



## A NEW FLAG FOR NEW ZEALAND? – THE CONSIDERATION PROCESS

**Malcolm Mulholland**

New Zealand Flag Consideration Panel

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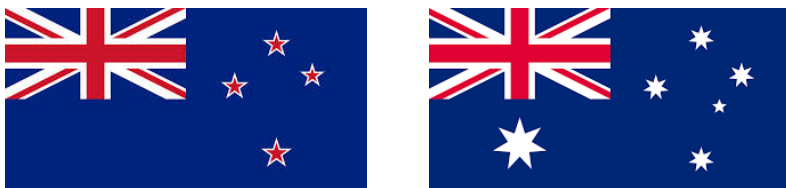
### INTRODUCTION

*Malcolm spoke informally to his notes for a slide presentation. The text following is an ICV26 editorial summary of his remarks that covered the process of Referendum arrangements as they stood at 31 August 2015.*

*He was suddenly recalled to Wellington the next day for the announcement of the (then) four flags selected as alternatives to the current flag of New Zealand. There were many twists and turns before the first Referendum was held in December 2015 – see Postscript). Ed*

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On 11 March 2014 then Prime Minister of New Zealand, John Key, announced at Victoria University, Wellington, that it was time to change the 102 years old national flag – a British blue ensign with four stars denoting the Southern Cross, and without close observation, often confused with the Australian flag (despite different and extra stars).



John Key justified his remarks not on this alleged likeness, but on the grounds that New Zealand was no longer, nor desired to be, the idyllic backwater many perceived it to be. It was time to move on.

Since the PM's announcement in March 2014, the structures and timeframe have been put in place to ensure an orderly and detailed consideration of the flag issue. Invited as a representative of the Flag Consideration Panel established last December, my purpose here is to outline that structure and the criteria informing the process followed to this date, and hereafter.

By the closing date in July this year, we received more than 10,000 design suggestions. Since then, these have been reduced to a "short" list of 40 and that even further this week, and any day now to the four to be presented for public postal voting in the first stage referendum in December 2015. That vote will determine which of the four alternative designs will run against the existing flag in the second stage in March 2016.

Firstly, I will outline the history of our current national flag and then explain the different components and intent of the process followed in regard to designs to be decided in the two Referendums.

At this stage is it impossible to predict what happens next or the outcome.

### HISTORY

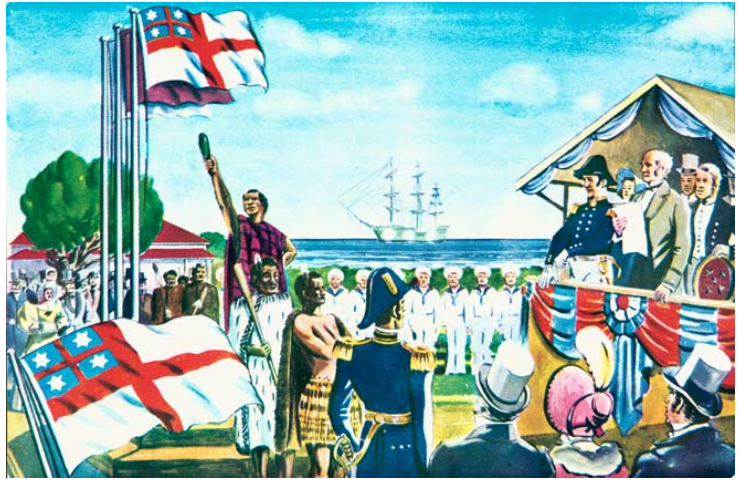
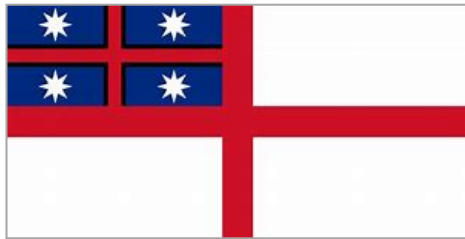
For New Zealand, as in many other modern states, a flag as a symbol and evidence of local organization and identity, was adopted or copied from European practice. So, a distinctive flag is not a new idea. As early as 1834 New Zealand, or at least parts of the North Island, had such a flag – prompted by the impounding in Sydney of a flagless ship entering the harbour. Even though the white ensign of two red crosses, one in the blue canton bearing four white stars, had been designed to meet interests of overseas merchants and

