



Constitution Aotearoa, n.d.

A CONSTITUTION FOR AOTEAROA NEW ZEALAND

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Make a submission

Your submission

Use the form below to make a submission on the proposals in *A Constitution for Aotearoa New Zealand*.

You don't have to answer all questions. We'd love to hear your views on any topic.

I'D PREFER TO UPLOAD A WRITTEN SUBMISSION

Before submitting, please take the time to understand our proposals. You can read chapters from the book online [here](#), and the draft constitution [here](#). You can also read about our proposals through the [Blog](#) and [Topics](#) pages.

I JUST WANT TO SEND FEEDBACK BY EMAIL

We will consider your views before revising our proposed constitution. We'll be taking submissions until 1 December 2017.

1. THE PROPOSAL FOR A CODIFIED CONSTITUTION AS SUPERIOR LAW

See our proposal to make the Constitution superior law [here](#) or read about it on pp 7-27 of [the book](#).

1.1 We think it's about time that New Zealand had a written constitution like nearly every other country in the world. That way, Kiwis would be easily able to find the basic rules by which the country is governed. What are your views on the proposal to codify New Zealand's Constitution?

1.2 In most countries, the Constitution is superior law to which other laws are subject. However, in New Zealand there is no superior law except the one that Parliament can pass any law it likes. What are your views on the proposal to make New Zealand's Constitution superior law?

1.3 One way to protect the Constitution as the supreme law is to make it harder to change than an ordinary law. This is called 'entrenchment'. At the moment, New Zealand law entrenches certain features of our electoral system, which can be changed only by a referendum or by a 75% vote in Parliament. We think that the same should be done for all features of the Constitution. Do you agree? If not, how hard should it be to change the Constitution?

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2. THE PREAMBLE

See our proposed Preamble [here](#) or read about it on pp 34-35 of the book.

2.1 One of the functions of a Constitution is to set down the basic rules by which a country is governed. Many constitutions include a Preamble that records the country's traditions, values, and aspirations. What are your views on the Preamble that we have proposed? Does it adequately capture your sense of New Zealand's shared values, traditions, history, and sense of the future?

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3. THE STATE

See our proposals for the State [here](#), or read about the proposals on pp 214-220 of the book.

3.1 Under New Zealand's current constitutional arrangements, all powers of government are said to derive from 'the Crown'. Yet the legal meaning of 'the Crown' is undefined and ambiguous. We think it would be better and clearer if 'the Crown' was replaced with 'the State'. What are your views on this proposal? Does the concept

of the State need more elaboration than we have given in our proposed Constitution?

3.2 One of the problems with 'the Crown' is that, technically, public power derives its authority from the Queen, not from the people. We think that public power should derive from the people. What are your views on the proposal that all state powers derive from the people?

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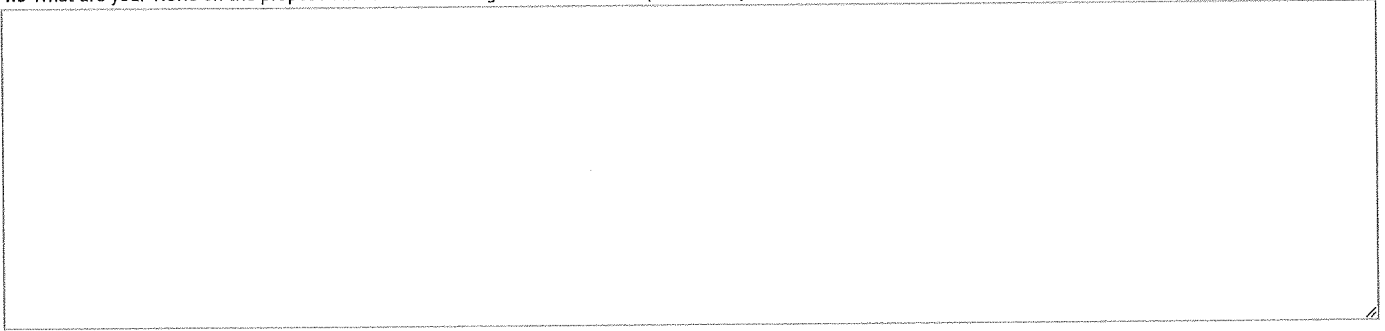
4. THE HEAD OF STATE

See our proposals for the Head of State [here](#), or read about the proposals on pp 85-103 of [the book](#).

