEO level, and a wider base of policy institutions ranging across regional councils, local authorities, economic development agencies, iwi organisations and major consultancies – in essence, taking the notions of working with the plurality of perceptions of risk and uncertainty into policy relevant insights that advance practice and begin to unpack and expose why we have arguments about risk.

#### **What have we learnt from our research journey?**

Our position on perceptions of risk and uncertainty has evolved over the last ten years to a similar place to other authors who have stepped back from their disciplines and sought to explore the messiness of real-world decision making (Stirling, 2006). We argue that working with plurality is essential, to avoid locking in a certain set of business-

as-usual outcomes that benefit a certain set of groups in society. In practice, regulations and requirements make this plurality more challenging.

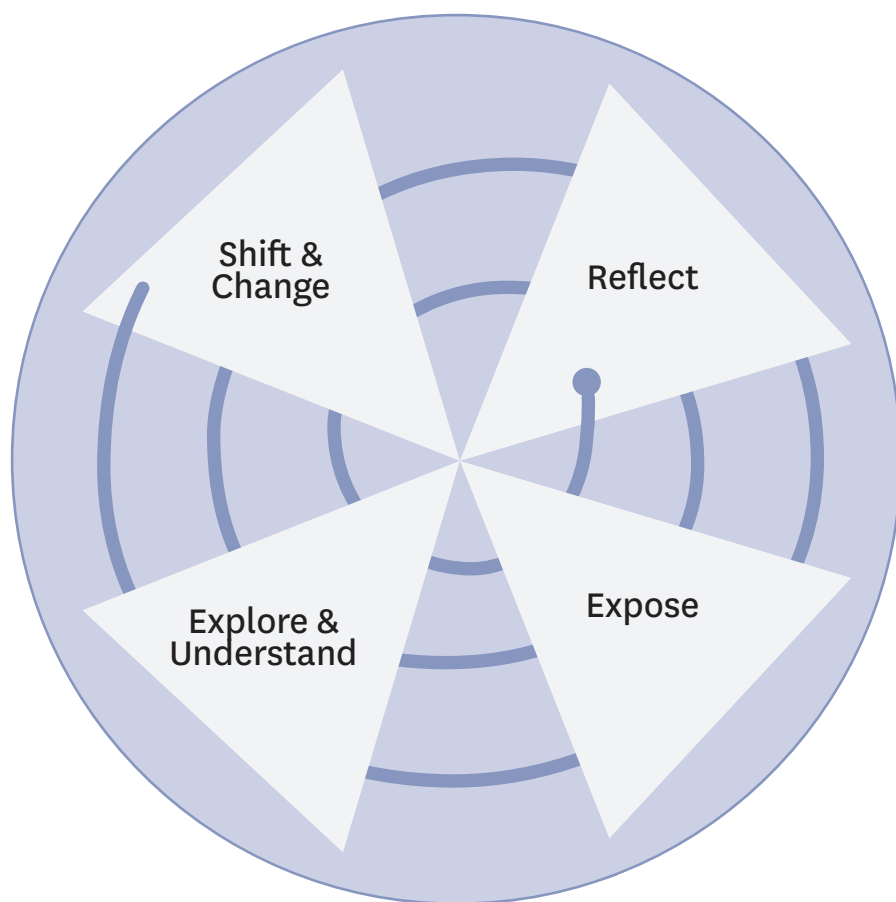
#### ***The choice of risk assessment tools matters as different practices can create different futures***

Contemporary reviews of risk assessment stress the strengths and weaknesses of different risk assessment tools across a variety of disciplines and domains, each stressing the need to move towards more complex assessments (Clark et al., 2021; Simpson et al., 2021; Logan et al., 2022).

The findings of the ecologist team in our research project give much specificity and clarity to what making risk assessment For ecologists, risk assessment needs to shift from simple assessments generally focussed on one activity (risk from what stressor) influencing one species or habitat (risk to what value) to methods that can account for (Clark et al. 2022; Sustainable Seas et al. 2023), ecological, cultural and social (including economic) complexities, management actions, indirect effects, and feedbacks. In particular:

- Cumulative effects, while widely acknowledged, are largely missing from risk assessment tools. A range of components, outcomes and stressors

Figure 2: Iterative steps involved in understanding and working with the multiplicity of perceptions of risk and uncertainty



influence both the ecological response of multiple interacting ecosystem components (e.g., biodiversity loss, contamination, changes to ecosystem function, alteration of food quantity/quality, and changes to trophic levels) and the social, cultural and economic values.

- Multiple knowledge types (e.g., expert opinion, mātauranga Māori or local knowledge, as well as quantitative data) enable quantitative data gaps to be filled, widen the evidence base and ensure that ecosystem-based management objectives align with the values of multiple sectors of society. The definition of what constitutes evidence can remain broad and not be reduced to purely quantitative information.
- Accommodating and communicating spatial and temporal variability requires attention which places demands on communicating the risks posed to locations of interest (e.g., maps).
- A step of focusing explicitly and separately on recovery, rather than

combining it with impact, gives attention to ecological feedback. Hysteresis and recovery lags can hinder recovery, even when stressors are reduced, and the object of the risk assessment may be recovery of the mauri rather than minimising future degradation.

Scenarios exploring the relative success of different actions give some level of confidence about the effects of different actions on desired outcomes. This is particularly useful for a risk assessment operating under ecosystem-based management. Finally, Bayesian networks and agent-based models offer new possibilities, as does a new method specifically developed by Sustainable Seas focused on assessing risks of specific management actions based on ecological principles (Gladstone-Gallagher et al., 2024).

Essentially, most risk assessment methods and processes currently in use in Aotearoa in the marine environment do not meet criteria required to support

cumulative impacts, the needs and aspirations of Māori or EBM, nor do most operate well in a world of cumulative impacts from multiple activities and sparse numeric data.

### *Significance of te ao Māori perspectives of risk and uncertainty*

We argue that te ao Māori concepts have much to offer in terms of reconceptualising risk and uncertainty. Because te ao Māori is grounded in people, places, care, reciprocal rights and responsibility, the basis for reconceptualising risk and uncertainty is enhanced. The connectivity and interrelations of te ao Māori go beyond the typical confines of Eurocentric conceptions. Policies and plans drawn from holistic understandings, cognisant of reciprocal rights and responsibilities, are less likely to veer to choices that privilege one group over another (in both space and time) and will be more cognisant of unintended consequences. In short, te ao Māori offers viable solutions that can reshape perceptions of risk and uncertainty away from reductionist practices that are negatively framed, towards ecosystem-based management (Hyslop et al., 2023; Sustainable Seas, 2023).

### *How can policymakers approach plurality in a pragmatic and respectful way?*

We argue that plurality and multiplicity can be navigated to uncover new possibilities, opportunities and imagined alternative futures, but that to do so, plurality and multiplicity must first be exposed and understood (Figure 2). As each decision-making journey will be set in a specific context with different pressures, there is no clear recipe that can be taken off the shelf (Le Heron et al., 2024). To enable progress, we offer key signposts, and readers are directed to Sustainable Seas (2023, 2024a, 2024b) for additional tools and material.

The interactive cycle starts with reflection and moves clockwise round the figure. Thoroughly exposing issue sets a template for constructive enquiry. Issues may be: sensitive, such as the right distribution of power; pragmatic – who is at the decision table; ethically laden – who experiences risk and harm; concerns about giving space for differing views to be voiced, listened to and genuinely acted upon; or

completely out of left-field. Exploring and understanding can be approached in many ways, but the intent is to develop possible steps to transitioning or transformation with those involved. We have found that the technique of phrasing and using key questions gives unexpected scope to reset the agenda of discussion.

- *Reflect*: What is my position? What do I think and how might this affect the way I enter into a conversation or discussion where risk and uncertainty are relevant. What toolbox might I apply and what are the limitations of the methods I am familiar with? Importantly, practitioners and decision makers are influenced by their own world views, training and positionality, and this of course influences the solutions they may consider and recommend. Actively challenging our own preconceptions is helpful because it may expose strengths and weaknesses in our assumptions, processes, policies and practices.
- *Expose*: What are the positions of other people and groups? How do they understand the world in a way that's different from me? What is the breadth of perspectives present, and how might touchstones be identified and given attention?
- *Explore and understand*: What do the differences mean regarding how risk and uncertainty are considered, understood and framed in this discussion, in this place? What does this mean for the outcomes we seek and the things we disagree on? The more planners and policymakers are able to identify the reasons and accompanying narratives behind risk and uncertainty assertions, the more likely they are to be able to steer towards negotiated understandings. This may not resolve conflicts, but it can potentially create room for focused conversations around concrete differences, in the spirit of the advice and steerage of Stirling (2010), Jasanoff (1999) and Hanna, White and Glavovich (2020).
- *Shift and change*: From our collective positions, what new possibilities emerge, and how can these be put into persuasive storylines and enacted? We suggest that by taking a considered,

... it is likely that the true nature of the disagreement remains unseen, meaning some potentially mutually agreeable solutions or policies may also remain unseen.

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reflexive approach, policymakers and practitioners could achieve a deeper understanding of the plurality of perceptions of risk and uncertainty and begin to shift arguments about risk and uncertainty to a space where new possibilities exist. In doing so, we can begin to shift the focus from arguments about risk to the process of making visible more agreeable actions in the marine environment.

#### Conclusion

In this article we argue that multiple perceptions of risk and uncertainty need to be uncovered, explored and navigated to make the process of achieving broadly agreed collective decisions more possible. If they are not exposed, it is likely that the true nature of the disagreement remains unseen, meaning some potentially mutually agreeable solutions or policies may also remain unseen. By placing risk and uncertainty into a relation, we create new ways to bridge knowledge and policy, including imagining alternative futures. Importantly, such possible new futures could avoid the typical dichotomy between environmental and economic goals, and the decades-old tussle over which should take precedence. In essence, we argue that

the way forward in tackling perceptions of risk and uncertainty lies in navigating the multiplicity of views rather than constraining them.