missionaries, it was accepted by 25 of North Island Maori Chiefs. Despite minor variations (the addition of black fimbriation, for example) that same flag has come to be known as the flag of the Uniting Tribes of New Zealand. It endured until 6 February 1840 when a Treaty, also signed at Waitangi, made the islands a Protectorate of Great Britain, under the Union Jack. This flag too was replaced by a blue ensign designed in 1869 and finally enacted as the national flag in 1902. This is the flag now under challenge.

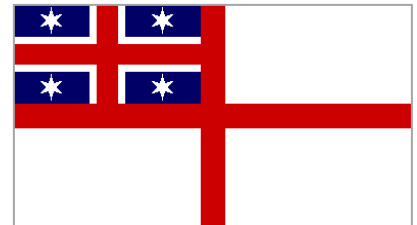
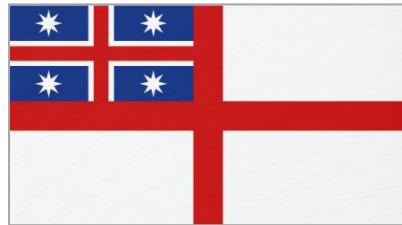
**NEW ZEALAND'S FIRST FLAG**

**1834-1840**

A black outline around the red cross in the canton was the cultural preference of the Maori chiefs.



The flag was rendered in a more heraldically correct version in Sydney, with white fimbriation, and gazetted accordingly, in 1835.



On 6 February 1840 New Zealand was declared a Protectorate of Great Britain at Waitangi. The 1834 flag of the Uniting Tribes was replaced by the Union flag of the British Empire. This in turn was replaced by the blue ensign (the current flag) designed in 1869, and gazetted after passage of the New Zealand Ensign Act in June 1902.

The picture above is an imagined scene (ca. 1950) depicting the Maori chiefs signing the Waitangi Treaty before Lt Governor William Hobson (shown in peaked hat at the table covered by the British flag). Image held in Turnbull Library Wellington.



**George Bowen, Governor of New Zealand (1865-1877)** commissioned a new local flag in response to an Admiralty decision that ships registered in each colony were to display a British ensign (blue for the Government) defaced by a local badge in the fly.

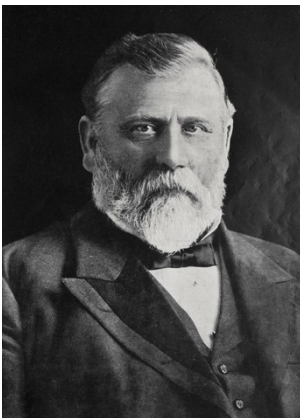
That chosen for New Zealand was designed by British explorer, author, and officer in the Royal Navy, **Albert Hastings Markham (right)** between March 1868 and October 1871, at the time First Lieutenant of the sloop HMS *Blanche*.



This period saw the beginning of the New Zealand Marine, consisting then of a single vessel. Markham was asked informally if he could suggest a distinctive flag. “You have already the right” he replied, to fly the Blue Ensign, “why not add to it the stars of the Southern Cross?” The suggestion was well received. A drawing was made on board *Blanche*, and despatched. It was returned with an appreciative note, asking that the stars be enlarged, to enhance visibility.

**Right: George Austin Woods**, the first person to fly the New Zealand ensign on the surveying schooner *Edith* on 29 October 1869.

Woods was an Australian.



### **Chief Minister and Prime Minister**

**Richard Seddon** – pushed passage of the 1901 *New Zealand Ensign Act* gazetted in June 1902.

New Zealand took part in the South African (Boer) War of 1899–1902. During this period flags flew throughout the country to a much greater and more regular extent than before. Many people were confused over which flag to fly– the Union Jack or the New Zealand Blue Ensign (officially flown by naval vessels only).

