New Zealand Flag Consideration Panel

Induction Pack

March 2015

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Date: 3 March 2015

Report to: Flag Consideration Panel

Prepared by: Kylie Archer

For: Inaugural Panel Meeting (FCP: 030315)

BACKGROUND INFORMATION

PURPOSE

This paper presents Panel-members with some background information in relation to the New Zealand Flag Consideration Project.

COMMENT

Attached are the following documents:

- Cabinet Minute: Process to consider changing the New Zealand Flag (CAB Min (14) 34/1, dated 28 October 2014).
- Cabinet Paper: Process to consider changing the New Zealand Flag (October 2014).
- Cabinet Paper: Update on the process to consider changing the New Zealand Flag (dated 29 January 2015).
- Regulatory Impact Statement: Considering Changing the New Zealand Flag.
- Flag Legislation/Bill timeline & process update

RECOMMENDATIONS

It is recommended that Panel members:

Note the content of the attached information.

Author: Robin Paratene

Date: 3 March 2015

Report to: Flag Consideration Panel

Prepared by: Kylie Archer, Director of the New Zealand Flag Consideration Project.

For: Inaugural Panel Meeting (FCP: 03032015).

NEW ZEALAND FLAG REFERENDUMS BILL

PURPOSE

This paper provides Panel-members with an overview of the New Zealand Flag Referendums Bill.

COMMENT

The **attached** paper is provided for panel members' information.

RECOMMENDATIONS

It is recommended that Panel members:

- Note the content provided in the attached documents.
- Agree to maintain a watching brief and monitor progress of the Bill and subsequent discussions.

Author: Robin Paratene

APPENDIX I: NEW ZELAND REFERENDUMS BILL OVERVIEW

What does the New Zealand Flag Referendums Bill do?

1. The Bill provides for:

A. two postal referendums on the New Zealand flag.

- a. The first referendum will determine which alternative flag design is preferred by voters using optional preferential voting (ranking of options).
- b. The second referendum will ask voters to choose between the most preferred alternative flag design from the first referendum and the current New Zealand flag. This referendum will determine which flag is to be the official New Zealand flag.

B. the dates for the referendums to be set by Order in Council

- the voting papers for each referendum and provisions which require the relevant alternative flag designs to be inserted into the voting papers by Order in Council
- b. the administrative procedures governing the conduct of the referendums
- transitional provisions if there is a vote for change in the second referendum – these provisions amend relevant legislation to give effect to the change in the New Zealand flag

2. The key features of the Bill are further detailed below

C. Voting system

- a. first referendum optional preferential voting voters rank the options presented from 1 to 4
- b. second referendum first past the post voters tick which of the two options presented is their preferred option

D. Timing of referendums

- the dates of the referendums are to be set by Order in Council this
 provides flexibility and enables dates to be changed in the event of
 unforeseen delays
- b. for planning purposes it is anticipated that the first referendum will be held in November/December 2015 and the second in March 2016

E. Voting papers

- a. the voting papers for each referendum are included in the Bill they will be the bottom third of an A4 sized letter
- b. the letter accompanying the voting paper is not part of the Bill. It is produced ny the Electoral Commission and will include instructions on how to vote in that referendum
- c. the flag designs to appear on each referendum voting paper will be prescribed by Order in Council

F. Alternative flag designs

- a. the Flag Consideration Panel is responsible for recommending the alternative flag designs to the Minister following its public engagement process – the alternative flag designs are outside the scope of the Bill
- b. the Bill simply provides for the agreed alternative flag designs to be inserted into the referendum voting papers by Order in Council

G. Conduct of postal referendums

- a. the Bill includes a range of provisions relating to the conduct and administration of the referendums
- b. in the main these have been drawn from the Referenda (Postal Voting) Act 2000
- c. provisions include:
 - appointment of a Referendum Returning Officer who is responsible for implementing the referendum
 - creation of the rolls for referendums
 - details of how voting papers are to be despatched, marked and returned
 - the vote counting process (including supervision)
 - announcement of results
 - process for application for an inquiry into the conduct of a referendum
 - the offences associated with the referendum process e.g. bribery, personation
 - referendum advertising requirements see below

H. Regulation of referendum advertisings

- a. a "light approach" has been taken to the regulation of referendum advertising
- b. only requires promoter statements on advertisements on TV, broadcasts (radio/TV), print media and billboards
- c. no other regulation of advertising is proposed

d. the regulated period is from the date of commencement of the Bill until the close of the voting period for the second referendum

Transition provisions

- a. only come into force if there is a vote for change in the second referendum
- b. amend the Flags, Emblems and Names Protection Act 1981 so that:
 - the change of flag takes effect on a date set by Order in Council, or 6 months after the result of the second referendum is declared, whichever is earlier
 - the historical significance of the former New Zealand flag is recognised and the rights of any individual or group (other than a government department) to use the former NZ flag – except where there is a specific legal requirement to use a particular flag – eg on NZ registered ships
 - even after the date on which the change takes no private individual or organisation would be required by law to use the new flag
 - the Minister for Arts Culture and Heritage may prescribe rules for the
 use of the former NZ flag on Government property and issue guidance
 about the use of the former flag by individuals or groups outside
 Government as long as these do not affect the unique status of the
 NZ Flag as the official national flag
- c. the Land Transport (Driver Licensing) Rules 1999 are amended to ensure that driver license cards displaying the former NZ flag remain valid until they expire, if they were issued before the date on which the NZ flag was changed or within 6 months of that date
- d. the Ships Registration Act 1992 is amended to allow for a 6 month period following the date on which the new flag takes effect, where the former NZ flag can still be used.

Also attached for your information are the following documents:

Appendix II: the process for the CPG's review of the Bill.

Date: 3 March 2015

Report to: Flag Consideration Panel

Prepared by: Kylie Archer

For: Inaugural Panel Meeting (FCP: 03032015)

TERMS OF REFERENCE

PURPOSE

This paper presents panel members with the proposed Terms of Reference.

COMMENT

On 28 October 2014 Cabinet agreed to a process to consider changing the New Zealand flag. At that meeting Cabinet endorsed Guiding Principles and Terms of Reference to guide the Panel in its role to design and lead the public engagement process over the New Zealand Flag, which will culminate in a binding postal referendum.

Terms of Reference are set out in Appendix 3 of the Cabinet Paper: Process to Consider Changing the New Zealand Flag, and provided here as **Appendix I** accompanied with the 'Key Principles of Travel Policy' for your information.

RECOMMENDATIONS

It is recommended that Panel members:

Note the attached Terms of Reference/Travel Policy Principles.