We suggest that progress can be made by engaging in an iterative cycle of reflection, exploration and revising positions, while paying close attention to three other considerations. First, the tools that are used to assess risk open up or shut down possible futures due to the limitations and strengths of the tools themselves. Second, the manner of presenting evidence to decision makers is a difficult but strategically important step in effectively engaging with risk and uncertainty. We affirm the insights of the literature reviewed that stress that making it complex by delineating the plurality of evidence gives decision makers the chance to weigh the merits and demerits of any case, so arriving at conditional but pragmatic answers. This is a route to bypassing adversarial decision making and a lapse into seeking consensus.

Third, we are increasingly convinced that understanding how mātauranga Māori is reshaping our understanding of risk is the decisive intervention that will create the space that counts most. We point to the Sustainable Seas waka taurua framing (Maxwell et al., 2020) values, and practices, alongside international initiatives such as Ecosystem-Based Management ('EBM'). This framing interweaves te ao Māori and te ao Pākehā in Aotearoa New Zealand and could flow directly into future environmental legislation and decision making. This encompassing and collectively directed approach has great potential to mitigate short-termism and open up thinking, especially for intergenerational outcomes.

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## Navigating Choppy Waters: why are we always arguing about risk and uncertainty in marine multi-use environments and what can we do about it?

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# Automated Traffic Congestion Charging Systems

## privacy considerations for New Zealand

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### Abstract

New Zealand is considering implementing congestion-charging technologies to improve traffic flows and reduce emissions in city centres. This article reviews current congestion-charging technologies against New Zealand's Privacy Act 2020 and identifies varying privacy risks with these technologies. In particular, using global navigation satellite (GNS) systems and an on-board unit can pose a risk of collecting data that exceeds congestion management requirements. Additional issues arise from data processing for purposes other than congestion charging. Overall, the findings indicate the need for stricter control over who can process what type of personal data and the use and retention of such data.

**Keywords** privacy, technology, congestion charging, location tracking, surveillance, New Zealand

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Congestion charging, which involves a fee for driving into city centres to reduce traffic, is recognised as a solution to urban inefficiencies affecting businesses (Asian Development Bank, 2015, p.5). The New Zealand Institute of Economic Research estimates decongestion benefits in Auckland to be of the value of \$0.9–1.3 billion annually (Ministry of Transport, 2020a). Additionally, congestion charging promises to improve New Zealand's environment and quality of life. The current government acknowledges challenges for low-income groups, but sees congestion charges as part of a broader plan to shift from road user charges and petrol taxes to manage traffic demand. The minister of transport, Simeon Brown, anticipates a two- to three-year timeline for implementation (Orsman, 2023).

Congestion-charging schemes can be categorised in several ways (de Palma and Lindsey, 2009). These dimensions include: the type of scheme, encompassing facility-based, area-based or distance-based variations; the extent to which tolls vary

over time, often referred to as time-based differentiation; additional factors for toll differentiation, such as the type of vehicle; and the utilisation of various technologies, depending on the enforcement model. The potential charging models encompass corridor (applicable to highways), cordon, area, network and lane-based systems. Additionally, newer charging models, such as distance travelled-based schemes, are undergoing experimentation (Cheng et al., 2019). The essential functionalities of congestion charging systems include data collection about vehicles, vehicles' measurement or location, communicating

mobile phone technology. Finally, dedicated short-range communication (DSRC) functions, like radio frequency identification (RFID), facilitate communication between vehicles and nearby receivers. In DSRC systems, electronic tags on on-board devices are recognised as they pass specific beacons (toll points) installed along the road. DSRC, a subset of RFID, offers higher data rates and longer ranges compared to traditional RFID toll applications, with data rates of up to 25 megabits per second and a range of up to one kilometre (Ukkusuri et al., 2008).

cities, such as Tauranga and Wellington, also studied these proposals' potential benefits and impacts (Orsman, 2023).

Implementing a congestion-charging system would involve several key components and considerations. The fee structure proposed in the *Congestion Question* technical report (Ministry of Transport, 2020b) is \$3.50 upon entering or exiting the business district during peak periods, with charges applying only once within a two-hour window, regardless of the distance travelled. Moreover, individuals could only incur a charge of twice the amount per day. To enforce payment, roadside cameras equipped with OCR technology, similar to those used in automatic toll roads, would capture vehicle information, with ANPR as the preferred vehicle detection technology. However, implementing this policy would entail upgrading the existing camera network and constructing additional stand-alone infrastructure. The *Congestion Question* report also proposes using apps and websites for manual or automatic payments and adding number plates to the user's account.

A current charging standard is already in place. Since 2009 the New Zealand Transport Agency (NZTA) has used ANPR for electronic toll collection on three toll roads: Takitimu Drive toll road in Tauranga, Tauranga Eastern Link toll road, and the Northern Gateway toll road north of Auckland. The current ANPR technology NZTA uses is ten years old and lacks support for crucial elements such as location-based charging, time-of-day charging and vehicle trip aggregation, which are fundamental for an expanded congestion-charging scheme. The existing toll road system implements a simple mapping of single-trip detection to a fixed single-vehicle charge and does not support new features (Ministry of Transport, 2019). A recent attempt to access the toll collection system's online payment portal found it inaccessible, indicating the need for system upgrades and technical improvements. The current tracking system leans heavily on ANPR technology to capture licence plates for road tolls. While ANPR enjoys widespread support for future adoption, authorities have not definitively dismissed GNS technology for future congestion charging.

New Zealand has implemented road user charging for non-petrol vehicles, and

## Since 2009 the New Zealand Transport Agency (NZTA) has used ANPR for electronic toll collection on three toll roads: Takitimu Drive toll road in Tauranga, Tauranga Eastern Link toll road, and the Northern Gateway toll road north of Auckland.

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with in-car devices, and providing payment methods and evidence for enforcement. These functionalities are crucial for effectively operating and implementing congestion-charging systems.

Three primary technologies track vehicles. First, automatic number plate recognition (ANPR), also known as automated licence plate recognition (ALPR), employs cameras to identify vehicles and their licence plates without needing embedded vehicle technology. These systems utilise optical character recognition (OCR) to extract licence plate numbers from vehicle registration plates captured through video recording (de Palma and Lindsey, 2009). Second, the global navigation satellite (GNS) system encompasses satellite technologies that provide positioning, navigation and timing services (GPS.gov, 2022), offering precise vehicle identification with accuracy ranging from 1 to 2.5 metres (Li et al., 2022). Typically, GNS systems utilise an on-board unit attached to the vehicle, similar to

### **New Zealand's current congestion review and toll charging**

The investigation into congestion pricing outlined in the consultation technical report *The Congestion Question*, produced by the central government and Auckland Council (Ministry of Transport, 2020a), proposed implementing congestion charges in Auckland city. This proposal was supported by various agencies and ministries and aimed to address rising costs for transport infrastructure and to increase revenues. The report suggested initially implementing a congestion fee for users entering the Auckland central business district, with potential expansion to include surrounding strategic highways (corridors). The *Congestion Question* report and related investigations indicated that congestion reduction could be between 8% and 12% (Transport and Infrastructure Committee, 2021). Phil Harrison, from a professional consulting firm, highlighted significant economic benefits for Auckland from easing congestion (de Silva, 2023). Other

individuals can make payments through various outlets, such as post shops, online platforms and Automobile Association offices (AA, n.d.). Road user charging bases charges on the distance travelled by these vehicles. While for smaller cars diesel tax is derived from the mileage device of the vehicle, larger vehicles are required to have a trackable device equipped known as the Hubodometer, which monitors the distance travelled. These devices can come in digital or manual variants, with the digital version featuring location tracking capabilities such as global positioning system (GPS) and GNS technologies. Given the current uses of ANPR and GNS technologies in New Zealand's transportation systems, it is reasonable to expect both technologies to be considered for congestion charging. Electric vehicles have been subject to road user charges since April 2024. EV drivers pay via a website by entering the vehicle's licence plate number and current odometer reading; the odometer reading is verified and tracked using vehicle registration databases and regular warrant of fitness certifications.

In addition to road toll technologies, New Zealand employs a camera detection system for 'T2' lanes, whereby vehicles with two or more occupants are allowed to use, aiming to promote car-sharing. Cameras in these T2 lanes distinguish single and multiple occupants and monitor vehicle occupancy. Both human and computer monitoring of these T2 cameras can pose privacy risks, particularly in distinguishing between actual occupants and dummies or mannequins. In short, video surveillance is already used on highway toll roads and T2 roads. However, these technologies present various levels of privacy exposure. The *Congestion Question* report acknowledges the necessity for a comprehensive examination of privacy risks. This article advocates reviewing these technologies and developments against general privacy concerns and the privacy principles entrenched in the Privacy Act 2020.

#### **Privacy risks and implications of ANPR, GNS and DSRC technologies**

In an article published by the American Bar Association, David Horrigan rightly asks if ANPR technology is a godsend for safety or an Orwellian nightmare. He then remarks, 'Perhaps it's both.' ANPR can

draw an intimate portrait of a driver's life and may be used to target drivers who visit sensitive places such as health centres or places of worship (Horrigan, 2021). Other academics have written about the privacy concerns of ANPR technologies (Ziegler, 2023; Brayne, 2020). Some may argue that there is no reasonable expectation of privacy in a vehicle's number plate as it is there for the world to see. However, not only does the government oblige vehicles to have a licence plate, but it can also track your every move with that number plate. The impact of tracking extends to using data for surveillance, data analytics, and applications

governments have been known to use it for other investigations (Brayne, 2020), raising concerns about the transparency of the underlying algorithms for police surveillance. In New Zealand, for example, police flagged a car as stolen to trigger camera tracking in a homicide investigation (Pennington, 2022), leading to questions about the scope and oversight of such practices. The New Zealand Police maintain their own standards and privacy practices under the police manual (New Zealand Police, 2022). Moreover, ANPR systems may capture secondary infringements, complicating legal processes and leading to

In theory, DSRC – dedicated short-range communication – poses fewer threats to individual privacy than GNS technology due to its limited capabilities to track a vehicle's location.