Seddon took the matter in hand, and in 1900 introduced legislation into the House of Representatives to make the Blue Ensign with the four red Southern Cross stars New Zealand's official flag. A modified version of his Bill was passed in 1902 and the Union Jack was replaced by the current New Zealand flag.

New Zealand thus adopted a national flag before Australia, whose Federal flag was gazetted in February 1903. (New Zealand had been invited to join the federation but declined, opting for official Dominion status in 1907). Since then friendly rivalry has endured, especially in sport. Australians and New Zealanders seeing each other as cousins, never mind that their flags are often confused. The blue ensigns could be said to bind us more closely: as former NZ PM Muldoon famously quipped, the large numbers of Kiwi permanently emigrating to Australia raised the IQ of both countries, while one of the designers of the Australian flag was a New Zealander. (Detailed records of Steven William's Australian Flag design are preserved in the Turnbull library in New Zealand).

The road map of how the two-stage Referendum would be conducted was set out by NZ Deputy Prime Minister Bill English in February this year (2015) with an appendix answering questions that people were asking. On paper at least, the road map seemed the perfect way to convey clarity and to avoid wrangling over the nation's chief symbol.

## THE CROSS-PARTY GROUP (2014-2016)

includes these Members of Parliament:



### Top, L-R:

Jonathan Young (Chair) National  
Hon Trevor Mallard Labour

### Below L-R:

Dr Kennedy Graham Green  
Maraca Fox Māori  
David Seymour ACT  
Hon Peter Dunne United Future

(New Zealand First opted not to take part).



## FLAG CONSIDERATION PANEL 2015

### Seated, Front L-R:

Malcolm Mulholland, Academic and flag historian;  
Chair: Emeritus Professor John Burrows, former deputy vice-chancellor University of Canterbury;  
Nicky Bell - Chief executive of Saatchi & Saatchi New Zealand;  
Sir Brian Lochore - Former All Blacks captain, coach and administrator ONZ, KNZM, OBE;  
Peter Chin, Former Mayor of Dunedin.

### Standing, Rear L-R:

Kate de Goldi (Deputy Chair) writer and reviewer.  
Lt Gen (Rtd) Rhys Jones, CNZM Former Chief of NZ Defence Force;  
Hana O'Regan, Academic, Māori studies and te reo Māori;  
Julie Christie - Director of Julie Christie Inc;  
Rod Drury - Chief Executive of Xerox and technology entrepreneur;  
Beatrice Faumuina, Olympian, Commonwealth gold medallist;  
Stephen Jones, Invercargill Youth Councillor, Invercargill High School.



## FLAG CONSIDERATION PANEL MEMBERS ANNOUNCED

Deputy Prime Minister, The Hon. Bill English

26 February 2015

The Government has appointed 12 New Zealanders as members of the Flag Consideration Panel which will engage with the public about a possible new New Zealand flag, Deputy Prime Minister Bill English says.

The panel will be chaired by former deputy vice-chancellor of the University of Canterbury, Emeritus Professor John Burrows, ONZM, QC of Christchurch, who was co-chair of the Constitutional Advisory Panel. Writer and reviewer Kate de Goldi of Wellington will be the deputy chair of the Flag Consideration Panel.

(The other 10 members are named above).

“Many New Zealanders were considered for the panel following nominations by a cross-Party group of MPs,” (also above) Mr English said. “I am pleased with the panel’s independence, calibre and experience and each member has committed to undertake the flag consideration process carefully, respectfully and with no presumption in favour of change.”

The panel will hold its first meeting in early March. It will:

- Consider and oversee a public engagement process to begin in May.
- Invite New Zealanders to send in designs or ideas regarding a possible alternative flag.
- Shortlist designs for the first postal referendum, which will be held this year using a preferential voting system, inviting voters to rank the designs in order of preference.
- The winning design will run off against the current New Zealand flag in a second, binding referendum to be held next year using the First Past the Post voting system. A *New Zealand Flags Referendums Bill* containing these measures will be introduced to Parliament shortly.
- “This process will give New Zealanders the rare privilege of having a say on one of the most important symbols of our nation,” Mr English says. “I hope New Zealanders will take the opportunity to listen and talk to each other and consider the design suggestions that come forward before making their minds up and taking part in the referendums.”