Author: Robin Paratene

Date: 3 March 2015

Report to: Flag Consideration Panel

Prepared by: Kylie Archer - Director, NZ Flag Consideration Project

Approved by: Michael Webster - Clerk of the Executive Council

For: Inaugural Panel Meeting (FCP: 03032015)

MEETING GUIDELINES

PURPOSE

This paper presents Panel members with the meeting guidelines policy. This policy should be read in conjunction with the Flag Consideration Panel Appointment letter.

COMMENT

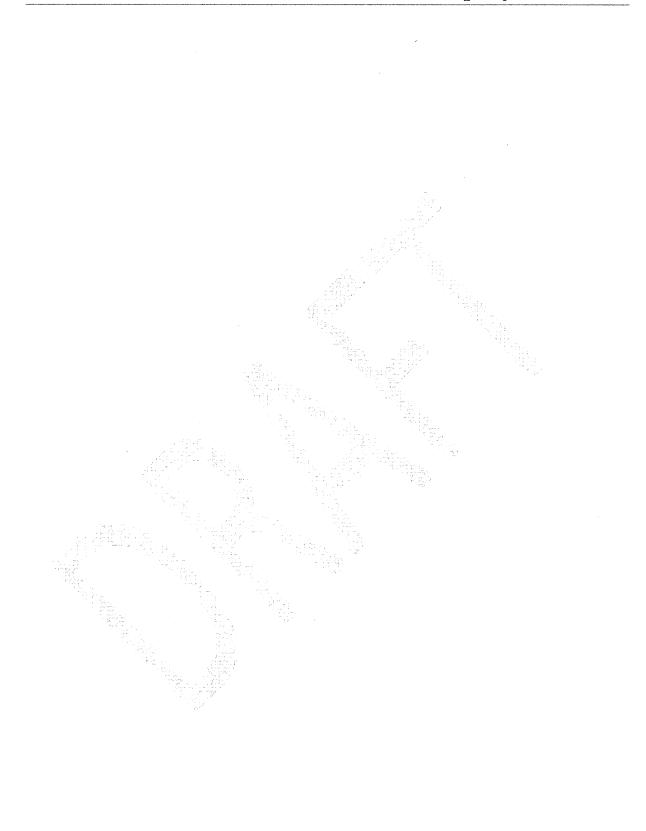
The attached policy seeks to enhance mutual trust and respect between Panel members and the Secretariat Team, as a positive working group on matters relating to the New Zealand Flag Consideration Project, and protect the credibility and accountability of the Panel.

RECOMMENDATIONS

It is recommended that Panel members:

Note the proposed New Zealand Flag Consideration Panel Meeting Guidelines.

Author: Robin Paratene



NEW ZEALAND FLAG CONSIDERATION PANEL

MEETING GUIDELINES

Considered by the Panel on	3 March 2015 (TBC)
Scheduled Review Date	30 June 2015 [n/a]

Purpose of Guidelines

- A. The New Zealand Flag Consideration Panel has been appointed by Cabinet to design and lead the public engagement process over the New Zealand Flag, which will culminate in two binding postal referendum.
- B. Panel members will be the face of the New Zealand Flag discussion. A key feature of the Panel is that it is independent and non-partisan.
- C. Panel members are expected to participate until all tasks referred to in the Terms of Reference are completed. Panel members should note that project tasks and timelines are subject to change as required by Cabinet. All policies, tasks and timelines affected by Cabinet changes will be updated. Panel members will be advised of any such changes and the impact those changes will have on particular tasks, timeframes and policies.
- D. The Panel need to meet together as part of this work to discuss issues and make decisions.
- E. The purpose of this policy is to clarify the conduct expected of Panel members in meetings to ensure that meetings are efficient, fair and free from obstruction.

Authority to Adopt Guidelines

F. Members adopted meeting guidelines at their meeting held on 3 March 2015.

Amendment of Guidelines

G. These guidelines may be amended by the Panel provided that the proposed amendments comply with any applicable guidelines.

CONDUCT OF PANEL MEETINGS

Objective

1. The objective of the guidelines is to enhance mutual trust and respect between members and the Secretariat Team as a positive working group, and to clarify the procedure to be adopted for Panel meetings.

Relationships with others

- 2. Panel members will conduct their dealings with each other in ways that:
 - 2.1. are open, honest and maintain integrity;
 - 2.2. maintain confidence in their group.

Chairperson to Exercise Discretion

3. In relation to any matter regarding conduct of meetings where these guidelines and the Terms of Reference make no provision or insufficient provision, the Chairperson shall exercise their discretion.

Chairperson

- 4. Cabinet has appointed one Panel member as the Chairperson and one as the Deputy Chairperson.
- 5. The Chairperson will chair all the meetings.
- 6. If the Chairperson is not present then the Deputy Chairperson shall take the chair.
- 7. If there is no Deputy Chairperson or the Deputy Chairperson is also not present then the Panel Members present will elect one of their numbers to be Chairperson of the meeting.
- 8. In the case of any equality of votes the Chairperson of the meeting shall have a second or casting vote.

Guiding Principles

- 9. Cabinet agreed that the following principles should guide the overall process to consider changing the New Zealand Flag. The process should be:
 - 9.1. *independent:* the process is as apolitical as possible, with multi-party support and public input into decision-making;
 - 9.2. *inclusive*: all perspectives are invited and considered and considered from within New Zealand's diverse communities, including Māori as tangata whenua;
 - 9.3. *enduring:* the outcome (whether change or status quo) is upheld and not revisited for a significant period;

- 9.4. well-informed: the public has access to information to enable it to make decisions;
- 9.5. practical: the process is workable, cost-effective, and implementation is possible;
- 9.6. *community-driven:* designs and suggestions come from the community;
- 9.7. dignified: the process upholds the importance of the flag as a symbol of our nationhood;
- 9.8. *legitimate:* all legislative and other requirements are followed; and
- 9.9. consistent: with the Crown's Treaty obligations.

Confidentiality of proceedings

10. The matters discussed in meetings remain confidential except as agreed.

Regulation of meetings

11. The Panel shall meet together approximately seven times in the 2014/15 financial year, and approximately seven times in the 2015/16 financial year.

Decisions to be by consensus where possible

12. Panel members will at all times endeavour to make decisions by mutual agreement and consensus. Where it is not possible to reach a consensus, questions arising at any meeting of the Panel shall be decided by a majority of votes in the manner determined by the Chairperson. In the case of an equality of votes, the Chairperson shall have a second or casting vote.