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that can lead to unconsented uses or biases.

Although widely deployed, traffic monitoring technologies such as ANPR cameras pose other significant privacy risks. Such technology has the potential to inadvertently capture facial information or other sensitive details, which could then be exposed to human reviewers. There are instances where road camera systems have unintentionally captured private body parts instead of the intended traffic offences (News.com.au, 2023). With increasing resolutions of cameras, there is a heightened risk of capturing biometric information, raising concerns about the recording and storage duration of high-resolution facial data. New Zealand's biometric regulations are still evolving, and new camera technology and software accentuate the risks associated with such data. Furthermore, visual data captured by ANPR systems may inadvertently include details of children and vulnerable groups, potentially infringing on their privacy rights.

ANPR technology is primarily designed for traffic law enforcement. Still,

individual infringement data potentially being retained for extended periods. Human verification of infringements further introduces privacy risks, as drivers may not expect others to view their images. Concerns arise regarding forgery or theft of licence plates, which could result in privacy breaches if charges are incorrectly levied against innocent individuals. Systems have also been reported to have misread licence plate numbers in the United Kingdom, leading to wrongful penalties (BBC, 2018; Dron, 2022).

GNS devices can track individuals' locations, travel times and distances, potentially revealing daily routines. For instance, the current road user charge tracking for large diesel vehicles, as indicated by official sources (NZTA, 2014), turns on and off at ignition. While such data collection is typical in law enforcement, explicit consent for extended application is not always obtained or transparent. Additionally, GNS technology may gather more enforcement data than required, posing risks from unauthorised access. In the event of vehicle theft, location

information stored by GNS devices may be accessed by unauthorised third parties or cyber criminals. Combining vehicle data with other sources such as social media could further heighten privacy risks.

In theory, DSRC – dedicated short-range communication – poses fewer threats to individual privacy than GNS technology due to its limited capabilities to track a vehicle's location. However, there is an elevated risk when DSRC systems store data related to payments and vehicle location history on card systems. This stored information, including data accumulated over time, may

#### The New Zealand Privacy Act 2020

##### *General privacy implications*

The concerns highlighted above over the potential infringement on individuals' privacy due to the use of cameras and devices for locating and monitoring the movement of vehicles are valid, as privacy is a fundamental human right. Important international instruments such as the OECD *Guidelines on the Protection of Privacy and Transborder Flows of Personal Data* (adopted on 23 September 1980) (OECD, 2021) and the United Nations Universal Declaration of Human Rights

and ensuing privacy concerns. We address only a few of those concerns below.

The first question is whether a photograph or video of a licence plate number constitutes personal information, as the Privacy Act only relates to the lawful processing of personal information. The answer to this question depends on a number of circumstances.

All traffic monitoring systems are based on the identification of vehicles. However, in the end, this also requires identifying persons rather than vehicles, as charging for the distance travelled or the presence of a vehicle within a location within a specific time requires billing a person (Custers, 2008, p.90). This is usually done by linking a vehicle to a person using the information in the number plate registration database to locate the vehicle's owner.

In the United States there is a growing public awareness of the threats to privacy and civil rights posed by tools of mass surveillance (Pedersen, 2019). In Virginia, for instance, it is no longer a moot question whether licence plate numbers constitute personal information. In 2015, in *Harrison Neal v. Fairfax County Police Department*,<sup>1</sup> the American Civil Liberties Union (ACLU) sought an injunction against the Police Department's 'passive collection' of licence plate data beyond an immediate need or existing criminal investigation. The ACLU brought this case to clarify that licence plate numbers could constitute personal information. The case is also of importance as it affects how long – if at all – Virginia police can keep licence plate data (Jackman, 2019).

In 2016 the Fairfax Circuit Court granted the Fairfax Police Department's motion to dismiss the case, saying that a 'license plate number' does not fall within the Government Data Collection and Dissemination Practices Act's definition of 'personal information'. The judge ruled that a licence plate number 'does not tell the researcher where the person is, what the person is doing, or anything else about the person'. On appeal to the Virginia Supreme Court, it was held in 2020 that ANPR images and associated data (the time when and location where the photographs of the number plates were taken) do meet the statutory definition of personal information under the Act, as the licence plate database

## While privacy is not explicitly mentioned in the New Zealand Bill of Rights Act, various legal statutes and the common law recognise the right to privacy in New Zealand, as evident by case law and precedent ...

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be susceptible to privacy breaches. Moreover, integrating DSRC with video surveillance for enforcement purposes introduces additional risks. Using technologies in tandem increases the risks to privacy.

A significant data breach in Sheffield, England, where 8.6 million images were accessed due to deficient online security, demonstrates that all data technologies are susceptible to cybersecurity threats (Griffiths, 2020). The ANPR server network was left unprotected and accessible simply by entering its IP address into an internet browser (Security, 2020). While deploying ANPR and other traffic systems serves practical purposes, the storing of data and payment information introduces cybersecurity risks, especially if devices store data locally. Law enforcement agencies are known to intercept personal data from traffic systems for various purposes, including criminal or terrorism analytics. Nations like Singapore openly declare the dual use of their road congestion charging systems for law enforcement purposes; governments such as China's utilise their camera systems for other forms of citizen surveillance (Drinhausen et al., 2021).

emphasise the right to privacy, the lawful processing of personal data and the protection of individuals against arbitrary interference (articles 2 and 12 respectively). Internationally, privacy protection is also upheld through statutes such as those in the United States and the general data protection regulations of the European Union. These legal frameworks provide mechanisms to safeguard individuals' personal information and ensure compliance with privacy standards.

While privacy is not explicitly mentioned in the New Zealand Bill of Rights Act, various legal statutes and the common law recognise the right to privacy in New Zealand, as evident by case law and precedent (Butler, 2013). The Privacy Act 2020 (replacing the Privacy Act 1993) aims to promote and protect personal privacy. The Privacy Act 2020 imposes rights and obligations for collecting, protecting and processing personal information.

ANPR, GNS and DSRC technologies pose significant challenges within the framework of the Privacy Act. Several principles are relevant, especially concerning congestion-charging systems



may be used to cross-reference ANPR data with the identity of an individual. The court held that the Police Department's 'passive use' of the ANPR system, therefore, violates the Government Data Collection and Dissemination Practices Act.

The United Kingdom's Information Commissioner's Office has confirmed that a car registration number and/or VIN can indirectly identify an individual and constitute personal data (Information Commissioner's Office, n.d.). The position is similar in New Zealand, where the registration number plate of a vehicle is matched with an individual registered owner or where the captured biometric data can be linked to an identifiable individual. Section 7(1) of the Privacy Act defines personal information as 'information about an identifiable individual'. It is important to note that the individual need not be identifiable from the information alone and that it is sufficient if identification can be made by a link to other information. So, where a photograph of a licence plate number can be linked to an identifiable individual (the motor vehicle owner), it will constitute personal information. Where the photograph includes biometric information about the driver and the number plate of the vehicle, it may involve the personal information of more than one person.

In the case of a company car the number plate of the vehicle will often not identify a person. So, where the photograph is of a vehicle's number plate only and that vehicle is owned by an incorporated company, it would not constitute personal information as it will not be linked to an identifiable individual. The situation differs for privately owned vehicles. As noted above, one may argue that this could be identifiable information and, therefore, personal information for privately owned vehicles and vehicles owned by sole traders. The Australian Privacy Foundation has noted that only a proportion of vehicles are driven by the registered owner, so the assumptions about the driver's identity are frequently wrong (Australian Privacy Foundation, n.d.). This may be so, but it is a moot point as the purpose of congestion charging is to collect payment from the registered owner of a vehicle because a vehicle was driven in a designated area during a designated time. Ultimately, the ANPR and related datasets

will contain mixed personal and non-personal information.

#### *The application of information privacy principles*

The Privacy Act applies in relation to any action with respect to personal information (s4). The Privacy Act is applicable once a surveillance system is operational provided there is an element of intention or premeditation in collecting personal information about a particular person. This would apply where the personal information is 'sought to identify

Privacy Act, which prohibits the collection of personal information unless it 'is collected for a lawful purpose connected with a function or an activity of the agency', and 'the collection of the information is necessary for that purpose' (ibid., p.3). While collecting data on vehicles and their movements is essential for congestion-charging systems, potential expansions of this purpose, such as data analytics and law enforcement activities, may thus raise privacy concerns under the Act. Additionally, technologies like GNS systems may collect location data beyond the congestion

Woods (2017) notes that the data store in the National ANPR Data Centre in the United Kingdom can be used for data mining in a number of ways and could be used to create a detailed profile of a person ...

an as of yet unidentified individual caught in *flagrante* by surveillance' (Roth and Stewart, 2021, PA7.5(b)(ii)). This means the Privacy Act applies once any system to record vehicle movement to curb traffic congestion is in use.

Part 3 of the Privacy Act contains provisions related to information privacy principles. Information privacy principle 1 requires that personal information must be collected for a purpose, which then, in turn, determines, inter alia, to what uses it can be put and to whom it can be disclosed (s22). The concept of 'purpose' is a key concept in connection with the application of the information privacy principles (Roth, 2011).

Information privacy principle 1 underscores the importance of data minimisation, meaning that organisations should only collect the minimum amount of personal information required for their intended purpose. Principle 1 implements part of paragraph 7 of the OECD guidelines, the 'Collection Limitation Principle', which states that 'There should be limits to the collection of personal data'. Also called the 'minimality principle', this is expressed in information privacy principle 1(1) of the

charging zone, and, as we have seen, cameras may capture personal information, such as facial data or other biometrics, beyond the licence plate numbers, leading to unnecessary data collection.