According to the Consideration Panel (shown at work, **right**) the chief criterion is that:

*“A potential new flag should unmistakably be from New Zealand and celebrate us as a progressive, inclusive nation that is connected to its environment, and has a sense of its past and a vision for its future”*



The Consideration Panel included reality television guru Julie Christie, businessman Rod Drury, former Defence Force chief Lieutenant General Rhys Jones and sporting legends Beatrice Faumina and Sir Brian Lochore. A Maori perspective was well represented. Despite the broadly-based talent on the Consideration Panel - there was an historian, a representative of an advertising firm, and some knowledge of (military) heraldry – but none deeply versed in the basic requirements of flag design, where simplicity always trumps clutter.

## **FREQUENTLY ASKED QUESTIONS:**

### **WHAT?**

#### **What's happening with our flag?**

In 2015 and early 2016, New Zealanders will consider options for our flag's future, with a formal opportunity for Kiwis to vote to keep the existing flag or change it.

#### **Will the flag definitely change?**

No. A referendum will be held to decide whether or not to change the flag next year.

#### **How do I have a say in the process?**

A group of New Zealanders, the Flag Consideration Panel, will provide opportunities for all New Zealanders to participate in discussions and suggest their designs and ideas. This process will occur from May to July 2015. After that, the Panel will report back to the Government with a shortlist to go forward for voting.

The first referendum will be held in late 2015, using the preferential voting system. Voters will be asked to rank the alternative designs. The winning design will go forward to the second referendum, where voters will choose between that design and the current flag.

#### **What if I don't want the flag to change?**

You get that choice in the second referendum where you choose between the current flag and the preferred alternative.

### **WHY?**

#### **Why does New Zealand need to consider a new flag?**

The current flag was adopted in 1902 and since the 1960s New Zealanders have been debating whether it should be replaced. Suggestions for alternative flag designs have been put forward from time to time, but until now there has never been an official public debate.

#### **Why doesn't Government just change the flag?**

By law, the flag can be changed by a majority of Parliament. However, the Government's view is that decisions on the flag should be made by all New Zealanders eligible to vote.

### **WHEN/HOW?**

#### **When can I send in my design idea?**

From approximately May until July 2015 anyone can suggest a design. A set of guidelines will be available to help people develop their designs. The Flag Consideration Panel will narrow this down to a shortlist of alternative designs that reflect the views of the public.

#### **How will Māori communities be consulted?**

The Flag Consideration Panel will include members who will bring a Māori perspective and will take advice on how Māori communities can best be consulted as a key part of the public engagement process. The Panel will be appointed in mid-February and the public engagement process will be launched in May 2015.

#### **How will New Zealanders overseas participate in the referendum?**

Eligible New Zealanders who are either enrolled at an overseas postal address, or who provide a temporary one will be sent referendum voting papers. Once they have received their voting papers, these can be completed and either posted back or uploaded using the overseas voting paper upload facility (elections.org.nz).

## **TIMELINE**

Feb 2015	Flag Consideration Panel appointed
Mid 2015	Public engagement process (including flag suggestions approx. May – July)
Late 2015	First referendum (to choose a preferred alternative design)
Early 2016	2nd referendum (to choose between winner of first referendum and current flag)

## **WHO?**

### **Who can vote in the referendums?**

People who are enrolled prior to the start of the voting period will be able to vote in the postal referendums.

**Who is the Responsible Minister?** Deputy Prime Minister, Hon Bill English.

### **Who's on the Cross-Party MPs' Group (CPG) and what do they do?**

The CPG made nominations for the Flag Consideration Panel and has been involved in the development of the draft New Zealand Flag Referendums Bill, making recommendations to the Responsible Minister as necessary.

The Cross-Party Group includes these Members of Parliament.