Quorum

13. For avoidance of doubt, a majority of the appointed Panel members, i.e. no less than seven including the Chairperson, shall constitute a quorum at meetings.

Panel may recommend Advisors

- 14. The Panel may recommend to the Secretariat to the appointment of any person as Advisor to provide advice on any matter or matters relating to the New Zealand Flag Consideration Project as required by the Panel (subject to budget).
- 15. The role of any Advisor appointed pursuant to paragraph 14 above is solely to provide advice to the Panel, and it is at the discretion of the Panel whether or not to follow that advice. For the sake of clarity it is recorded that any Advisor is not a Panel member.

Minutes

16. The Secretariat shall keep minutes of all meetings which details key decisions and actions arising from the meeting. Verbatim minutes will not be recorded unless requested by the Panel.

Teleconference or Videoconference Meetings

- 17. A teleconference or videoconference meeting (**the meeting**) between a number of Panel members who constitute a quorum may occur so long as the meeting is officially convened:
 - 17.1. throughout the Teleconference or Videoconference Meeting each participant must be able to hear each of the other participants taking part;
 - 17.2. at the beginning of the Teleconference or Videoconference Meeting each participant must acknowledge his or her presence for the purpose of that meeting to all the others taking part;
 - 17.3. a participant may not leave the Teleconference or Videoconference Meeting by disconnecting his or her telephone or other means of communication without first obtaining the Chairperson's express consent. A participant will be presumed to have been present and to have formed part of the quorum at all times during the Teleconference or Videoconference Meeting unless he or she leaves the meeting with the Chairperson's express consent;
 - 17.4. a minute of the proceedings at the Teleconference or Videoconference Meeting will be sufficient evidence of those proceedings, and of the observance of all necessary formalities, if certified as a correct minute by the Chairperson of that meeting.
- 18. Panel business may be conducted through electronic means such as email, but significant decisions must only be made at a formal meeting around the table or via teleconference or videoconference.

Conflict Resolution

- 19. Should conflict occur, the Chairperson and Deputy Chairperson will work with members to resolve the conflict.
- 20. If there are any concerns, members should raise them:
 - 20.1. with the Chairperson if concerns are about other members;
 - 20.2. with the Clerk of the Executive Council if the concerns are about the Chairperson;
 - 20.3. with the Chairperson (who will decide whether to raise them with the Clerk of the Executive Council) if concerns are about the Secretariat Team.

Honesty and Integrity

21. Panel members have a duty to act honestly. They must declare any private interests relating to their duties and take steps to resolve any conflicts of interest in such a way that protects the public interest. They must not act in order to gain financial or other benefits for themselves, their families, friends or business interests.

Travel & Accommodation

- 22. All travel and accommodation will be provided as per the Cabinet Fees Framework provided here in **Appendix III**.
- 23. Panel members can book their own travel if that is preferred by the member. Value for money must be achieved in all transactions. Please avoid changing travel arrangements wherever possible.
- 24. Alternatively Panel members may ask the Executive Assistant of the Secretariat to book their travel and requirements.
- 25. Accommodation will be booked by the Executive Assistant of the Secretariat.
- 26. All valid travel expenses are to be reimbursed on an actual and reasonable basis. When paying "actual and reasonable", reasonable expenses would include, for example, travel, accommodation, meals, taxis, phone calls incurred in their role as a member. This would not include any tip for service, dry cleaning, bar tabs or mini bars.
- 27. Members are not paid for time spent in travel to and from meetings or on body business, except in instances where a daily fee is paid and the member has to travel for more than a total of three hours in the course of a normal business day. The purpose of paying for travel time that is greater than three hours is to compensate for lost income during the business day. For example a member may spend a few hours at a meeting but in doing so spends all day away from normal business activity, due to spending several hours travelling to and from the meeting.
- 28. In extreme circumstances where considerable time is involved in travel, this can be recognised by the chair, with the agreement of the servicing/accountable organisation. In these cases (and particularly where air travel is involved) the preparation and travelling time need to be considered together for payment purposes.
- 29. In considering payments for travelling time, the chair and servicing department need to consider issues of equity, the government's intention for geographical representation, and ensure that attendance at meetings does not result in undue personal hardship¹.

Invoicing and receipts

- 30. Panel members are entitled to invoice up to half a day of preparation time for each meeting. The Chairperson is entitled to invoice up to a whole day of preparation time for each meeting.
- 31. Reimbursement for "actual and reasonable" expenses will be paid by the Treasury following receipt of detailed and itemised GST receipts". Reasonable expenses would include, for example, travel, accommodation, taxis, phone calls incurred in their role as a member. Members should include a description of the expenses, preferably in a monthly invoice, and ensure all receipts are attached.

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¹ Cabinet Circular, Fees Framework_CO(12) 6, paragraphs 62-63.

- 32. Members not registered for GST must provide a separate invoice for fees which clearly states the member's name and contact details. Provide a description of the services provided, for example, the date of each meeting the member attended and the number of hours the member participated, and the member's hourly rate. In a separate line show GST at NIL, then in the following line show the total amount due.
- 33. Invoices and receipts should be submitted to The Department of the Prime Minister and Cabinet within 30 days after the relevant meeting to enable prompt payment. In order to meet the Ministry's accrual accounting requirements, invoices and receipts must be received within the same financial year that the meeting occurred.
- 34. Anyone who is an employee of a Crown body including a university, must seek agreement from their employer and then a decision should be made as to whether the Panel work will take place during work hours or outside of these (e.g. while on annual leave or leave without pay). Paragraph 59 of the Fees Framework states that an employee of a Crown body must not retain both the fee and his/her ordinary pay where the duties of the outside organisation are undertaken during ordinary Crown body working hours.

Taxation

- 35. Resident Withholding Tax: You must complete the attached IR 330 tax form. The appropriate tax rate for these payments is 33 cents in the dollar. The Department of the Prime Minister and Cabinet guidelines require Residential Withholding Tax details to be collected before an invoice can be paid². If an IR330 is not provided you may be deducted a greater tax rate of 48 cents in the dollar. Reimbursements for expenditure incurred in relation to work or services performed by members are not subject to withholding tax, these must be claimed in a separate invoice as set above in paragraph 31.
- 36. Secondary Tax: If you have more than one job, you need to work out which one is your main job or the job that you earn the highest income from. You should generally use a secondary tax code for all other jobs apart from your main one. This means you'll have the secondary rate of tax deducted from that income. This can be declared through the attached IR330 form. To find out what your tax rate is go to (www.ird.govt.nz/how-to/taxrates-codes/earning-income-secondary-special-codes.html).
- 37. Goods and Services Tax: The Panel is not a Statutory Board therefore members will be subject to GST. If the member is GST registered, or meets the GST threshold, then the member may provide a detailed GST invoice for payment including the service amount, GST amount and the total amount due.