The various systems that are used to monitor traffic and vehicle movement imply data mining and risk profiling. Woods (2017) notes that the data store in the National ANPR Data Centre in the United Kingdom can be used for data mining in a number of ways and could be used to create a detailed profile of a person:

real time and retrospective vehicle tracking; identifying all vehicles that have taken a particular route during a particular time frame (vehicle matching); identifying all vehicles present in a particular place at a particular time (geographical matching); verifying alibis, locating offenders or identifying potential witnesses; linking individuals to identify vehicles travelling in convoy (network analysis); and subject analysis when ANPR data is integrated with other sources of data (CCTV,

communications analysis, financial analysis) to create an in-depth profile of an individual (Woods, 2017, p.2).

Woods notes that these diverse types of analysis mean that the data generated by ANPR could be used predictively and generally. She submits that the storage of ANPR reads, as well as the subsequent analysis in a variety of ways, constitute intrusions into privacy that must be justified. She notes that the argument on location privacy is strong, raising wider questions about the impact of the use of

Information privacy principle 4 of the Privacy Act highlights the necessity of collecting personal information in a lawful, fair and reasonable manner. Transparent communication about surveillance methods, such as camera monitoring, is crucial, particularly in areas where individuals' movements are recorded for congestion-charging purposes. While public consultations and website disclosures typically communicate the purpose of technologies like ANPR and GNS, there may be insufficient communication regarding additional uses,

Protection measures should be implemented in technologies like on-board devices and gantry towers to safeguard personal data. The proposed measures are discussed below.

#### *Mitigation of risks*

ANPR is big business: the value of the global market for ANPR technology was US\$794.1 million in 2019 and is expected to increase to over \$1.2 billion by 2025 (Horrigan, 2021). ANPR technology is not only very lucrative, but also here to stay. It is thus imperative that steps be taken to mitigate risks. The current position is undesirable from the perspective of the road user. A broad review of the privacy implications should be undertaken prior to the introduction of technological means to curb congestion charges to ensure that adequate safeguards are in place.

Although some GNS systems have incorporated privacy-enhancing measures, including pseudonymous identifiers, widespread deployment often lacks a comprehensive privacy review. Furthermore, while various privacy-protecting measures exist, their adoption remains a topic of ongoing discussion. Measures such as data encryption, obfuscation, blockchain technology, and settings for information deletion are being considered to enhance the protection of privacy.

Approximately 10% of licence plate numbers were reported as being misread by software systems in the United States in 2019, leading to wrongful law enforcement actions (Klawans, 2023). To address such scenarios, it is recommended that congestion-charging systems provide drivers with a user-friendly platform to check their data easily. Evidence should be provided in case of disputes, ensuring compliance with privacy laws and protecting individuals' rights.

In Hong Kong, the Office of the Privacy Commissioner for Personal Data suggested that a privacy impact assessment be conducted to identify the potential risks involved in the Central District's electronic road pricing pilot scheme. It suggested that privacy issues such as what data should be collected, notification before the collection of data, retention of data, use of data and security of data should be considered.

A privacy impact assessment is essential as it thoroughly examines the business

Although some GNS systems have incorporated privacy-enhancing measures, including pseudonymous identifiers, widespread deployment often lacks a comprehensive privacy review.

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other interconnected surveillance and tracking devices in public spaces, and that this increase in cameras affects our autonomy as we lose the ability to be free from surveillance, and our choices are limited by the invisible choices of the state.

Other possible consequences include selection discrimination and the stigmatisation of particular groups. Function or scope creep may also have significant consequences (Custers, 2008, pp.85, 88). The Australian Privacy Foundation notes that an ANPR database can become 'a "honeypot" that attracts attention from many organisations for many purposes, resulting in "scope creep"'. This is in violation of the purpose specification for the processing of personal information.

It then follows that congestion charging poses additional risks to privacy as opposed to the risks of, for example, road user charging systems. These risks can be significantly reduced where the minimality principle is adhered to and a system only determines the distance travelled, without monitoring vehicle location (Custers, 2008, pp.88–9).

especially those related to law enforcement.

Information privacy principle 5 emphasises the importance of storing and securing personal information to prevent loss, misuse or unauthorised disclosure. The systemic retention of ANPR data is problematic. Issues include the bulk nature of the data retained, the lack of safeguards against abuse and the disproportionate extent of the retention. In short, Woods notes, the regime is fundamentally defective. The retention of copious amounts of data, especially sensitive data, can increase the privacy risks inherent in data mining and risk profiling (Custers, 2008, pp.88–9). The Australian Privacy Foundation notes that ANPR could represent a gross privacy intrusion as it generates a very large database of personal data, containing registration data and multiple sets of the date and time of sighting of a vehicle, as well as the location and direction of movement. The database 'is impossible to protect against unauthorised access, resulting in leakage of content'. This breaches the minimality principle as well as the requirement to deploy adequate safety measures.

model, technology infrastructure and operational processes involved, identifying potential privacy risks and proposing solutions to mitigate them. Its primary objective is to assess the likelihood of personal data exposure and ensure compliance with legal data collection and usage requirements.

New Zealand's privacy commissioner has released a privacy impact assessment toolkit. It lists privacy risks and examples of risk mitigation measures that could be adopted (Privacy Commissioner, n.d.). A privacy impact assessment will be helpful in identifying and addressing some of the privacy issues related to congestion charging. Two examples will suffice. A common risk, as far as information privacy principle 1 is concerned, is the collection of excessive personal information. To mitigate this risk, a need for the collection of personal data should be established and be used to limit the information to be collected to what is truly necessary for road charging purposes.

Furthermore, in line with information privacy principle 4, consideration should be given to collecting information for the purpose of congestion charging that does not identify individuals. In this regard, it will be important to ensure that the biometric data of drivers and passengers of vehicles is not captured, and/or when using CCTV pixelation technologies should be used. This technique will also address a common risk associated with information privacy principle 4, namely that the collection method may be unjustifiably intrusive. The Office of the Privacy Commissioner also adopted CCTV guidelines in 2009. Although technological advances have rendered some of the recommendations obsolete, the guidelines are overall still largely applicable and useful (Privacy Commissioner, 2009).

#### Summary from focus groups

In this section, we delve into the perspectives of typical New Zealanders regarding congestion charging and its implications for privacy. We advertised on social media platforms to attract respondents. Subsequently, focus groups comprising 20 individuals from Auckland and Wellington, distributed across four sessions, were convened to uncover public views surrounding the proposed congestion-charging system. Participants

from both cities were selected to represent diverse ethnicities, industries and age demographics. Each participant received a small token of appreciation for their time and contribution. The focus group discussions were conducted anonymously, with participants' names withheld from their feedback and formal consent obtained. Although open-ended, the discussions were guided by a set of four basic questions prepared to steer the conversation. Following the sessions, a thematic analysis was conducted to identify key themes and concerns voiced by the participants.

risks. Participants distinguished traffic congestion surveillance from providing location data to private companies like Google, noting that the latter typically involves (perceived) transparent consents and disclosures. In contrast, there was a perception that communication and consent had not been adequately managed for congestion-charging systems.

#### Data collection and use

The respondents agreed that traffic data collected by these systems should be strictly limited to specific purposes. There was a

There is a growing risk of excessive data collection and prolonged data retention periods, which raises questions about compliance with New Zealand's Privacy Act 2020.

#### Awareness

Many participants expressed a lack of awareness regarding the congestion-charging proposals. Some respondents indicated that the research they were participating in was their first exposure to these proposals. They desired more information, particularly concerning any potential impact on their privacy. Some participants perceived decisions being made without their knowledge or input, leading to resentment and frustration.

#### Privacy concerns

Participants in the focus groups expressed the understanding that there is a balance between efficiency gains and privacy risks associated with a congestion-charging system in New Zealand. While road cameras are generally accepted and familiar to respondents, there was significant apprehension towards using GPS technology for location tracking. Concerns were raised regarding the duration of data retention by the systems, potential security breaches, and the over-collection of data. Respondents suggested that all data should be deleted after six months to mitigate privacy

widespread belief that if the systems detect an infringement beyond traffic congestion, such as other forms of law-breaking, police intervention should not be based solely on that information. Participants argued that law enforcement agencies already possess means to access data for criminal identification and investigations through other channels. Therefore, they advocated for clear regulations to protect against unwarranted police access to traffic data. They suggested that police should be required to obtain a court order or other official permission to access the data for investigation purposes. Respondents underscored the importance of individual rights and emphasised that the New Zealand government should not infringe upon their privacy rights.

Respondents highlighted the need for enhanced government communication regarding data collection purposes and the focus on traffic management. They called for tighter restrictions on collecting and accessing traffic-specific data to ensure privacy protection. Participants emphasised the necessity for more robust controls and measures to safeguard personal data obtained from traffic systems. Ultimately,

respondents urged improved communication and transparency to understand the nature of collected data and to feel assured about its security. There was a consensus among participants regarding exploring new technologies to address privacy risks associated with data collection. Suggestions included anonymising licence plate information during transit or storage, implementing platforms for individuals to monitor their data across government services, and establishing geolocation fences to confine data collection and viewing within city limits. Participants demonstrated support for innovative solutions aimed at enhancing privacy protection in the context of traffic management.

As noted above, a privacy impact assessment could be instrumental in reviewing technologies and privacy concerns relating to implementing the congestion charging technical design in New Zealand. This would go a long way towards addressing the issues canvassed in this article and the valid concerns raised by the respondents.

