

Departmental Disclosure Statement

New Zealand Infrastructure Commission/Te Waihanga Amendment 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 supplementary disclosure statement was prepared by the Treasury.

The Treasury 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 2025

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Part One: General Policy Statement

This Bill amends the New Zealand Infrastructure Commission/Te Waihanga Act 2019. The purpose of the Bill is to make 2 changes to the roles and responsibilities of the New Zealand Infrastructure Commission/Te Waihanga (the **Commission**).

In addition to its main function, which is “to co-ordinate, develop, and promote an approach to infrastructure that encourages infrastructure, and services that result from the infrastructure, that improve the well-being of New Zealanders”, the Commission currently has 6 additional functions.

The first change this Bill makes is to remove the additional function of providing support services to current and proposed infrastructure projects. The reason for the change is that this function was transferred to other Crown infrastructure entities on 1 December 2024 as part of a set of reforms to the Crown infrastructure system. Legislation is required to amend the Commission’s additional functions to help avoid any actual or perceived overlap of functions between the Commission and other entities.

The second change the Bill makes is to add a new additional function of providing advice in relation to current and proposed infrastructure projects.

Together, these changes will focus the advisory role of the Commission. Shifting its role in infrastructure projects from supporting to advisory will allow it to focus on large, complex challenges, at-risk projects, and programme reviews where additional advice is needed by Government. This is more consistent with the Commission’s broader mandate.

Part Two: Background Material and Policy Information

Published reviews or evaluations

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?	YES
<p>Infrastructure Expert Advisory Panel: Report on Establishing a National Infrastructure Agency, Infrastructure Expert Advisory Panel, 2 May 2024. https://www.treasury.govt.nz/publications/commissioned-report/establishing-national-infrastructure-agency</p> <p>This report provided recommendations to the Treasury on a set of changes to the Crown infrastructure system, including shifting functions from the New Zealand Infrastructure Commission/Te Waihanga (the Commission) to other entities. One of the recommendations in the report, shifting the Commission’s project support function, is the subject of this Bill.</p> <p>The Government’s response, including decisions to transfer the function from the Commission to the National Infrastructure Agency (now named National Infrastructure Funding and Financing Limited) and Rau Paenga Limited (now named Crown Infrastructure Delivery Limited) was considered by Cabinet in August 2024. This Cabinet paper has been proactively released by the Treasury and is available here: https://www.treasury.govt.nz/publications/cabinet-paper/cabinet-paper-eco-24-sub-0168-establishing-</p>	

[national-infrastructure-agency](https://www.treasury.govt.nz/publications/cabinet-minute/cabinet-minute-eco-24-min-0168-establishing-national-infrastructure-agency). The minutes for Cabinet's decisions are available here: <https://www.treasury.govt.nz/publications/cabinet-minute/cabinet-minute-eco-24-min-0168-establishing-national-infrastructure-agency>.

Relevant international treaties

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

2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?	NO
A regulatory impact statement was not required for the policy decisions covered by this Bill on the basis that the proposed changes have minor impacts on businesses, individuals, or not-for-profit entities.	

Extent of impact analysis available

2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?	NO
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2.5. For the policy to be given effect by this Bill, is there analysis available on:	
(a) the size of the potential costs and benefits?	NO
(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?	NO
Analysis has not been prepared on the size of potential costs and benefits, as the proposed changes have minor impacts only on businesses, individuals, and not-for-profit entities.	

2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be impacted by:	
(a) the level of effective compliance or non-compliance with applicable obligations or standards?	NO
(b) the nature and level of regulator effort put into encouraging or securing compliance?	NO
The proposed legislation amends the additional functions of the New Zealand Infrastructure Commission/Te Waihanga and does not create new obligations or standards, or impact on existing obligations or standards.	

Part Three: Testing of Legislative Content

Consistency with New Zealand's international obligations

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?
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The proposed change relates to a reallocation of functions within the Crown infrastructure sector only, through minor amendments to the additional functions of the New Zealand Infrastructure Commission/Te Waihanga. We understand the principal Act does not impact New Zealand's international obligations, and therefore a minor reallocation of functions within that would also not be expected to impact New Zealand's international obligations.

Consistency with the government's Treaty of Waitangi obligations

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?

No specific steps have been taken to carry out Treaty of Waitangi analysis on the proposals to be given effect to by this Bill, on the basis that there are no obvious or apparent Treaty of Waitangi implications.

Consistency with the New Zealand Bill of Rights Act 1990

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?	YES
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The Ministry of Justice has assessed the Bill for consistency with the rights and freedoms affirmed by the New Zealand Bill of Rights Act 1990. This advice can be expected to be made available on the Ministry of Justice's website upon introduction of the Bill, at the following website: https://www.justice.govt.nz/justice-sector-policy/constitutional-issues-and-human-rights/the-bill-of-rights-act/advice/

Offences, penalties and court jurisdictions

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

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?	NO
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External consultation

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?	YES
This Bill will amend the establishing legislation of the New Zealand Infrastructure Commission/Te Waihanga. Pursuant to the requirements of Cabinet Office Circular CO (19) 2, and with the agreement of the responsible Minister, officials consulted the New Zealand Infrastructure Commission/Te Waihanga in April 2025 on a near-final version of the draft Bill and received brief feedback on the draft. Other than that, no external consultation has occurred.	

Other testing of proposals

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?	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
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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
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Retrospective effect

4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?	NO
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Strict liability or reversal of the usual burden of proof for offences

4.4. Does this Bill:	
create or amend a strict or absolute liability offence?	NO
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
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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
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Powers to make delegated legislation

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?	NO
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4.8. Does this Bill create or amend any other powers to make delegated legislation?	NO
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Any other unusual provisions or features

4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?	NO
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