Conflict of Interest

38. Conflicts of interest are deemed to occur where pre-existing, new or emerging roles and commitments, or political interests may compete with or impact on the Panel member participating, or be seen as compromising, the impartiality of the New Zealand Flag Consideration Project.

² Fees Framework_CO(12)6, Section G, paragraphs 125-132.

39. Panel members will be asked to complete a conflict of interest form. This will be provided by the Secretariat (**Appendix II** refers). Panel members are also expected to notify the Chairperson of any new or emerging conflicts of interest at the start of each meeting. The Secretariat will record any new or emerging conflicts of interest on the Panel's interests register.

Programme of Engagement

- 40. Engagement and information sharing are important precursors to any discussion/s on changing the New Zealand Flag. Public understanding and acceptance will be important when engaging in robust discussions that reflect the symbols, values and aspirations of New Zealand as a society.
- 41. The Panel will oversee a programme of engagement with New Zealanders.
- 42. The purpose of the programme of engagement is to inform and engage a broad range of New Zealanders. In particular, it is to stimulate public debate and awareness of the relevant issues.
- 43. The programme is intended to provide the Panel with an understanding of New Zealanders' perspectives on this country's current and potential flag aspirations, in order to provide a shortlist of alternative designs to the Responsible Minister.

Contact with the media

- 44. For consistency, it is important that a single point of contact is established to respond to any media enquiries:
 - 44.1. all media enquiries will be redirected to the Secretariat via the Chairperson;
 - 44.2. the Chairperson, or the Deputy Chairperson, will represent the group to the media, unless it is agreed with Panel members that it is appropriate for a specific view to be expressed by a particular Panel member;
 - 44.3. the Chairperson will work with the Secretariat in relation to any public comments;
 - 44.4 wherever possible, decisions and views expressed to the media on behalf of the Panel must have been previously agreed on by the Panel as a whole;
 - 44.5. if a Panel member is contacted by a journalist for a view from their group, they must refer the journalist to the Chair or Deputy Chair;
 - 44.6. Panel members are free to express a personal view at any time. However, they must make clear that these represent their private views as an individual, or the view of their organisation,
 - 44.7. Panel members should avoid expressing individual opinions on the flag topics in circumstances where they may be perceived as not being open to considering a wide range of perspectives,
 - 44.8. Panel members should consult with the Chair prior to making any comment using social media on matters other than previously released information.

- 45. The Panel is seen by the public as operating in "the public light," appropriate measures should be taken to communicate with the media from time to time.
- 46. Media comment on behalf of the Panel as a whole will be made by the Chair only.
- 47. Panel members will avoid behaviour or statements that bring the Panel or the Process into disregard.

Confidential Information

- 48. In the course of their duties, Panel members will receive information that they need to treat as confidential. This will often be information that is either commercially or politically sensitive or is personal to a particular individual or organisation. Such information must be treated in confidence.
- 49. Draft material prepared by or for the Panel is confidential until publicly released.
- 50. Members should seek to ensure Panel materials, including email correspondence and documents on the Process's Shared Workspace, are kept secure.

Role descriptions for the Chairperson, Deputy Chairperson and Panel members and Secretariat.

Members Position	Roles and accountabilities			
Chairperson	 Chair Panel meetings in a constructive, respectful, and inclusive manner. Work with the Responsible Minister on a "no surprises" basis, informing him at the earliest possible stage of matters that may be controversial or cause public comment or that could affect the work programme including, but not limited to, significant disagreements within the Panel or members' conflicts of interest. Provide the Responsible Minister with considered free and frank advice. Provide updates on progress to the Responsible Minister. In addition: Encourage open communication where all members can effectively contribute. Run all meetings efficiently. Work with the Secretariat to compile meeting agenda. Work with Panel members and the Secretariat to develop, complete and implement the work programme. Be the Panel spokesperson representing the views and recommendations of the group. Review the contribution of Panel members and raise any concerns with the appropriate parties. Sign off meeting minutes. If a Chairperson/Deputy Chairperson needs to stand down from their position, then a replacement Chairperson/Deputy Chairperson will be appointed by Cabinet. 			
Deputy Chairperson	 Support the Chairperson in their role. Act in place of the Chairperson if the Chairperson is unavailable or has a conflict of interest. Sign off minutes of the previous meeting if the Chairperson is absent from that meeting. 			
All Panel members (including Chairperson and Deputy Chairperson)	 Contribute effectively and constructively to the delivery of the work programme. Encourage public participation in the process to consider changing the New Zealand Flag. Avoid behaviour or statements that bring the Panel or the process to consider changing the New Zealand Flag into disrepute. Maintain the confidentiality of the Panel's proceedings. 			
	 Be prepared for meetings and consider issues with an open mind. Provide advice on the development and implementation of the agreed 			

Title: 3. Meeting Guidelines.

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work programme.

- Actively participate in Panel meetings and contribute to the actions in the agreed work programme.
- Be available and attend any other meetings that may be planned.
- Proactively establish, maintain and make the most of existing relationships with key groups/communities in New Zealand.



PANEL MEMBER INTERESTS REGISTER

INTEREST DISCLOSED	NATURE OF POTENTIAL CONFLICT	ACTION TAKEN / RECOMMENDATION
Occupation/Employer:	Date advised of interest	Date actioned
_		
_		
Governance/Board Memberships:	Date advised of interest	Date actioned
Company Interests:	Date advised of interest	Date actioned
	Occupation/Employer: Governance/Board Memberships:	Occupation/Employer: Date advised of interest Governance/Board Memberships: Date advised of interest

Client Base (past & present):	Date advised of interest	Date actioned
Other Disclosed Interests (if any):	Date advised of interest	Date actioned

Date: 3 March 2015

Report to: Flag Consideration Panel

Prepared by: Kylie Archer, Director of the New Zealand Flag Consideration Project.

For: Inaugural Panel Meeting (FCP: 03032015).

CONTACT LIST

PURPOSE

This paper provides Panel-members with contact details of all members, the Secretariat Team and listed Interested Party Members.

COMMENT

The **attached** contact details are provided for panel members' information. It includes contact details of the Panel members, the Secretariat Team and Interested Parties.

Panel-members should note that direct communication between Panel-members and the Secretariat Team must be directed to the Director of the Flag Consideration Project through the Chairperson.