## Conclusion

This article has highlighted the privacy concerns arising from the emerging technologies in congestion charging. There is a growing risk of excessive data collection and prolonged data retention periods, which raises questions about compliance with New Zealand's Privacy Act 2020. It is imperative that any data collected is strictly necessary for its intended purpose, and limitations on data collection are advocated for by New Zealanders. Using GNS technology may encounter challenges in aligning with privacy objectives, prompting specific concerns. While the government's consultation report did not provide clear guidance on using GNS technology, its implementation for road user charging raises concerns about potential future applications. Similarly, issues surrounding ANPR technology, such as the potential for intrusive data collection and unauthorised use beyond its intended purpose, highlight the need for stringent regulation and oversight.

From our interaction with the focus groups it is clear that New Zealanders demand transparency in law enforcement activities and advocate for stricter controls on data access. The recommendation to enforce the Police code of conduct under the oversight of the privacy commissioner aims to address this concern and ensure accountability. An important consideration is if the Police code of conduct should come under the jurisdiction of the privacy commissioner. Furthermore, respondents suggested a data retention period of six months for traffic data and technical solutions to protect personal data. These suggestions include anonymisation techniques and platforms for individuals to access and review their data, aligning with the evolving landscape of privacy protection. In summary, this article emphasises the importance of communication and balancing technological advancements with privacy rights.

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Andrew Jackson

# Evidence-based Policy: Reinventing the Wheel

The phrase ‘reinventing the wheel’ is used to suggest someone is wasting time inventing something that has already been discovered, but perhaps sometimes there can be value in reinventing things. Ironically, the wheel is the perfect example of this – there are many forms of wheel and continuing innovations in its design. I have personal experience as a road cyclist and see the significant difference between a standard road bike wheel and a modern carbon wheel, which is lighter and can be shaped to be more aerodynamic.

At Te Herenga Waka Victoria University of Wellington, we are reinventing a different type of wheel, a ‘Policy Hub’. The goal of the Policy Hub is to connect New Zealand’s academics to the policy community to mobilise research to underpin key policy decisions. We have roughly 10,000 academics located in New Zealand’s universities, the majority of whom are researchers. This is a tremendous pool of capability that can and should be used to inform and help shape policies. But connecting the academic and policy communities is notoriously difficult.

The Policy Hub was set up at the beginning of 2024 in response to demand from senior public servants who want to improve connections between the academic and policy communities. The Policy Hub is operating as a learning organisation to find solutions that match New Zealand’s unique context, responding to the changing topics of interest and potentially the changing form of the tertiary sector, when we learn of the outcome of Sir Peter Gluckman’s reviews (see Gluckman, 2017).

While located at Victoria University of Wellington, its goal is to provide a conduit

between the policy community and the whole of New Zealand’s academic community. We cannot afford in our small nation to waste significant amounts of time and money fighting for the same research contracts. Victoria University’s location means it is perfectly located to facilitate connections for policy officials to experts, datasets, and publications that are not open access, and to quantitative and qualitative analysis skills.

## Why bridge the gap between the academic and policy communities?

New Zealand faces a range of challenges and has limited resources to respond to the short- and longer-term challenges it faces, which are wide-ranging. For instance, a quick look across departmental reports finds: 10% of New Zealand children are experiencing material hardship; the number of 15–25-year-olds with high levels of psychological stress rose from 5% to 19% in the last ten years; we are losing 192 million tonnes of soil a year from erosion and nutrient imbalance; 133,000 New Zealanders live less than 1.5 metres above the high-water mark, so are at risk from storm surges; our labour productivity is 61% that of the US;

and we will need to spend \$185 billion on water infrastructure by 2050. Policy responses to all of these issues can – and should – be informed by research.

Every government faces the problem of how best to allocate its limited resource to respond to those challenges while responding to the crisis of the day. Unsurprisingly, the clarion call across the world is that given these major challenges, additional evidence is needed to inform complex policy decisions. Finding this additional evidence sparked a series of studies and reports worldwide, starting in the 1970s, looking at the interface between the academic and policy communities, exploring whether the connection between these two communities is healthy and how it could be improved (Tseng, 2015).

## There are challenges connecting the two communities

This interface is far from working as it should in New Zealand. A series of studies and reports have sought to understand why (Löfgren and Cavagnoli, 2015; Gluckman, 2017; Jeffares et al., 2019). The article ‘Connecting two worlds’ (Roy and Slim, 2022) provides an overview of the challenges of connecting these two communities clearly. There are challenges on both sides, with many academics not understanding the policy process and policy officials not understanding the academic context. This is accentuated by communication challenges, with lack of information from the policy community on policy research priorities and lack of understanding from the academic community of how to translate research into the policy context. Timetables are different too: policy officials need input to respond to short deadlines and academic

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research can take many months or years. And added to these challenges is the limited number of opportunities for engagement between these two worlds to learn how best to work together.

There have been many initiatives in New Zealand to respond to these challenges, some still in place and some that have stopped. This includes the Institute of Policy Studies, which became the Institute for Governance and Policy Studies, at Victoria University, and topic-specific research institutes (for example, the Centre for Strategic Studies, the Centre for the Study of Families and Children, the Centre for Restorative Practice, the New Zealand Climate Change Research Institute) which have helped to address these challenges. Auckland University has Koi Tū and the Public Policy Institute, each responding to different aspects of the challenge, and many other topic-specific centres, as do all of New Zealand's universities, relating to their areas of deep expertise.

Staff of Victoria University of Wellington toured government departments in 2023 to test whether the current approach was working. Officials said connections were excellent in some areas of policy and non-existent in others. Connections were relationship-based and were easily lost when a policy official changed roles. We were also told of difficulty engaging by both communities as time frames and context were different. This confirmed the demand for and need for an additional attempt to invest more time and effort to reinvent the proverbial wheel.

### Bridging the gap

The Policy Hub is at the start of a journey to improve connections. It is exploring how to build the 'carbon wheel' of a Policy Hub

by operating in an agile way. It is taking a demand-led approach, working on key issues identified by the policy community, with each piece of work tailored to the timing and needs of the issue. It is not trying to solve everything, recognising that the feedback from the public sector was to be responsive to need, to help fill the gaps. It does not have one offering; it responds to need. So far it has provided quantitative analysis in a specialist area and expert-based advice on a policy programme, and arranged for expert mentoring of public servants on long-term strategy. A project to provide a synthesis of multidisciplinary views of a critical social issue is in the pipeline.

Interest has focused on three areas initially. The first area is exploring how artificial intelligence can be used to improve the quality of public services and the efficiency of the public sector. The second is taking a multidisciplinary view to explore how to maintain and build trust in institutions to support social cohesion and a healthy democracy. And the third area is providing support to government departments as they prepare their second round of long-term insights briefings. Victoria University is working collaboratively with Auckland University on the first two of these issues, as a first step to connect to the wider academic community.

The Policy Hub is also taking a proactive approach to learn from and connect with international counterparts. King's College London, the Blavatnik School of Government at Oxford University, University College London and the Alan Turing Institute provide valuable insights on the journeys they have taken to connect with the policy world. Key messages were:

- the challenges of incentivising academics to engage until the changes

to the UK's Research Excellence Framework ensured that academics received recognition for research which led to policy impact – something which may be addressed in the current review;

- it takes five years of concerted effort to build the reputation and the trust of the public sector before they proactively seek out and approach the academic community for input;
- train the academics in how to engage and in policy-relevant analysis skills; and
- you need a model that allows you to be responsive to demand.

All these institutions are keen to partner in projects with the Policy Hub. International policy networks like this can benefit both academics and policy officials immensely.

The Policy Hub is academic-led, and includes academics who represent different academic disciplines. It is seeking to engage early career researchers in projects to allow new networks to be created that should endure for the next 30 years. It is also exploring involving master's and PhD students in applied research. It is a small start, but the group is working to demonstrate value, building a reputation which will open the way for scale and widespread impact with significant benefit for New Zealand.

The aim is that in four and a half years there will be widespread awareness and use of the Policy Hub – connecting policy officials to a New Zealand academic community in ways that help address this nation's many challenges.

For more information on the Policy Hub, see: <https://www.wgtn.ac.nz/policy-hub>.

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Todd Bridgman

# Review of *Policy Quarterly*

*Policy Quarterly* was first published in 2005 by the Institute of Policy Studies to inform policy debate in New Zealand; to engage readers with a style that was lively, well-argued and readable, and to showcase some of the interesting thinking in Victoria University of Wellington's School of Government and its associated research centres. From 2012 the Institute of Policy Studies became the Institute for Governance and Policy Studies (IGPS), with it and *Policy Quarterly* largely funded by an endowment.

Now in its 20th year, *Policy Quarterly* faces an uncertain future, following the disestablishment of the IGPS in 2023. An outcome of the IGPS review was that *Policy Quarterly* would continue until March 2025 with funding by the School of Government Trust pending further consideration of its future. The School of Government Trust is a charitable trust established by the government in 2007 with a gift of several million to support research, teaching and training in public policy, public management, public administration and strategic studies.

In December 2023 an independent committee was established by Professor Jane Bryson (dean, Wellington School of Business and Government, Victoria University of Wellington) and Professor Karl Lofgren (head of the School of Government) to undertake a review of *Policy Quarterly*. The review committee comprised Professor Todd Bridgman (head of the School of Management, Victoria University of Wellington), Dr Kay Booth (executive director, IPANZ), Adjunct Professor Chris Eichbaum (School of Government), Associate Professor Michael Di Francesco (Australia National University) and Dr Julia Talbot-Jones (School of Government).

The review committee was instructed to assess the current strengths and weaknesses of the journal; the journal's purpose and goals; options for funding the journal; options for editing and producing the journal, including the journal's format and contents, peer review processes, copy editing, design, and other relevant matters; and options for marketing and distributing the journal. We were also asked to consider whether a further effort should be made to have the journal indexed by Scopus and the implications of this for the journal's name and purpose. To complete the review, we were asked to consult with the journal's editorial board, the Royal Society Te Apārangi, a selection of the journal's users and other relevant organisations.