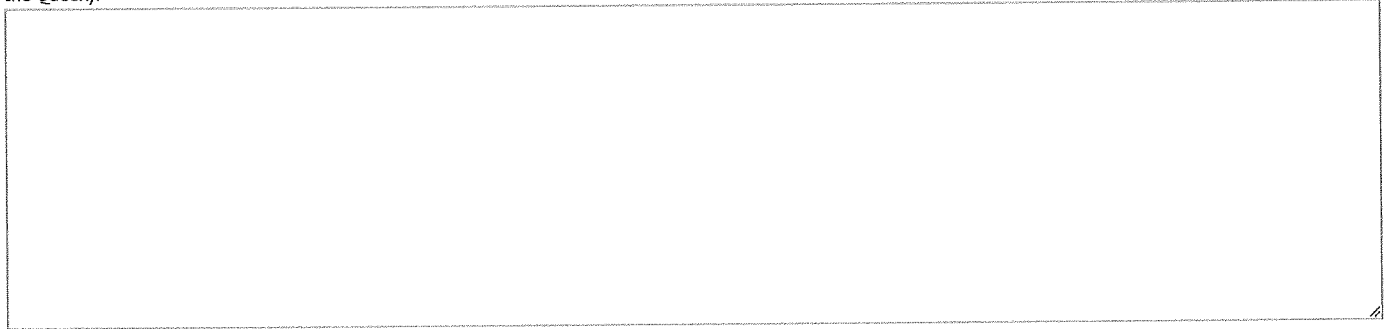
4.1 We think it's time to replace the monarchy with a Kiwi head of state, appointed by Parliament, who would exercise powers similar to those currently exercised by the Governor-General. What are your views on the proposal to establish a new head of state?

4.2 What should the head of state be called – Head of State, Governor-General, President, or something else? Is there a title in te reo Māori that would better serve?

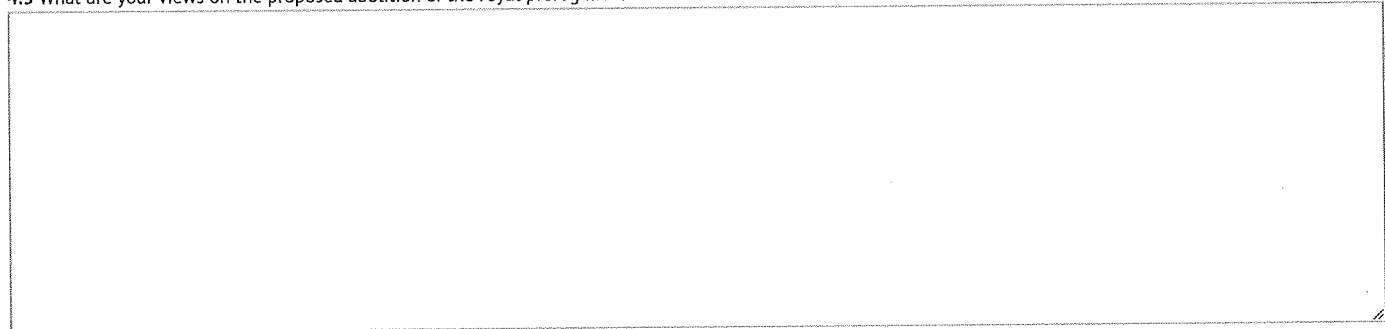
4.3 What are your views on the proposed method of electing the head of state (free vote by MPS in the House of Representatives)?



4.4 What are your views on the proposed functions and powers of the head of state (which are similar to those currently exercised by the Governor-General on behalf of the Queen)?