In accordance with paragraph 10 of the Terms of Appointment, instructions to the Secretariat Team to complete tasks will be made through the Chairperson (or in their absence, the Deputy Chairperson).

This engagement may occur from Panel-members but will first be considered by the Director through the Chairperson prior to any tasks beginning.

RECOMMENDATIONS

It is recommended that Panel members:

Note the content of the contact provided in Appendix I.

Author: Robin Paratene

Title: Contact List

Flag Consideration Panel: Induction Pack Attachments: Appendix I: Contact List

Contact List

Project Name: New Zealand Flag Consideration Project

List Created By: Kylie Archer Last Update: 19 February 2015

Title	First Name	Last Name	Role	Group Name	Work Phone/Land line	Mobile Phone	Email
Panel Members						mobile / Holle	Cinali
meritus Professor	John	Burrows	Chair	Flag Consideration Panel			
	Kate	De Goldi	Deputy Chair	Flag Consideration Panel			
	Nicky	Bell	Panel Member	Flag Consideration Panel			
	Peter	Chin	Panel Member	Flag Consideration Panel			
	Julie	Christie	Panel Member	Flag Consideration Panel			
	Rod	Drury	Panel Member	Flag Consideration Panel			
	Beatrice	Faumuina	Panel Member	Flag Consideration Panel			
Gen (Rtd)	Rhys	Jones	Panel Member	Flag Consideration Panel			
	Stephen	Jones	Panel Member	Flag Consideration Panel			
r	Brian	Lochore	Panel Member	Flag Consideration Panel			
	Malcolm	Mulholland	Panel Member	Flag Consideration Panel			
	Hana	O'Regan	Panel Member	Flag Consideration Panel			
ecretariat Team					_		
	Kylie	Archer	Director	Secretariat Team			
	<u>l</u> an	Thompson	Senior Advisor	Secretariat Team			
	Jo	Crawford	Executive Assistant	Secretariat Team			
	Martin	Rodgers	Project Manager	Secretariat Team			
	Robin	Paratene	Senior Advisor	Secretariat Team			
	Suzanne	Stephenson	Communication Contrac	tor Secretariat Team			
	Georgie	Wiles	Digital Media Advisor	Secretariat Team			
terested Parties		eren eren eren eren eren eren eren eren					
	Michael	Webster	Secretary of the Cabine	and Clerk of the Executive Council			
	Rachel	Hayward		Cabinet (Constitutional and Honours)			

SECRETARIAT TEAM PROFILES

KYLIE ARCHER

Position/Role: Director New Zealand Flag Consideration Project

s9(2)(a)

Hometown/affiliations:

Brief Background/Work and Experience:

Personalities and skills and closing statement about the project:

MARTIN RODGERS

Position/Role: Project Manager.

Hometown/affiliations: \$9(2)(a)

Brief Background/Work and Experience:

s9(2)(a)

Personalities and skills and closing statement about the project:

IAN THOMPSON

Position/Role:

Senior Advisor

Hometown/affiliations: \$9(2)(a)

Brief Background/Work and Experience:

Personalities and skills and closing statement about the project:

ROBIN PARATENE

Position/Role:

Senior Advisor.

s9(2)(a)

Hometown/affiliations:

Brief Background/Work and Experience:

s9(2)(a)

Personalities and skills and closing statement about the project:

SUZANNE STEPHENSON

Position/Role:

Communications Consultant

Hometown/affiliations:

s9(2)(a)

Brief Background/Work and Experience:

Personalities and skills and closing statement about the project:

JO CRAWFORD

Position/Role:

Executive Assistant plus

Hometown/affiliations:

s9(2)(a)

Brief Background/Work

and Experience:

Personalities and skills and closing statement about the project:

GEORGINA WILES

Position/Role: Senior Digital Communications Advisor

s9(2)(a)

Hometown/affiliations:

Brief Background/Work and Experience:

Personalities and skills and closing statement about the project:

Date: 3 March 2015

Report to: Flag Consideration Panel

Prepared by: Kylie Archer

For: Inaugural Panel Meeting (FCP: 030315)

HISTORY OF THE NEW ZEALAND FLAG

PURPOSE

This paper presents Panel members with brief historical notes on the New Zealand Flag.

COMMENT

Attached as Appendix I is the following information:

- The New Zealand Flag, the Flags, Emblems, and Names Protection Act 1981.
- Preferred National Māori Flag (the Tino Rangatiratanga Flag).
- Royal and vice-regal flags.
- Former National Flags (The United Tribes of New Zealand Flag 1834, The Union Flag 1840 Treaty of Waitangi).
- History of the New Zealand Flag.
- Flag Conventions.
- Australian Position.
- Overseas Comparisons (Canada/South Africa).

RECOMMENDATIONS

It is recommended that Panel members:

Note the content of the attached information.

Author: Robin Paratene

APPENDIX I:

New Zealand Flags

The New Zealand Flag



The New Zealand Flag is New Zealand's national symbol. Its royal blue background represents the blue sea and sky surrounding us, and the stars of the Southern Cross signify our place in the South Pacific Ocean. The Union Flag ('Union Jack') at the top left recognises our historical foundations and that New Zealand was once a British colony and dominion.

Its technical description is 'a blue flag with the Union in the canton and on the fly four Mullets Gules fimbriated Argent in cross, being a representation of the constellation of the Southern Cross'.

The New Zealand Flag can be flown any day of the year, especially on days of national commemoration, such as Anzac Day, and other important occasions.

The New Zealand Flag represents the people of New Zealand and should be treated with respect. To use, display, destroy, or damage the Flag in or within view of a public place with the intention of dishonouring it is an offence. It's also an offence to place any letter, emblem, or representation on the Flag, unless in some advertising contexts.

The Flags, Emblems, and Names Protection Act 1981

The Flags, Emblems, and Names Protection Act 1981 (FENPA) declares the New Zealand Ensign to be the New Zealand Flag. FENPA is administered by the Ministry for Culture and Heritage (MCH).

FENPA allows the Minister for Arts, Culture and Heritage to make rules about the occasions or manner in which the Flag is to be flown on Government land or buildings. The Minister can also issue guidance for the general public about flying the Flag.

While it happens very rarely, people who misuse the New Zealand Flag can be prosecuted under FENPA. Details about MCH's enforcement and prosecution policy are available on MCH's website.

Preferred National Māori flag (the Tino Rangatiratanga Flag)

Tino Flag Rangatiratanga



In 1989 a competition was run by a group named Te Kawariki to design a national Māori flag. Most of the entries however, were considered inappropriate because they were designed around a bi-racial rather than a specific Māori theme.