We conducted 15 interviews, held an online focus group with members of the editorial board, and circulated a survey to individuals identified as having some involvement with public policy in New Zealand, which generated 366 responses. In this article we provide an overview of our findings and conclusions and assess the future of *Policy Quarterly*.

## Overall conclusions

The review committee concluded that *Policy Quarterly* serves an important

role communicating policy research with practitioners. It provides distinctiveness to the School of Government and Victoria University and occupies a niche that has been recognised by the university as an area for future growth and attention: the nexus of academia, business and government. As such, *Policy Quarterly's* purpose and niche has been upheld for the 20 years it is been published, and interest in and use of the journal continues to grow. We believe *Policy Quarterly* can continue to deliver and should be retained as an online journal with its current purpose and scope.

*Policy Quarterly* is a high-quality publication that is highly valued by scholars, practitioners, and other members of the policy community in Aotearoa New Zealand and internationally. It advances the mission and strategic objectives of the School of Government (and the Australia and New Zealand School of Government) and Victoria University of Wellington. Moreover, *Policy Quarterly* adds significant value to the capacity and capability of the New Zealand public service. In short, when assessing the costs and benefits that accrue from a publication like *Policy Quarterly*, the journal must be viewed in the context of the broader institutional ecosystem in which it is located, and the needs of the stakeholders and partners within that ecosystem.

Nevertheless, change is required in terms of journal arrangements and operations. We concluded that a new editor to succeed Professor Jonathan Boston, who has made an outstanding contribution to *Policy Quarterly* for nearly 20 years, needs to be found to lead an expanded editorial team and editorial board. The journal would benefit from the adoption of a manuscript management system, increasing administration support and greater effort at marketing to expand its readership and impact. Continued

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investment in the journal is needed to maintain its quality, reach and relevance. This will allow it to build on the base that has been established to realise what the review team assesses as material potential full net benefits.

### Survey findings

The majority of the 366 respondents to the survey identified as ‘public sector officials’ (36%), closely followed by ‘researcher’ (32%). Respondents were invited to choose as many categories as applied to them (see Figure 1).

Respondents were asked how valuable *Policy Quarterly* is to people working in, or on, public policy, or with a general interest in public policy. When asked to indicate the level of value between 1 and 10, on average respondents saw *Policy Quarterly* as having a value of 7.61, with the median ‘value’ of 8. The journal was perceived as particularly valuable for those working in New Zealand (avg 8.4), in the public sector (avg 8.24), in academia (avg 8.03), and for those with a general interest in public policy (avg 7.89); however, it was also used by people in the private sector and in NGOs, as well as by people overseas (Table 1).

Respondents were asked how valuable *Policy Quarterly* is to people researching public policy issues. When asked to indicate the level of value between 1 and 10 for people researching public policy issues, on average respondents saw *Policy Quarterly* as having a value of 7.70, with the median ‘value’ of 8 (Table 2). Unsurprisingly, it is considered to have the most importance for academics (avg 8.19), but it also has value for researchers in the public sector (avg 8.13). Many of the supporting comments reiterated the importance of *Policy Quarterly*’s New Zealand focus. It is unsurprising that the journal is more valuable for those in New Zealand than internationally, although some of the comments noted that the journal still holds value for international researchers undertaking comparative research or wanting to understand what was occurring in the New Zealand policy context.

Respondents were asked to choose the frequency that different user groups (i.e., public sector, private sector, NGOs, researchers, people with a general interest

Figure 1: Survey findings

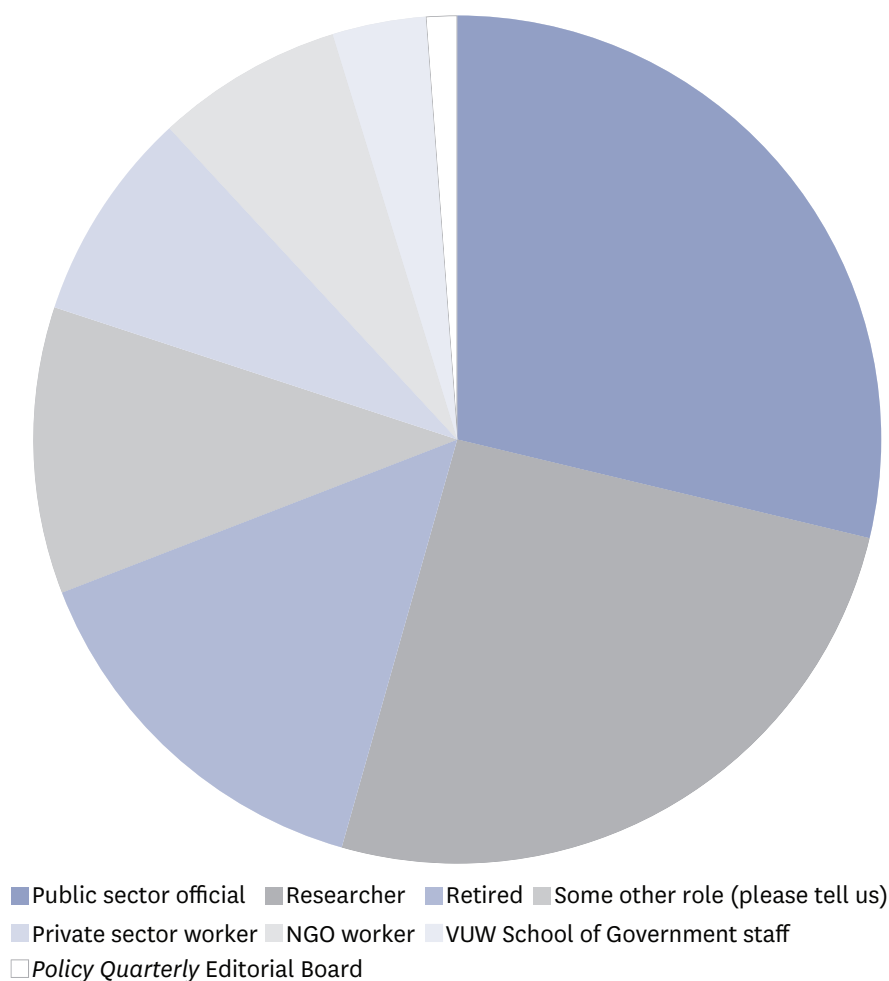


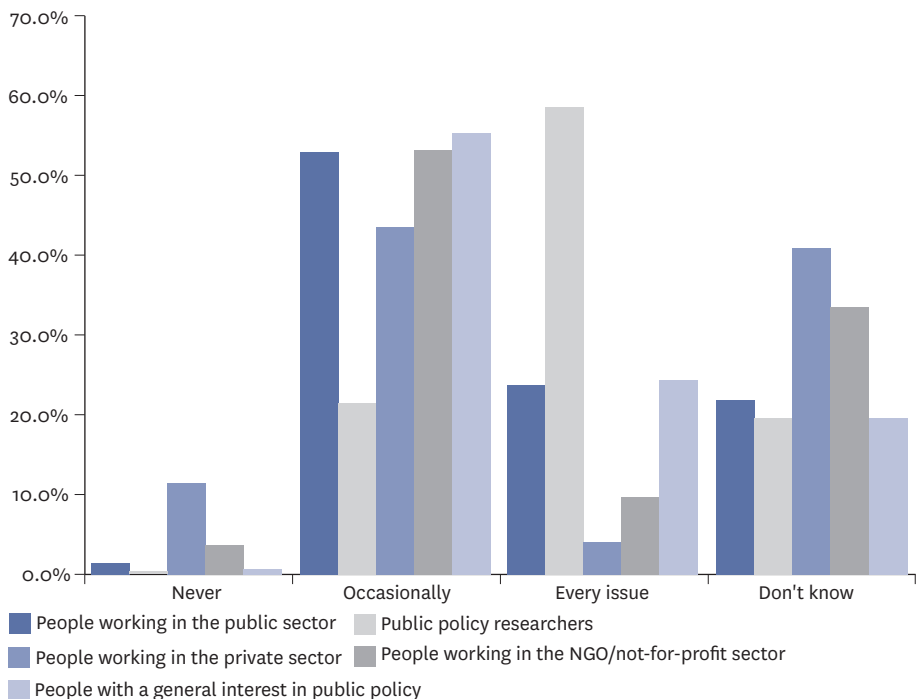
Table 1

Variable	Average	Median
In the private sector	6.30	7.0
Internationally	6.41	7.0
In the NGO/not-for-profit sector	7.38	7.0
People with a general interest in public policy	7.89	8.0
In academia	8.03	8.0
In New Zealand	8.15	8.0
In the public sector	8.24	8.0
Total	7.61	8.0

Table 2

Variable	Average	Median
In the private sector	6.62	7.0
Internationally	6.80	7.0
In the NGO/not-for-profit sector	7.67	8.0
In the public sector	8.13	8.0
In academia	8.19	9.0
In New Zealand	8.25	8.0
Total	7.70	8.0

Figure 2



in public policy) read *Policy Quarterly* : never, occasionally, every issue, don't know (Figure 2). Respondents indicated that most people read *Policy Quarterly* occasionally, except for public policy researchers who were thought to read every issue.