4.5 What are your views on the proposed abolition of the royal prerogative?



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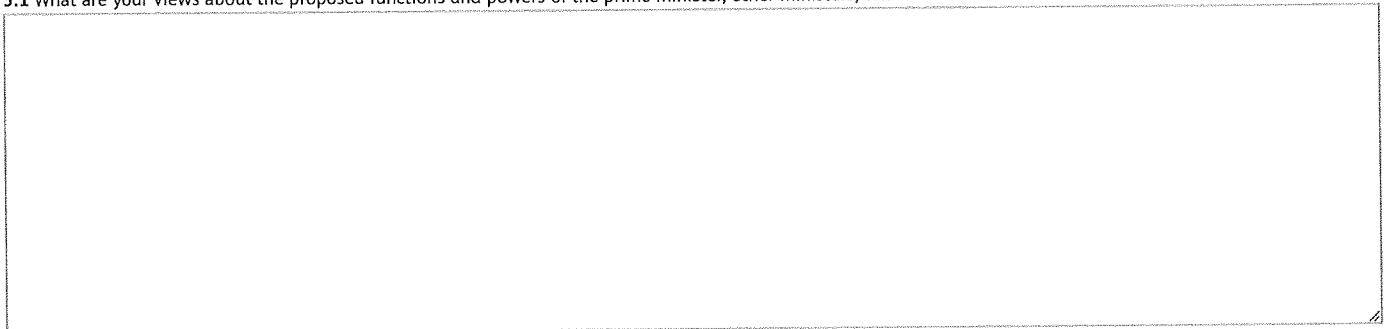
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5. THE GOVERNMENT

See our proposals for the Government [here](#), or read about the proposals on pp 118-132 of [the book](#).

We propose that Constitution Aotearoa should make the way in which the New Zealand Government operates understandable and clear.

5.1 What are your views about the proposed functions and powers of the prime minister, other ministers, and Cabinet?



5.2 Do you agree that the Prime Minister should never be able to hold the portfolios of Minister of Finance or Attorney-General?

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6. THE PUBLIC SERVICE

See our proposals for the Public Service [here](#) or read about the proposals on pp 184-186 of the book.

Some of the traditional strengths of the British-style public service are that it provides free and frank advice, it has merit-based appointments, and it has a long-term view. Many people have expressed concern about the gradual politicisation of the public service in New Zealand. The value of a British-style public service seems to us to be too important to good government to be left to Parliament to override as it sees fit.

6.1 Do you agree that the core values of the public service should be protected in our proposed Constitution?

6.2 What are your views about the proposed functions of the public service?

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7. PARLIAMENT

See our proposals for Parliament [here](#) or read about the proposals on pp 105-117 of the book.

7.1 Parliament currently undertakes a wide range of functions. We discuss these in our book. We think that a Constitution should clearly set out those functions so that people know what to expect of their MPs. What are your views about the proposed functions, powers, and purposes of Parliament and the House of Representatives?

7.2 Many people complain about the poor quality of legislation. The reality is that a lot of legislation is rushed because governments have a limited window of time to get it passed through Parliament. We think – as many experts and former MPs do – that things would improve if there was a little more time for Parliament to do its job properly. We think four years is the right amount of time. What are your views about the proposed four-year parliamentary term? Do you agree with our reasons for proposing a four-year term?

7.3 What are your views about the other proposals for elections to the House of Representatives?

7.4 What are your views about the proposal that Parliament does not require summoning and can exercise its legislative powers at any time?

7.5 What are your views about the proposal that the Speaker be elected by a free vote of the House of Representatives? Should the Speaker be more independent from his or her political party?

7.6 What are your views on the proposals regarding parliamentary committees? Should the system of Parliamentary committees be specified in the Constitution or left for Parliament to determine?

7.7 What are your views on other proposals regarding Parliament, including the proposals regarding the Speaker's functions, parliamentary privilege, and parliamentary procedure?