The only flag that met the criteria of recognising Māori history, expressing a Māori purpose and using a Māori design, was one designed by Kawariki members – Hiraina Marsden, Jan Smith and Linda Munn. Another member of the Kawariki, Walter Erstich, gave the explanation to the design (below).

- Black represents Te Korekore, the realm of potential, the heavens, the

long-darkness from which the world emerged. Black also represents the male element – formless, floating and passive.

- White represents Te Ao Marama the realm of being, the world of light, the physical world. White also symbolises purity, harmony enlightenment, and balance.
- Red represents Te Whei Ao, the realm of coming into being. Red also represents active, flashing, southern, falling, emergence, forest, land, and gestation. Red is the female element, Papatuanuku, the earth mother, the sustainer of all living things. Red is also the colour of earth from which the first human was made.
- The Koru, the curling frond shape, represents the unfolding of new life, rebirth, continuity, renewal and hope for the future.

In 2009 Cabinet noted, following a public consultation/hui process, that the Tino Rangatiratanga Flag was the preferred national Māori flag, and that it would complement the New Zealand flag.

The flag was first officially flown in this context on Waitangi Day 2010.

Royal and vice-regal flags

There are two Royal and vice-regal flags. (These flags take precedence over the New Zealand Flag.)



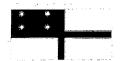
The Queen's Personal Flag for New Zealand (1962). This is only flown when the Queen is present.



The Governor-General's Flag (2008). This is only flown when the Governor-General is present. (This flag replaced one flown by New Zealand Governors-General from 1937 to 2008.)

Former national flags of New Zealand

United Tribes of New Zealand Flag



When James Busby arrived as British Resident in 1833, he suggested that a New Zealand flag be adopted. Aside from solving problems with trans-Tasman trade, Busby also saw the flag as a way of encouraging Māori chiefs to work together, paving the way for some form of collective government.

On 20 March 1834, 25 chiefs from the Far North and their followers gathered at Waitangi to choose a flag from three commissioned from Henry Williams, a senior missionary and former lieutenant of the Royal Navy.

Busby sent the following account of the selection of the flag to governor Bourke in New South Wales on 26 March 1834:

They were then asked in regular succession upon which of the three Flags their choice fell, and their votes were taken down by a son of one of their number who has been educated by the Missionaries, and who with several others appeared on this occasion respectably dressed in European clothing.

I was glad to observe that they gave their votes freely, and appeared to have a good understanding of the nature of the proceeding. The votes given for the respective Flags were 3, 10 & 12, and the greatest number having proved in favour of the Flag previously adopted by the Missionaries it was declared to be the National Flag of New Zealand, and having been immediately hoisted on the Flag staff was saluted with 21 guns by the Ship of War.

It was later approved by King William IV. The flag featured the Red Cross of St George (the English Flag) on a white background, and a smaller red St George's cross in the top left-hand corner on a blue background. The smaller cross had a wide black border, and a white eight pointed star featured in each of the blue quarters divided by the cross.

The flag was also adopted as the Flag of the United Tribes of New Zealand, and served as the official flag of New Zealand until the signing of the Treaty of Waitangi in February 1840 when it was replaced with the British flag, the Union Jack.

The Union Flag (1840 – Treaty of Waitangi).

The Union Jack replaced the Flag of the United Tribes of New Zealand as the official flag, following the signing of the Treaty of Waitangi in 1840.



The Union Jack was used for all appropriate occasions on shore, although this met with opposition from some Māori, who believed that they had the right to fly the Flag of the United Tribes alongside the Union Jack. At sea, New Zealand was represented by British naval or maritime flags, until the Colonial Naval Defence Act became law in 1865.

History of the New Zealand Flag

In 1865, the Imperial Colonial Naval Defence Act was enacted. That Act ruled that all ships owned by a colonial government must fly the Blue Ensign with the badge of the colony on it.

At that time, New Zealand did not have an official badge or emblem, so the British Blue Ensign was flown without a distinguishing badge. Between 1866 and 1869, the flag was flown with the abbreviation "NZ" in red lettering with a white border on the blue ensign.

In 1869, this badge was replaced with the Southern Cross, comprising four red stars with white borders. This flag was officially for maritime purposes only, but it gradually came to be used on land.

The New Zealand Ensign and Code Signals Bill was introduced in 1900 to make the Blue Ensign with the stars of the Southern Cross the legal flag of New Zealand. The Admiralty was concerned about the use of the Blue Ensign for all purposes, because in the United Kingdom the flying of the Blue Ensign was reserved for distinguished vessels.

In response, the New Zealand Government agreed to limit the use of the New Zealand Ensign at sea to those "vessels owned and used by the New Zealand Government", or where a warrant to fly the Ensign had been obtained from the Admiralty.

A modified version of the Bill was passed in 1901. The New Zealand Ensign Act 1902 was approved by the King on 24 March 1902. The Act was later replaced by various Shipping and Seamen's Acts, but the provisions remained effectively unchanged until the Flags, Emblems, and Names Protection Act 1981 came into force.

The Flags, Emblems, and Names Protection Act 1981 declared the flag previously known as the "New Zealand Ensign" to be the "New Zealand Flag", and to be the "symbol of the Realm, Government, and people of New Zealand."

Other flags were used during the nineteenth century by the King Movement, the Pai Mārire or Hauhau faith, and by Te Kooti. Flags were also used to reward or thank Māori who supported the government during the New Zealand Wars. Flags of different designs were also used to pay tribute to other groups.

For further information see:

http://www.teara.govt.nz/en/flags

http://www.teara.govt.nz/en/nga-haki-maori-and-flags

http://www.nzhistory.net.nz/politics/flags-of-new-zealand

Other symbols of New Zealand¹

Stars, land and sea

National identity is reproduced on a daily basis through national symbols and everyday items. These range from official symbols such as stamps, flags coins or coats of arms through to trademarks or the popular icons commonly known as 'kiwiana'.

New Zealand's location in the southern hemisphere was symbolised by the Southern Cross constellation in both the United Tribes' Flag (the first national flag, adopted in 1834) and the New Zealand Ensign (the national flag since 1902 and designated the "New Zealand Flag" in 1981). The Southern Cross was also used on the tomb of the unknown warrior, established in 2004 at the National War Memorial in Wellington.

New Zealand's distance across the seas from Britain was symbolised in the waves and sailing ships found in early crests.

In the 19th century the Southern Alps featured in early tourism books and were represented in the 1898 stamp issue, one of the first pictorial stamp sets in the world. In the 20th century the beach became a more important national symbol, expressed in late-20th-century Christmas cards of flowering pōhutukawa trees and the kiwiana symbol of jandals.