**Evidence of impact**

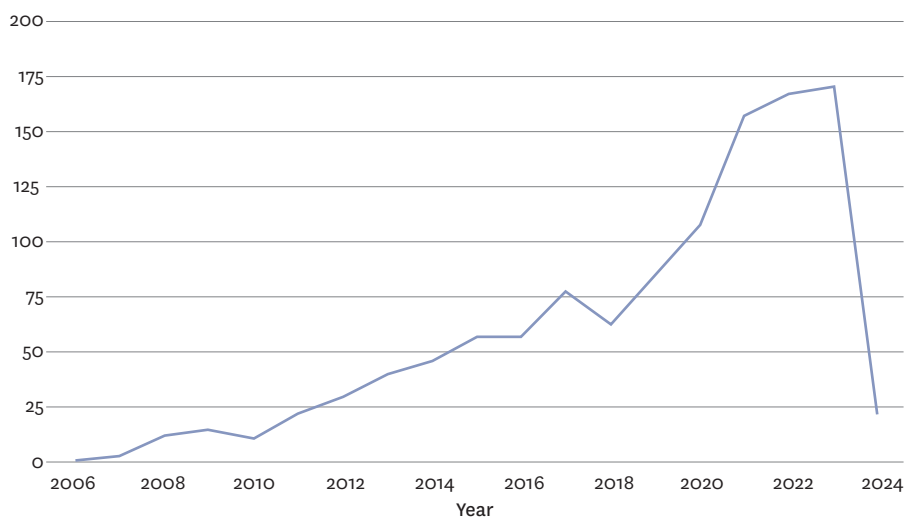
Over the course of the review we gathered data relating to the journal's impact, as measured by usage, citation and other metrics from a range of sources, including Scopus, Dimensions and Overton. The data reveals *Policy Quarterly*'s continued and growing impact.

Scopus is a great source for analysing citation trends and publishing patterns and is used by international rankings systems such as THE and QS. Citation of *Policy Quarterly* articles in Scopus-listed publications has grown from fewer than 25 per year in 2011 to 170 per year (Figure 3).

Citations of *Policy Quarterly* articles in Dimensions, a scholarly database similar to Scopus, have increased from fewer than 25 per year in 2011 to 220 per year, an impressive rate of growth (Figure 4).

Overton gives an overview of the policy impact the works from a journal has had. It revealed that *Policy Quarterly* articles are cited in 15 countries, most often in Australia (156 citations), followed by New Zealand (132 citations); 48% of *Policy Quarterly* articles are cited more than once in policy documents.

Figure 3



**Data comparison with comparable publications in New Zealand and Australia**

To help contextualise consideration of *Policy Quarterly*'s purpose and goals, it is instructive to understand its positioning in the 'ecosystem' of public policy and public administration publications in New Zealand and Australia.

This can be done in various ways. One is to examine current comparable publications only, all of which are now principally online journals or platforms; another is to also consider comparable publications that have over recent times ceased publication (which itself could be taken as an indicator of *Policy Quarterly*'s viability and longevity).

*Policy Quarterly* is currently 'targeted at readers in the public sector, including

Figure 4

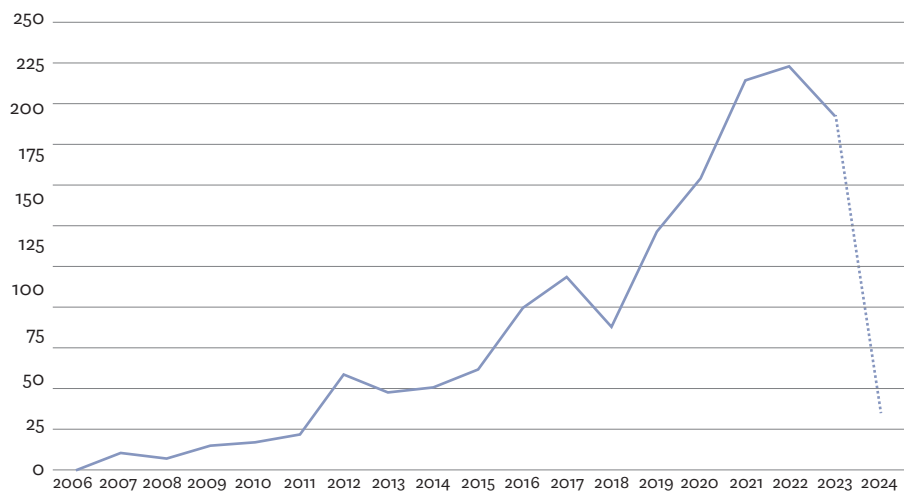
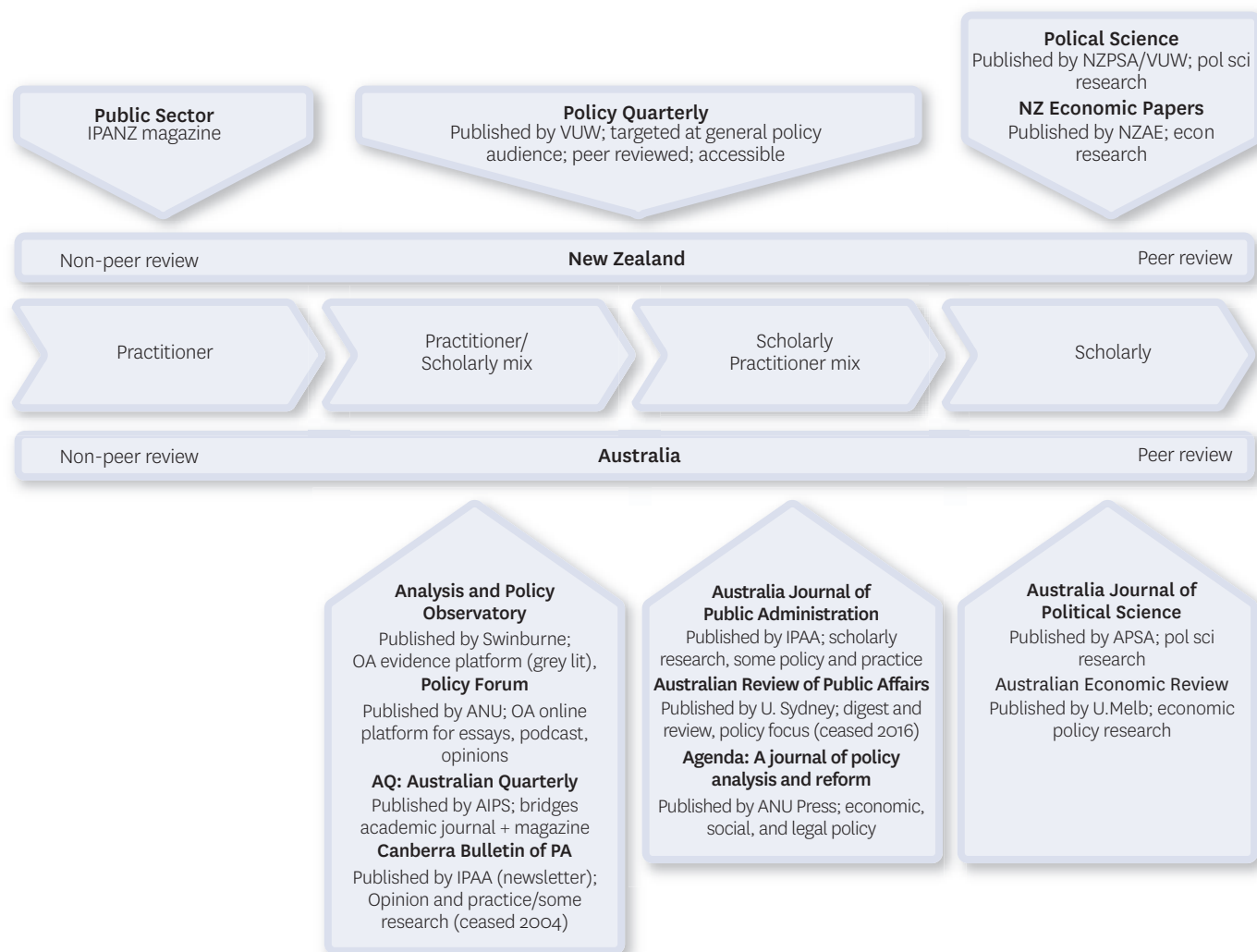


Figure 5: A map of the policy journal landscape across Australia and New Zealand.



politicians and their staff, public servants and a wide variety of professions, together with others interested in public issues? It is, therefore, a university publication that publishes both research and policy analysis/commentary in an accessible way for those working or interested in public policy, broadly defined.

*Policy Quarterly's* position within a broad spectrum of existing and historical publications in public policy in Australia and New Zealand is detailed in Figure 5. This summary is stylistic (and necessarily selective). Our review sought to capture key attributes of public policy publications across the following dimensions:

- practitioner focus and/or scholarly research focus;
- public policy and/or public administration or political science;
- non-peer reviewed and/or peer-reviewed;
- domestic and/or international;

- open access or paid subscriber;
- current or defunct.

In our analysis, *Policy Quarterly* is unique within its ecosystem for bridging both the practitioner/scholarly and scholarly/practitioner mix. This finding is supported by a range of respondents to our survey.

We investigated changing the positioning to be exclusively practitioner focused or exclusively scholarly focused, but recommend no change. These would eliminate a critical success factor of the journal – its current niche positioning as an academic/practitioner bridge, which most of those who contributed their views to the review considered to be a genuine and major strength of the journal.

Table 3 (p.84) provides supplementary classification information for the policy journals identified in Figure 5. It clearly shows *Policy Quarterly's* unique niche and positioning within public policy journals within Australia and New Zealand.

## Conclusion

The review committee went into this project with an open mind about the journal's future. Having completed the review, we are in no doubt that under the dedicated stewardship of Professor Boston, it has played a vital role in communicating policy research to practitioners for nearly 20 years. It is an important publication for Victoria University, and particularly its School of Government, and helps position the university at the nexus of academia, business and government. We thank all those who contributed to the review, and to the journal's ongoing success in varied ways. With continued financial support from the School of Government Trust, and a refreshed editorial team and editorial board, the future of *Policy Quarterly* is bright.