### **Who will be on the Flag Consideration Panel (FCP) and what do they do?**

The role of the FCP is to design and lead the public engagement process over the New Zealand Flag, and to select a shortlist of designs. A key feature of the group is that it is independent and non-partisan. The members of the Panel.

## **BUDGET**

### **How much will the process cost?**

The estimated cost is \$25.7m over two years. Most of the budget is for two postal referendums (\$17.3m) and public consultation (\$6.7m). To have a process which is legitimate, and for the outcome to endure, it is important to do it properly. Our current flag has served us for over a century, and it is possible that a new flag would serve us for another century or longer.

### **If there is a new flag, Government organisations will have to use it. What will that cost?**

It has been estimated that it will cost up to \$2.66m to replace flags on government buildings and facilities and Defence Force uniforms over time if the flag is changed. Other costs, including changing flags on government ships and on drivers' licences, are not specified at this time, but again these will happen over time.

### **How much will be the Flag Consideration Panel be paid?**

In keeping with the Cabinet Fees Framework, Panel members will receive \$640 per day and the Chair will receive \$850 per day.

## **GENERAL**

### **Why don't we combine the referendums with a local government or general election?**

Combining the referendums with other elections could be confusing for voters. Also, previous referendums held with parliamentary elections have cost at least as much as running a stand-alone postal referendum, so after careful consideration a decision was made to proceed with the two-referendum process.

### **Why don't we just do one referendum?**

It is considered that a dual referendum process is more likely to lead to a legitimate and enduring result.

### **Why not vote first on whether we should change the flag?**

The two-referendum process will mean that New Zealanders will know what the alternative flag would look like before they decide whether to keep the current flag.

### **The 'Process to Consider Changing the New Zealand Flag' Cabinet paper (28 October 2014) talks about a single vote in the first referendum. Why has this changed?**

Following recommendations by the New Zealand Flag Cross-Party MPs' Group (the CPG) a decision was made to use preferential voting in the first referendum. It was also agreed that four alternative flag designs will be included in the first referendum and that the second referendum will be held in March 2016.

### **If we get a new flag, what happens to the current one?**

If New Zealanders choose a new flag, the current flag has historical status and will not become unlawful. Government departments that currently fly the flag will be expected to start flying the new flag when that flag becomes official, but other New Zealanders will be free to change over as and when they wish.

### **If the flag changes, when will it happen?**

The legislation setting up the referendums will specify when the change of flag would happen, if there is a vote to change the flag. It is likely that the change would take place within six months of the second referendum.

### **What about the current national Māori (Tino Rangatiratanga) Flag?**

In 2009, the Government recognised the Tino Rangatiratanga Flag as the preferred national Māori flag, and noted that it will complement the New Zealand Flag. A change to the New Zealand Flag would not affect the status of the national Māori flag.

### **Hasn't the Prime Minister already indicated his views regarding the flag?**

Yes, and he acknowledges that New Zealanders have a range of views. All eligible New Zealanders will have one vote in each referendum.

### **Will this process impact New Zealand's Anzac commemorations?**

No. The centenary of the Gallipoli landing will be observed under the current flag.

### **What impact will this have on New Zealand's relationship with the United Kingdom and membership of the Commonwealth?**

None. This is a debate about our flag only; it's not a discussion about a republic or membership of the Commonwealth.



### **What will happen after the second referendum?**

The legislation that enables the flag referendums will include mechanisms that make any decision binding. That means New Zealanders can be sure that if the alternative design receives the largest number of votes in the second referendum, it will become the new national flag; if the current flag receives the largest number of votes, it will remain the New Zealand Flag. If a new flag is chosen, the referendum legislation will determine when the new flag will become official.

### **What about other symbols of state (e.g. New Zealand Coat of Arms)? If the New Zealand Flag changes, will these other symbols also need to change?**

The current New Zealand Flag is only one design element of the New Zealand Coat of Arms. If the flag changes, the Coat of Arms will not become invalid or obsolete so government departments which use it (on their stationery and websites etc) will continue to do so.