The national identity of New Zealanders as pioneering farmers was expressed in the use of sheep as a symbol of New Zealand. Sheep also appeared in coats of arms. More recently gumboots, no. 8 fencing wire (symbolising the alleged innovative 'can-do' attitude of New Zealanders) and the Swanndri bush shirt have been kiwiana cultural icons originating in farming.

Native flora and fauna

Indigenous plants and animals quickly became symbols of New Zealand. The Māori koru design, which was eventually adopted by Pākehā, depicted an unfurling fern frond. In the 19th century ferns were represented in books and in cabinet-making, and New Zealand became known as 'fernland'. The fern was used to mark the graves of New Zealand soldiers and appeared on stamps and coins.

Native birds were also quickly adopted as symbols. In the colonial period the moa was a pre-eminent symbol of the country – but from the early 20th century the kiwi was the dominant symbol. During the First World War New Zealand soldiers became known as 'Kiwis'. This soon spread to become the

¹ Adapted from an article on New Zealand identity by Fiona Barker in Te Ara – The Encylopedia of New Zealand, at http://www.teara.govt.nz/en/new-zealand-identity/page-7

common name for all New Zealanders and an adjective applied to all things New Zealand. Even the country's currency became known as the kiwi. In 2011 the dollar coin featured a kiwi and ferns.

In 1990 the symbol for the sesquicentennial of the Treaty of Waitangi was a white heron (kōtuku).

War and sport

New Zealand's achievements in war were symbolised by the distinctive lemon-squeezer hats worn by its soldiers, and in the hundreds of war memorials placed at crossroads in the 1920s and the memorial halls built after the Second World War.

The success of the All Blacks rugby team made the silver fern on a black background into a widely used symbol of the country. The Fern and Kiwi have also been adopted by the military in varying forms. Sir Edmund Hillary's triumph in climbing Mt Everest led to his portrait being used on the \$5 note from 1990.

Politics

New Zealand's early status as a colony of Great Britain gave the Union Flag (Union Jack) a continuing place on the national flag. At the beginning of the 20th century the figure of Zealandia, daughter of Britannia, briefly became a symbol for the adolescent nation. In 2015 the Queen as head of state remains on the coins, the \$20 banknote and many stamp issues.

New Zealand's reforming history found expression in the portrait of Kate Sheppard, pioneering suffragist, on the \$10 banknote.

Māori

Māori designs were used quite often on 19th-century publications, especially tourist books. They also became common on trademarks and stamps. The \$50 banknote featured early-20th-century Ngāti Porou politician Āpirana Ngata. A piece of pounamu (greenstone), often carved, became a common item of dress distinguishing Kiwis overseas in the late 20th century, and designs with koru elements were important in the branding of many public agencies.

In sum, the different ways in which New Zealand identity has been expressed over time have been given symbolic form in the everyday imagery of New Zealand life.

Flag design

Flag Sizes

There are a variety of sizes of flags depending particular uses. For an oblong flag, however, the length is normally twice the width.

There are defined parts of a flag:

Hoist	The edge of the flag near the halyard or the rope by which it is raised or lowered. In other words, the part of the flag closest to the staff or pole.
Fly	The area further from the halyard or opposite the staff i.e. the 2nd and 4th quarters of the flag.
Canton	The top left-hand corner or the first quarter of the flag. It is regarded as the position of honour.

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Quarters	The four quarters of a flag are: 1st or Canton, and 2nd upper right, 3rd lower I half and 4th lower right. The first Quarter, as indicated, is a position of honour		
Top or head	Area across the top.		
Bottom or base	Area across the base.		

On the current New Zealand Flag the Union Flag occupies the first quarter and the constellation of the Southern Cross is on the fly or what may be regarded as the 2nd or 4th quarters.

Design

Flags are designed to be flown and viewed from either side or from the front. In a one-dimensional form or on the printed page, they are viewed with the staff (pole) or hoist on the left.

In addition flags may be displayed on poles inside and hung from the hoist or displayed flat either horizontally or vertically, with the canton in the top left corner, e.g. the Union canton is prominent on the New Zealand Flag as are the stars on the USA Flag when displayed indoors on a pole. Presently if the New Zealand Flag is displayed with another flag on poles crossed, the NZ Flag is on the left but the canton nearest to the centre.

Shape

National flags are normally rectangular. Other flag shapes exist (e.g. square, swallow tail, triangular, pennant).

Patterns and designs

In general the majority of flags conform to well-established patterns. The design of a flag should be simple or uncluttered and balanced. The design should be capable of being rendered in a variety of sizes without distortion. In addition the design should be capable of being incorporated into the design of other flags of national significance.

Conventions

Vexillology is the study of flags. Some of the conventions of flag design that have developed are:

- the use of five colours (red, blue, black, green, and purple) and two metals (gold and silver, which are represented by yellow and white) only. To avoid creating an indistinct image, the following rules have developed:
 - the five colours are not normally placed immediately adjacent to each other, and the metals are not normally placed immediately adjacent to each other; and
 - o light colours are not normally placed next to or upon other light colours, and dark colours are not normally placed next to or upon other dark colours;
- animals or birds should preferably face the flagpole, so that the animal faces in the same direction as the flag bearer; and
- the left hand corner of the flag (also known as the upper hoist, or the canton) is the place of honour in a flag. This reflects the fact that the opposite end of the flag (known as the fly section) wears out first, and is the section that is least visible when the flag is not fully unfurled.

Overseas comparisons

Australian position

"Ausflag" was established in 1981 as an independent, non-profit organisation. Its aim was to promote debate about Australia's national symbols (the Australian flag, anthem, and colours). In 1984 "Advance Australia Fair" replaced "God Save the Queen" as Australia's national anthem, and green and gold were adopted as Australia's national colours.

In 1997 Ausflag launched a professional design competition for the Australian flag, receiving 3000 entries, from which a winning design was chosen. However, there has been little support for a flag change by recent Australian governments.

Flag change processes in Canada and South Africa

Many countries have adopted new flags, but almost always in the context of gaining independence, a change of political regime or some other major political event. Canada is almost alone in having adopted a completely new flag without having first undergone any major political upheaval. This note considers the process adopted in Canada to change its flag. It also discusses flag change processes in South Africa which, although they were prompted by significant political changes, were accomplished peacefully.

It is worth noting that the former self-governing British dominions (Australia, Canada, New Zealand and South Africa) have already changed from using the Union Jack to using a national flag incorporating the Union Jack.

