

# Departmental Disclosure Statement

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New Zealand Public Health and Disability (Waikato DHB) Elections Bill
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The departmental disclosure statement for a government Bill seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill.

It identifies:

- the general policy intent of the Bill and other background policy material;
- some of the key quality assurance products and processes used to develop and test the content of the Bill;
- the presence of certain significant powers or features in the Bill that might be of particular Parliamentary or public interest and warrant an explanation.

This disclosure statement was prepared by the Ministry of Health.

The Ministry of Health certifies that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

16 May 2019

**Contents**

Contents..... 2

Part One: General Policy Statement ..... 3

Part Two: Background Material and Policy Information ..... 3

Part Three: Testing of Legislative Content..... 6

Part Four: Significant Legislative Features ..... 8

## Part One: General Policy Statement

The New Zealand Public Health and Disability (Waikato DHB) Elections Bill exempts the Waikato District Health Board (the **Waikato DHB**) from the 2019 triennial general election. This legislation will have the effect of extending the time that the Waikato DHB is governed by a commissioner until a newly elected board takes office following the 2022 triennial general election.

The Waikato DHB has long-standing financial and organisational performance issues that will require time to address. Improving the DHB's performance is likely to require a range of solutions, some of which could include more medium-term actions that need to be implemented after the commissioner's current term expires on 9 December 2019. This Bill would allow the commissioner more time to undertake further work in improving the Waikato DHB's performance. A new board taking office in 2022 should then have a more secure financial and organisational position from which to begin its term.

This legislation impacts on only 1 election for the Waikato DHB and is not expected to result in any additional costs for the Waikato DHB or other agencies. It does not provide for any additional powers for the Minister of Health or the Government but it extends the application of an existing power.

## Part Two: Background Material and Policy Information

### Published reviews or evaluations

<b>2.1. Are there any publicly available inquiry, review or evaluation reports that have informed, or are relevant to, the policy to be given effect by this Bill?</b>	NO

### Relevant international treaties

<b>2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?</b>	NO
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### Regulatory impact analysis

<b>2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?</b>	NO
Previous Cabinet advice was that no Impact Statement is required as the proposal has no or only minor impacts on businesses, individuals, or not for profit entities [CAB-19-MIN-0165].	

<b>2.3.1. If so, did the RIA Team in the Treasury provide an independent opinion on the quality of any of these regulatory impact statements?</b>	N/A
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<b>2.3.2. Are there aspects of the policy to be given effect by this Bill that were not addressed by, or that now vary materially from, the policy options analysed in these regulatory impact statements?</b>	N/A
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### Extent of impact analysis available

<b>2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?</b>	NO
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<b>2.5. For the policy to be given effect by this Bill, is there analysis available on:</b>	
<b>(a) the size of the potential costs and benefits?</b>	YES
<b>(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?</b>	NO
There are costs associated for Waikato DHB to hold the 2019 election. If there is no election in 2019, then the DHB will not have to pay this cost. The costs of remunerating the Commissioner and Deputy Commissioners are not expected to exceed those costs of the Board that were in place previously.	

<b>2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be impacted by:</b>	
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<b>(a) the level of effective compliance or non-compliance with applicable obligations or standards?</b>	NO
<b>(b) the nature and level of regulator effort put into encouraging or securing compliance?</b>	NO

## Part Three: Testing of Legislative Content

### Consistency with New Zealand's international obligations

<b>3.1. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations?</b>
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No inconsistencies have been identified.
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### Consistency with the government's Treaty of Waitangi obligations

<b>3.2. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi?</b>
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<p>The Ministry's legal team considered whether the Bill had any Treaty of Waitangi implications, in particular whether the exemption of the Waikato DHB from the 2019 elections was consistent with section 4 of the New Zealand Public Health and Disability Act 2000 (NZPHD Act).</p>
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<p>Section 4 of the NZPHD Act states that Part 3 of the NZPHD Act (which includes the provisions relating to the election of members of the DHBs; proportionate Māori membership of the Board; and the admission of members of the public to DHB board meetings) recognises the principles of the Treaty by providing for mechanisms to enable Maori to contribute to decision-making on, and to participate in the delivery of, health and disability services.</p>
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<p>The exemption of the Waikato DHB from the 2019 elections means that there would no longer be a Board with Maori representation. This could be seen to reduce the opportunities for Māori to contribute to decision making by the Waikato DHB and thereby have implications for the partnership principle of the Treaty. The Commissioner will have all of the functions, duties and powers of the Board. This includes Treaty obligations and requirements to consult with the community, iwi and address equity. The Commissioner is required to continue the statutory sub-committees, and these are required under the NZPHD Act to have Maori representation. Other opportunities for Māori to contribute to decision making are not affected by the Bill, including the provision of advice to the Commissioner by the Iwi Māori Council, and the retention of the newly refreshed Memorandum of Understanding between Waikato DHB and the Iwi Māori Council. The partnership principle of the Treaty will therefore continue to be recognised and applied.</p>
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### Consistency with the New Zealand Bill of Rights Act 1990

<b>3.3. Has advice been provided to the Attorney-General on whether any provisions of this Bill appear to limit any of the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990?</b>
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YES
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## Offences, penalties and court jurisdictions

<b>3.4. Does this Bill create, amend, or remove:</b>	
<b>(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?</b>	NO
<b>(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?</b>	NO

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## Privacy issues

<b>3.5. Does this Bill create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information?</b>	NO
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## External consultation

<b>3.6. Has there been any external consultation on the policy to be given effect by this Bill, or on a draft of this Bill?</b>	YES
The proposal to appoint a Commissioner and cancel the 2019 Waikato DHB board election was consulted with the Treasury, the State Services Commission and the Department of Prime Minister and Cabinet. The Ministry of Justice has also been consulted.	

## Other testing of proposals

<b>3.7. Have the policy details to be given effect by this Bill been otherwise tested or assessed in any way to ensure the Bill's provisions are workable and complete?</b>	NO
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## Part Four: Significant Legislative Features

### Compulsory acquisition of private property

4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property?	NO

### Charges in the nature of a tax

4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax?	NO

### Retrospective effect

4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?	NO

### Strict liability or reversal of the usual burden of proof for offences

4.4. Does this Bill:	
(a) create or amend a strict or absolute liability offence?	NO
(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?	NO

### Civil or criminal immunity

4.5. Does this Bill create or amend a civil or criminal immunity for any person?	NO

### Significant decision-making powers

4.6. Does this Bill create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?	NO



### Powers to make delegated legislation

<b>4.7. Does this Bill create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?</b>	NO

<b>4.8. Does this Bill create or amend any other powers to make delegated legislation?</b>	NO

### Any other unusual provisions or features

<b>4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?</b>	YES
The Bill exempts the Waikato DHB board from the 2019 triennial general election. The reasons for this are set out in the General Policy Statement.	