The same is true for other items which incorporate the New Zealand Coat of Arms, such as the Seal of New Zealand. A number of other flags and ensigns, including the New Zealand Police and New Zealand Fire Service flags are based on the current New Zealand Flag. If it changes, these agencies may revisit their flags in future, but change will not be automatic.

**Has the flag changed before?** Yes, twice so we've had three flags. In 1834, the first flag - now known as the Flag of the United Tribes of New Zealand - was chosen by Māori at Waitangi to represent New Zealand. Following the signing of the Treaty of Waitangi in 1840, the Union Flag ('Union Jack') became New Zealand's official flag. The New Zealand Ensign was officially adopted in 1902.

### **Why can't I vote online?**

New Zealand legislation does not currently allow online voting in parliamentary elections or referendums. Developing a secure and tested online voting system within a reasonably short period of time would incur high cost and be administratively difficult.

### **What is the New Zealand Flag Referendums Bill?**

It is the Bill that will establish the processes for the two referendums.

### **Can I make submissions on the New Zealand Flag Referendums Bill?**

Yes, the Bill will go through a select committee process. The committee will call for submissions and this is likely to be from around late-March 2015.

### **What are the project's guiding principles?**

- *Independent*: the process is as apolitical as possible, with multi-party support and public input into decision-making;
- *Inclusive*: all perspectives are invited and considered from within New Zealand's diverse communities, including Māori as *tangata whenua*;
- *Enduring*: the outcome (whether change or status quo) is upheld and not revisited for a significant period;
- *Well-informed*: the public has access to information to enable it to make decisions;
- *Practical*: the process is workable, cost - effective, and implementation is possible;
- *Community-driven*: designs and suggestions come from the community;

- *Dignified*: the process upholds the importance of the flag as a symbol of our nationhood;
- *Legitimate*: all legislative and other requirements are followed; and
- *Consistent* with the Crown’s Treaty obligations.

**THE PROCESS BEGINS:**

Before any designs had been formally submitted, the Consideration Panel formulated the themes and policies they hoped most likely to encourage and produce coherent and relative designs. These were presented as graphics from PowerPoint slides.

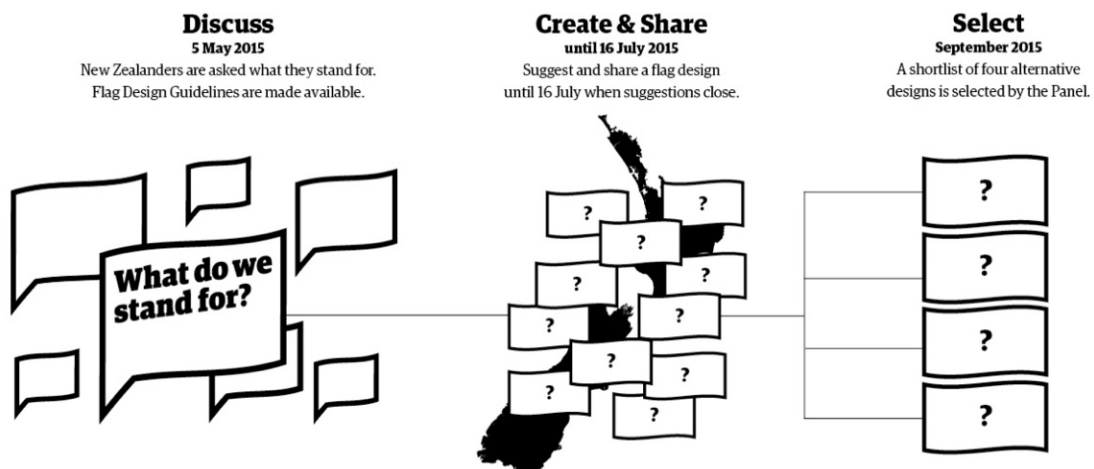
The comparison can be made with the relatively modest criteria guiding the judging panel in selecting a federal flag for Australia in the similar competition open to the public in 1901.