7.8 Do you agree with the proposal to clamp down on use of urgency?

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8. FINANCE AND TAXATION

See our proposals for Finance and Taxation [here](#) or read about the proposals on page 115 of [the book](#).

8.1 One of the most important Constitutional functions of Parliament is to pass laws that impose taxes and approve public spending. We do not propose any changes to these aspects of the Constitution. Do you agree with the proposal to leave these unchanged?

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9. THE JUDICIARY

See our proposals for the Judiciary [here](#), or read about the proposals on pp 133-145 of [the book](#).

9.1 The core job of Judges is to determine disputes. To do that, all democracies – including New Zealand – guarantee Judges independence and protect them from political interference. We propose to keep the current constitutional protection for Judges, which means that they could be removed from office only on grounds of misbehaviour or incapacity, and that their salaries cannot be reduced. Do you agree with the proposal to leave these provisions unchanged?

9.2 Do you agree with the proposal to increase the retirement age for Judges from 70 to 72?

9.3 Do you agree with the proposed new judicial appointments process, and the criteria for appointing Judges?

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10. THE CONSTITUTIONAL JURISDICTION OF THE JUDICIARY

See our proposals for the constitutional jurisdiction of the Judiciary [here](#), or read about the proposals on pp 142-145 of [the book](#).

10.1 When New Zealand was a colony, our Judges had the job of ensuring that Parliament did not exceed the New Zealand Constitution Act 1852. And today Judges have the job of making sure that Parliament does not change core features of our electoral system unless approved by referendum or by a 75% majority in Parliament. We want to expand this constitutional function so that the judiciary can invalidate Acts of Parliament that are inconsistent with the Constitution. This would bring New Zealand into line with most other democratic countries. Do you agree with this proposal?

10.2 If this proposal is adopted, do you agree with our related proposal that a 75% majority in Parliament can override a Supreme Court decision about the Constitution?

10.3 Do you think that New Zealanders are aware that most countries allow their judges to rule on whether a law breaches the Constitution?

10.4 A lot of opposition to a supreme law Constitution that allows judges to invalidate legislation is based on a fear that judges will end up with too much power as in the United States. Do you share these fears?

10.5 Would your fears be eased by making it possible for 75% of MPs in Parliament to override a Supreme Court decision? (This is not possible in the United States, but it is possible under our proposed Constitution.)

10.6 Would your fears be eased by knowing that the Constitution we propose would be much easier to amend than the United States Constitution is.

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11. INTERNATIONAL RELATIONS, DEFENCE, AND SECURITY

See our proposals regarding international relations [here](#), and our proposals regarding defence and security [here](#). Or read about these proposals on pp 192-201 of the book.

11.1 What are your views about our proposals regarding international relations, defence, and security? In particular, do you agree with the proposals to increase the power of the House of Representatives and reduce the power of Cabinet, by providing that the House ratifies international treaties and makes decisions about sending armed forces overseas?

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12. TE TIRITI O WAITANGI/THE TREATY OF WAITANGI

See our proposals regarding Te Tiriti o Waitangi/The Treaty of Waitangi [here](#), or read about those proposals on pages 146-159 of the book.

12.1 What are your views about the proposal to recognise Crown and Maori rights, duties and obligations under the Treaty of Waitangi? Do you agree that the Treaty should be part of the Constitution? Why or why not?

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13. THE BILL OF RIGHTS

See our proposals regarding The Bill of Rights [here](#), or read about those proposals on pages 160-174 of the book.

13.1 What are your views about the proposed entrenchment of the Bill of Rights and its guarantee of individual rights and freedoms including the right to life and security, democratic and civil rights, rights to freedom from discrimination and unequal treatment, right to liberty and justice, and so on?

13.2 Many Bills of Rights protect the right to property. It is recognised in the Universal Declaration of Human Rights as a human right. What are your views about the proposal to establish a right to property? Do you agree with the general idea of establishing a right to property? Would you change the wording of our proposal? If so,

what wording would you propose, and why?