This process was itself not without controversy, as some people continued to regard the Union Jack as the national flag. For example, when the Australian Government legislated to recognise the Australian Flag in the Flags Act 1953, it was careful to preserve the right of Australians to fly the Union Jack and to arrange for the Queen to give assent to the legislation in person during her visit to Australia.²

Canada³

In 1965, Canada replaced the Royal Union Flag with a new flag comprising a red and white background, with a stylised 11 point red maple leaf at its centre. The Royal Union Flag was not retained as a national flag for Canada.

Canada first considered changing its flag in 1925. The Canadian Government appointed a committee of public servants to report on a design for a Canadian flag, but following controversy after its existence became public the committee was disestablished. The work of the Committee was never completed.

In 1946, a Select Committee was appointed with a similar mandate.

The Committee received more than 2,600 designs in a competition to design the country's new flag. In spite of this, the Parliament of Canada was never called to vote on a design. The following process was adopted:

a Senate and House of Commons Committee was formed;

² Elizabeth Kwan, *Flag and Nation: Australians and their National Flags since 1901*, Sydney, University of New South Wales Press, 2006, pp. 105-106.

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The literature on the Canadian Flag is extensive but of greatly varying quality. See, in particular, John Ross Matheson, *Canada's Flag: A Search for a Country*, Boston, G.K. Hall and Company, 1980; Alistair Fraser, 'A Canadian Flag for Canada', *Journal of Canadian Studies*, vol, 25, no. 4, 1990-91, pp. 64-80; Gregory A. Johnson, 'The Last Gasp of Empire: The 1964 Flag Debate Revisited' in Phillip Buckner (ed.), *Canada and the End of Empire*, Vancouver, UBC Press, 2005, pp. 232-250.

- submissions were called for;
- the Committee considered and eliminated various proposals, but reached agreement on three possible designs;
- the Committee received assistance from two heraldry experts (a retired naval captain and heraldic adviser to the Royal Canadian Navy, and a heraldist and historian), and the Dean of Arts at the Royal Military College in Kingston;
- the Committee decided to recommend one of the designs; and
- the Committee's recommendation was approved by resolution of the House of Commons, followed by the Senate. It was proclaimed by Her Majesty to take effect on 15 February 1965.

The Canadian Flag was not declared by legislation. The Flag is protected under the Trademarks Act against unauthorised commercial use and in 2012 the National Flag of Canada Act, which originated with a private member's Bill, was passed, encouraging the use of the Flag in accordance with flag protocol. There is also a National Flag of Canada Manufacturing Standards Act, which provides for the making of standards for flag manufacture. After the flag was adopted, considerable effort was put into the development of detailed standards for the flag, particularly defining the appropriate shade of red.

Since 1973 the Canadian Parliamentary Flag Program has provided for Members of Parliament to receive flags and flag pins for distribution to their constituents. In 1996, 15 February was declared National Flag of Canada Day.

South Africa4

Before 1928, the Union of South Africa had a local version of the Red Ensign, but it was rarely used and not officially adopted as the national flag. When the Afrikaner-nationalist National Party came to power in 1924, it considered a distinctive national flag was needed. The Government made it clear that a flag should be adopted only with a clear consensus among Afrikaner and British South Africans, and that it should be a 'clean flag' that included neither the Union Jack nor the flags of the former Afrikaner republics. By contrast, the pro-British South African Party would not accept a flag that did not include a Union Jack, and many British South Africans continued to see the Union Jack itself as their flag.

Eventually, after considerable controversy and even riots, a compromise was reached. The flag consisted of horizontal orange, white and blue stripes (a design based on the old Dutch flag), with three smaller flags in the centre of the white stripe: the Union Jack and the flags of two of the Afrikaner republics. This flag was recognised in the Union Nationality and Flags Act 1927 and first flown in May 1928. In addition, the Union Jack was recognised as the second national flag, to be flown alongside the South African flag on certain official buildings.

When South Africa became a republic in 1961, the flag was incorporated in the new constitution. Although many Afrikaners, in particularly, never fully accepted the 1928 South African flag, it became

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⁴ On the South African national flag prior to 1994, see Harry Saker, *The South African Flag Controversy, 1925-1928*, Cape Town, Oxford University Press, 1980; Philippe Rault, 'The South African Flag of 1928-1994', *The Flag Bulletin*, no. 156, 1994, pp. 2-39. On the current South African Flag, see Bruce Berry, Fred Brownell, Danie de Waal and Theo Styllianides, 'Creating an Interim Flag for South Africa', *The Flag Bulletin*, no. 158, 1994, pp. 82-123; 'Fred Brownell: The Man Who Made South Africa's Flag', BBC News, 26 April 2014, https://www.bbc.com/news/magazine-27155475.

inevitably associated with the policy of apartheid. Thus, with the end of apartheid in 1994, a new flag was needed.

In 1993 the multiparty Negotiating Council charged with developing a new constitution for post-apartheid South Africa established a Commission on National Symbols to make recommendations about flags and other symbols. The Commission invited submissions for a new national flag and received some 7000 designs. Six of these designs were submitted to the Negotiating Council, and the Commission made clear that these should be regarded only as proposals for an interim flag. There had been very little time for public engagement, and the Commission considered more time was required before choosing a permanent national flag. The Negotiating Council rejected all six proposals submitted to it, and then sought flag designs from professional design firms. These designs also failed to find favour.

In 1994, with the official handover of power looming, the Transitional Executive Council appointed a subcommittee to advise it on national symbols. The subcommittee considered five designs submitted to it by a technical working committee. One of these designs had been drawn up by the South African State Herald, Fred Brownell. The design showed two lines converging into one in a 'y' shape, to suggest convergence and unification of South Africa's diverse peoples, and included colours reminiscent of several pre-existing flags of different political groupings. This was the design unanimously adopted by the Transitional Executive Council and proclaimed as the national flag. It was first officially flown on 27 April 1994 and gained widespread acceptance after it was used in the inauguration ceremony for President Nelson Mandela. In 1996 it was incorporated in the South African Constitution.

Conclusion

Several points are notable about the Canadian and more recent South African experiences:

- In both cases significant numbers of flag designs were submitted by members of the public, but the designs eventually chosen were not received through the public submission process.
- In both cases the decision to change the flag and the design chosen did not receive direct public endorsement through referendums.
- In both cases the flags chosen had no previous history (although in the Canadian case the maple leaf was an established national symbol), but seem to have gained widespread acceptance relatively quickly. It is particularly notable that the change of flag in Canada was bitterly contested at the time, but the flag chosen in 1964 is now well accepted across the Canadian political spectrum.

Ends.