The public engagement segment from 5 May to 16 July assisted the Consideration Panel to reduce the more than 10,000 design suggestions to a manageable 40, then 30 designs, guided by five criteria (*What We Stand For*) identified from some 40 values that emerged as those most important to citizens. These were conveyed on-line or through local meetings, some well-attended, some not.

By the same process three symbols emerged as dominant in the public eye, and a palette of five colours also emerged - yellow the obvious absent. The four challengers to the current flag to be voted on in the first Referendum were in fact announced the day after my presentation at the ICV. That there would in fact be five challengers was not foreseen – a development that became politically controversial in September.

**TOP FIVE THEMES**

1. FREEDOM
2. HISTORY
3. EQUALITY
4. RESPECT
5. FAMILY



## Referendum One

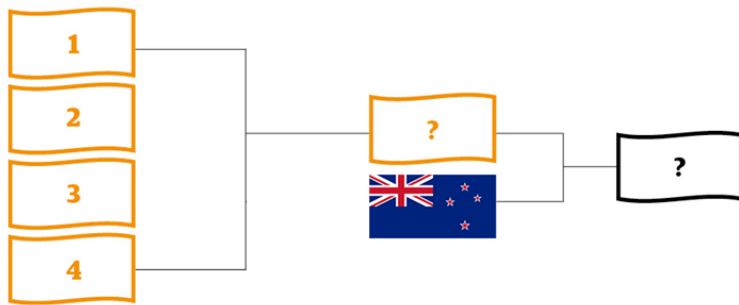
November-December 2015\*

The first postal referendum determines the preferred alternative.

## Referendum Two

March 2016\*

The second postal referendum is held to decide between the current flag and the preferred alternative.



## TOP THREE SYMBOLS

1. SOUTHERN CROSS (5,258)
2. FERN (3,032)
3. KORU (2,848)

or

COMBINATION OF SOUTHERN CROSS AND SILVER FERN (1,768)

## TOP FIVE COLOURS

1. White (8,950)
2. Blue (6,948)
3. Red (6,241)
4. Black (5,309)
5. Green. (2,820)

- 10,000+ flag designs suggested
- 850,000+ visits to our websites
- 1,100,000+ people reached by social media
- 6,000+ visits to workshops and info stands
- 43,000+ of you who shared what you stand for
- 140,000+ views of New Zealand flag history video
- 2,000,000+ page views of alternative design gallery

**Right:** A summary of the quantum of national consultation.





Final four challengers announced by the Flag Consideration Panel on 2 September 2015.



**UPDATE:**

The carefully plotted process for the Consideration Panel was almost derailed by the political controversy in September over the Red Peak flag design that had been dropped from the Panel’s short-list, but in the end included after pressure from a social media campaign as a fifth option in the December referendum.



In the December referendum, Red Peak came in third, after Kyle Lockwood’s two near identical Fern and Southern Cross designs – a double entry that effectively split the overall vote in the first referendum and in the second in March 2016, and thus guaranteed survival of the current flag. Full details of the March 2016 NZ Referendum appeared in *Crux Australis* Vol. 29/2, No.118, April-June 2016.

## BIOGRAPHICAL



At the time of his presentation to ICV26 in Sydney, Malcolm Mulholland (Ngāti Kahungunu) was a senior researcher at Te Pūtahi-a-Toi, School of Māori Studies, Massey University. He is the author of *Beneath the Māori Moon: An Illustrated History of Māori Rugby* and co-editor of *Kaitiaki: Māori and the Environment*, *Weeping Waters: The Treaty of Waitangi and Constitutional Change* and *Mana Tangata: Politics of Empowerment* and a range of studies on Māori-Pakeha relations in New Zealand. He is active in a range of Māori social issues and is particularly interested in notions of national identity.

In 2021 Malcolm completed studies for a PhD (History) in the College of Humanities & Social Sciences at Massey University. His thesis was “Prominent New Zealand Flags and Changing Notions of Identity”.

Email: [M.G.Mulholland@massey.ac.nz](mailto:M.G.Mulholland@massey.ac.nz)