**Table 3 Australia and New Zealand policy-relevant journals categorised across the practitioner-scholarly spectrum.**

Practitioner Non-peer reviewed	Practitioner / scholarly mix	Scholarly / practitioner mix	Scholarly Peer reviewed
<p><i>Public Sector</i></p> <ul style="list-style-type: none"> <li>• Published by IPANZ (magazine)</li> <li>• Practitioner focus (opinion and practice)</li> <li>• Public administration / management</li> <li>• Domestic</li> <li>• Subscriber (professional association)</li> <li>• Current</li> </ul>	<p><i>Analysis and Policy Observatory</i></p> <ul style="list-style-type: none"> <li>• Australian Policy Online (until 2017)</li> <li>• Published by Swinburne and Susan McKinnon Foundation</li> <li>• Open access evidence platform (grey literature)</li> <li>• Mix of non-peer and peer reviewed</li> <li>• Domestic and International</li> <li>• Open</li> <li>• Current</li> </ul>	<p><i>Australian Journal of Public Administration</i></p> <ul style="list-style-type: none"> <li>• Published by IPAA / Wiley</li> <li>• Scholarly research (some policy and practice)</li> <li>• Public policy / administration disciplines</li> <li>• Peer-reviewed (indexed)</li> <li>• Domestic and international</li> <li>• Subscriber</li> <li>• Current</li> </ul>	<p><i>Political Science</i></p> <ul style="list-style-type: none"> <li>• Published by VUW / NZPSA / Taylor &amp; Francis</li> <li>• Scholarly research</li> <li>• Political science discipline</li> <li>• Peer-reviewed (indexed)</li> <li>• Domestic and international</li> <li>• Subscriber</li> <li>• Current</li> </ul>
	<p><i>Policy Forum</i></p> <ul style="list-style-type: none"> <li>• Published by ANU</li> <li>• Online platform for essays, podcasts, opinions</li> <li>• Non-peer reviewed</li> <li>• Domestic and International</li> <li>• Open</li> <li>• Current</li> </ul>	<p><i>Australian Review of Public Affairs</i></p> <ul style="list-style-type: none"> <li>• Published by Sydney University</li> <li>• Two parts: Digest (non-peer review) and Review (peer review)</li> <li>• Cross-disciplinary (policy focus)</li> <li>• Domestic and International</li> <li>• Open</li> <li>• Defunct (2016)</li> </ul>	<p><i>Australian Journal of Political Science</i></p> <ul style="list-style-type: none"> <li>• Published by APSA / Routledge</li> <li>• Scholarly research</li> <li>• Political science disciplines</li> <li>• Peer-reviewed (indexed)</li> <li>• Domestic and international</li> <li>• Subscriber</li> <li>• Current</li> </ul>
	<p><i>Canberra Bulletin of Public Administration</i></p> <ul style="list-style-type: none"> <li>• Published by IPAA (newsletter)</li> <li>• Practitioner focus (opinion and practice / some research)</li> <li>• Non-peer reviewed</li> <li>• Public administration and management</li> <li>• Domestic</li> <li>• Subscriber (professional association)</li> <li>• Defunct (2004)</li> </ul>	<p><i>Agenda: A journal of policy analysis and reform</i></p> <ul style="list-style-type: none"> <li>• Published by ANU Press</li> <li>• Peer-reviewed (indexed)</li> <li>• Economic, social and legal policy</li> <li>• Domestic and International</li> <li>• Open</li> <li>• Current</li> </ul>	
	<p><i>AQ: Australian Quarterly</i></p> <ul style="list-style-type: none"> <li>• Published by AIPS</li> <li>• Bridges ‘academic journal and magazine’</li> <li>• Non-peer reviewed</li> <li>• Policy and ideas focus</li> <li>• Domestic</li> <li>• Subscriber</li> <li>• Current</li> </ul>		
	<p><i>Policy Quarterly</i></p> <ul style="list-style-type: none"> <li>• Published by VUW (hosted on OJS)</li> <li>• Targeted at anyone interested in public issues / writing style makes journal accessible to busy non-specialist readers</li> <li>• Peer reviewed</li> <li>• Public policy and public administration</li> <li>• Domestic</li> <li>• Open</li> <li>• Current</li> </ul>		

# CALL FOR PAPERS

## Addressing Capability Challenges in Public Management

Special issue of *Policy Quarterly* (May 2025)

### Guest Editors:

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### Introduction

*Policy Quarterly* is pleased to announce a call for papers for a special issue entitled ‘Addressing Capability Challenges in Public Management’. The New Zealand public sector faces challenges that are common internationally: rising demand, limited resources, and growing complexity in a more volatile, challenging and uncertain world, as well as polarisation in broader society. It also has some unique characteristics, including the contested role of the Treaty of Waitangi, a reset after a post-Covid 19-induced spending boom and a recent change in government.

This issue will focus on management in important areas within New Zealand’s public sector. We invite submissions that analyse contemporary challenges and innovative solutions, aiming to foster a deeper understanding and inform effective practices. We hope for intellectual diversity: a wide range of viewpoints, epistemologies and methods are welcome. We hope for constructive debate and dialogue to arise from the special issue. Submissions from non-New Zealand jurisdictions are welcome if there is strong relevance to New Zealand’s context. Studies centred on the interests of agencies,

employees, citizens, non-government organisations and taxpayers are welcome.

### Scope of submissions

We seek comprehensive articles that address the following themes:

- **Trust and legitimacy.** Concerns have been expressed in New Zealand about the loss of free and frank advice, and poor compliance with the Official Information Act (Kibblewhite and Boshier, 2018). There are also broader ethical issues, including how whistleblowers are treated, bullying, and even corruption (Macaulay, 2023). Papers that explore whether public agencies and officials are rightfully trusted, and what could be done within agencies to ensure trust and legitimacy are welcome (Taylor, 2018). Papers that address broader issues of ethical mis/conduct are also welcome.
- **Change management and managing through volatile budget cycles.** Expenditure grew enormously in the first year of Covid-19 and there are now attempts to scale it back. We are interested in studies that cover, for instance, rapid establishment, scaling and

expansion of programmes; and also retrenchment, including job cuts, restructuring and downsizing (Kiefer et al., 2015). Papers, for instance, could explore management and HR practices that address the implications of downsizing while maintaining recruitment, retention and workforce development (Kim, Cho and Wang, 2024).

- **Public sector leadership and development.** To effectively face rising challenges, a broader skill set than those within easy reach will be needed. Restructuring is an over-used lever, and command and control, pleasing the minister at all costs, or micro-managing staff are insufficient to meet rising challenges (Hamblin and Plimmer, 2023). Instead, resilient staff, capable of growing and developing skills, will be needed. Critiques of current approaches and examination of alternative options are welcome. Papers could examine how leadership styles and growth-oriented approaches enhance employee resilience, influence governance, and support policy implementation in changing political and social environments. Papers that look at capability from an employee, HR or employee relations perspective are welcome (Kim, Cho and Wang, 2024). Studies in leadership, organisational climate, voice and dialogue and debate within organisations are welcome.
- **Delivery methods.** Public sectors are increasingly expected to co-design, co-deliver and co-produce with outside organisations and individuals, rather than simply be service providers that meet customer expectations. But how this shift is managed remains under-explored. While desirable, problems with ‘co’ concepts remain (Dudau et al., 2023). Accountability is hard to specify and remains a challenge in novel delivery methods. The role of contractors and consultants has been criticised locally and internationally (Seabrooke and Sending, 2022). They present unique challenges of incentives, integration and management that remain understudied. The relationship between policymaking processes and human resource strategies, highlighting either successful alignments or potential conflicts, is also challenging (Hill and Plimmer, 2024). Papers that address these issues, as management challenges, are welcome.

- **Technological integration, artificial intelligence and social media.** A new wave of technological advance is upon us. We welcome papers on the implications of and responses to technology (Allen et al., 2020; Gaozhao, Wright and Gainey, 2024). IT project management is also important. Papers that investigate how emerging technologies and social media are transforming management practices in the public sector are welcome. Papers that address the following are also welcome: those that explore the adoption of employee social media policies and practices in public sector organisations; those that focus on ethical considerations and governance challenges associated with the implementation of artificial intelligence (AI); and those that focus on the application of talent analytics and workplace data machine learning.

### Deadline for submissions

Submissions of expressions of interest must be received by **9 December 2024** and full papers by **10 February 2025**. Early submissions are encouraged to facilitate a smoother review process. Reviews will be double-blind unless otherwise agreed.

### Submission guidelines

Contributors should prepare manuscripts of approximately 4,000 words (excluding tables, figures and references), aligning with the themes specified above. Please include a short abstract (no more than 100 words) and 5–6 key words. Consult recent online issues of *Policy Quarterly* for guidance on referencing and endnotes (see <https://www.wgtn.ac.nz/igps/publications/policy-quarterly>). Submissions must be original and not previously published. Each submission will undergo a peer review process to ensure the relevance and quality of the publication.

### Why submit to this special issue?

- **Reach:** Benefit from the extensive readership of *Policy Quarterly*, which includes a diverse range of public sector professionals, policymakers and academics.
- **Influence:** Contribute to critical conversations that could shape public management practices.
- **Engagement:** Connect with other experts and explore opportunities for future collaboration.

## How to submit

Articles should be submitted to the special issue editors,  
Associate Professor **Geoff Plimmer**,  
via [geoff.plimmer@vuw.ac.nz](mailto:geoff.plimmer@vuw.ac.nz)  
Senior Lecturer **Wonhyuk Cho**,  
via [wonhyuk.cho@vuw.ac.nz](mailto:wonhyuk.cho@vuw.ac.nz) or  
PhD candidate **Annika Naschitzki**  
via [annika.naschitzki@vuw.ac.nz](mailto:annika.naschitzki@vuw.ac.nz).

Please include your manuscript and a brief biographical note detailing your expertise in public management and HR.

For further information or queries regarding the call for papers or submission process, please reach out to the editorial team.

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