13.3 Many modern Bills of Rights now protect the right to a healthy environment. What are your views about the proposal to establish environmental rights? Do you agree with the general idea of establishing environmental rights? Would you change the wording of our proposal? If so, what wording would you propose, and why?

13.4 What are your views about our proposal to recognise social and economic rights, but to provide that those rights would not be judicially enforceable?

13.5 What are your views about our proposal to include 'gender' in the list of recognised grounds of discrimination people should be protected from? Are there other grounds you would include?

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14. OTHER STATE INSTITUTIONS

See our proposals regarding other state institutions [here](#), or read about those proposals on pp 175-191 of the book.

14.1 We believe that the New Zealand Police is a vital institution. To maintain its status within the community, we believe its core features and accountability should be safeguarded against easy change by Parliament. We propose to recognise constabulary independence, and to affirm the role of an independent authority to investigate complaints concerning Police conduct. What are your views about our proposals regarding law officers?

14.2 We propose to recognise the intelligence and security agencies, but ensure their functions and accountability are firmly established in the Constitution. If they are to be changed, they will need broad public support either through a referendum or a 75% majority in Parliament. Do you agree?

14.3 Local government performs vital functions within New Zealand's system of government. We think that local government needs to be recognised in the Constitution. We do not want to entrench a particular form of local government, or particular boundaries. What we propose is to require there to be a system of local government that acts in accordance with some broad principles of subsidiarity and accountability. What are your views?

14.4 The chief law officers in New Zealand are the Attorney-General and the Solicitor-General. Traditionally, they are lawyers, who are expected to exercise their important constitutional and statutory roles independently of the Government. We propose to require them to be lawyers, and we propose to protect their operational independence. What are your views?

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15. INTEGRITY AND TRANSPARENCY

View our proposals regarding integrity and transparency [here](#), or read about our proposals on pp 178-187 of [the book](#).

15.1 What are your views about the proposals for integrity and transparency, including the Ombudsman, Parliamentary Commissioner for the Environment, complaints bodies, and official information?

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16. CONSTITUTIONAL COMMISSION

View our proposals regarding the Constitutional Commission [here](#), or read about our proposals on pp 191 and 234-235 of [the book](#).

Some people don't support a written Constitution because they worry that it will put New Zealand in a time warp. To meet that concern, we propose the establishment of a Constitutional Commission to review the Constitution every 10 years.

16.1 What are your views about the proposed Constitutional Commission? Is the idea a good one?

16.2 Do you agree with our proposal for how members of the Constitutional Commission should be chosen?

16.3 Is 10 years the right length of time between reviews of the Constitution?

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17. EMERGENCIES

View our proposals regarding Emergencies and temporary suspension of the Constitution [here](#), or read about our proposals on pp 235-237 of [the book](#).

Under New Zealand's current Constitutional arrangements, Parliament can pretty much pass any law it likes, whenever it likes, with a simple majority. So if an emergency arises it can do whatever it likes as quickly as it likes. Many countries, but by no means all, allow some parts of their constitutions to be suspended during emergencies.

17.1 What are your views on our proposal to allow some parts of the Constitution to be suspended in times of emergency?

17.2 Have we protected the essential parts of the Constitution from attack under the guise of an emergency?

17.3 Are our proposed processes for declaring an emergency appropriate?

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18. OTHER MATTERS

18.1 Do you have any other general comments on what we have proposed?

18.2 Are there any other matters we have not considered and should have?

18.3 Are there any matters we have included and should not have?

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Thank you for your views. We may contact you seeking more information or clarification. We may also quote your views in blogs or other content aimed at furthering the discussion about the proposal for a new constitution.

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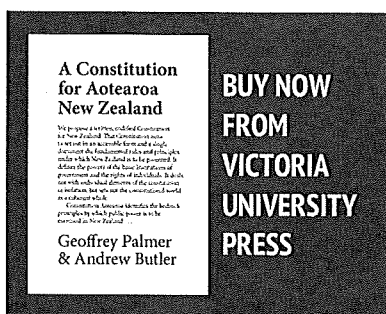
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