
Auckland Council Submission on the New Zealand Infrastructure Commission/Te Waihanga Bill

Submission to the Finance and Expenditure Committee

Overview

This is Auckland Council’s submission in response to the New Zealand Infrastructure Commission/Te Waihanga Bill. This submission has been endorsed by the Chair and Deputy Chair of the Planning Committee, the Deputy Mayor and the Mayor of Auckland. The Planning Committee is a committee of the whole governing body, including members of the Independent Māori Statutory Board.

About Auckland

Auckland is New Zealand’s most populous city. Auckland’s current population of 1.66 million people is estimated to grow to around 2.4 million by 2050. Auckland is one of the world’s most diverse cities and has the highest Polynesian population in the world.

Auckland’s regional economy is the largest in New Zealand and makes the greatest contribution to national gross domestic product (GDP). In the year to March 2018, the Auckland region contributed just over 37 per cent of New Zealand’s GDP.

About Auckland Council

Auckland Council is a unitary authority, and the largest local government organisation in Australasia. The council has a governing body, which consists of the Mayor and 20 councillors, and 21 local boards. Auckland Council also has several council-controlled organisations, which it gives direction to through its statement of intent.

Delivering services effectively and efficiently and providing value for money for ratepayers requires prudent financial governance. To achieve this, the council’s financial strategy is one of balance; all operating costs are met out of revenue, and borrowing is only used to fund long-term infrastructure. This helps to spread the costs of those assets across the generations of Aucklanders that will benefit from them. To

ensure we are borrowing wisely, we monitor our borrowing levels relative to our income and the value of our assets.

About the Auckland Plan 2050

The Auckland Plan 2050 is Auckland's long-term spatial plan. It looks ahead to 2050 and considers how we will address our key challenges of:

- (i) high population growth
- (ii) shared prosperity, and
- (iii) environmental degradation.

The plan has been prepared in response to the requirements under section 79 of the Local Government (Auckland Council) Act 2009 which is that the council must prepare and adopt a spatial plan for Auckland, and that the spatial plan's purpose is to contribute to Auckland's social, economic, environmental, and cultural wellbeing. It is important that the commission have regard for the Auckland Plan 2050 when undertaking initiatives aimed at having a positive influence on Auckland. This submission has been guided by the Auckland Plan 2050.

The plan has six outcomes and a development strategy. The plan can be accessed [here](#).

Introduction

Auckland Council welcomes the opportunity to submit on the New Zealand Infrastructure Commission/Te Waihanga Bill. The Council **supports** the establishment of a new infrastructure body with the purpose of coordinating, developing and promoting an approach to infrastructure that improves the well-being of New Zealanders.

Auckland Council has multiple roles in the planning and delivery of infrastructure and is a major investor across a range of infrastructure types. Responsibilities for infrastructure are spread across the council group. Decisions on infrastructure investments are important to achieving the outcomes identified in the overarching strategy for the region, the *Auckland Plan 2050*.

Continued population growth in the Auckland Region is putting pressure on the council group to expand infrastructure and services. Currently, the way infrastructure is funded and delivered means those who benefit most from new investment often do not pay a commensurate share of the cost. This can promote reactive and short-term investment decisions, which come at the expense of providing the greater certainty needed to proactively invest and plan for long-term infrastructure needs. The commission will seek to address some of these existing challenges.

The proposed role and functions of the commission align well with the three key challenges in Auckland's 30-year infrastructure strategy: coordinating investment and planning to enable growth; enhancing the performance of Auckland's infrastructure; and creating resilient infrastructure networks. An independent assessment of the state of New Zealand's infrastructure assets and advice on the nation's long-term infrastructure needs are important aspects of creating a long-term pipeline of infrastructure investment.

Auckland Council looks forward to working collaboratively with the commission in carrying out its proposed functions. Council is particularly keen to work with Government on the development of a prioritisation framework and criteria for identifying priority infrastructure needs.

Key issues

Auckland Council has a general concern that the bill in its current form concentrates on the role of the Crown and does not sufficiently recognise the significant role of local government as a provider of infrastructure. The role and function of the commission clearly covers infrastructure owned and managed by local government. Given Auckland's unique size, scale and governance arrangements, we request that the commission seek Council's knowledge and guidance in carrying out its functions, particularly as they relate to Auckland. Council also asks that the following issues be addressed:

1. Increase the membership of the commission and ensure representation from local government
2. Extend the information-gathering powers to include local government
3. Ensure alignment between the commission and local government
4. Clarify the interpretation of key terms
5. Provide a trigger for infrastructure projects.
6. Have greater focus on existing infrastructure
7. Strengthen the independence of the commission
8. Include performance and review mechanisms.

These are further detailed in sections 1 to 7 of Council's submission.

1. Increase the membership of the commission and ensure representation from local government

Recommendation: The commission have no fewer than 5 members, and include representation from the local government sector

Clause 8 currently states that the commission must have no fewer than 3, and not more than 7, members. Council is of the view that to ensure well balanced representation, and considering the scope of the commission's functions, there should be no fewer than 5 members, and the membership should include representation from local government. We suggest that this representation comprise a minimum of two member(s) from the Local Government New Zealand National Council or their nominee.

Recommendation: Specify the composition of; and appointment process for; the commission's board of directors

This bill should specify the composition of the commission's board of directors, both in terms of expertise (for example engineering, finance and governance) and sectoral representation of the owners/managers of New Zealand's largest infrastructure assets (central and local government and any other significant ownership interest). Where it is not already provided for in the Crown Entities Act, this bill should also specify the appointment process for these roles, so that it is clear and transparent what the role of the Minister and other arms of government is (if any), and where advice around appointments is to be received from.

2. Extend information-gathering powers to include local government

Recommendation: Include local government agencies in the list of agencies the commission can request information from

Clause 23 sets out powers to obtain information from central government agencies, but not local government. Local government is a large provider of New Zealand's infrastructure. Council is therefore of the view that the same powers to obtain information should extend to local government agencies also. This will assist the commission in developing a full picture of the country's infrastructure needs.

3. Ensure alignment between the commission and local government

Recommendation: That the main function of the Commission be amended to fit with the well-being bill amendments

Council considers that the main function of the commission in clause 9 should be amended to ensure its purpose is aligned with the Local Government (Community

Well-being) Amendment Bill. That is, to have appropriate regard to the resulting outcomes that infrastructure has for the social, economic, environmental and cultural well-being of New Zealanders. This will assist in ensuring strong alignment between the work of the commission and that of local government.

Recommendation: Ensure alignment with s101B of the Local Government Act 2002 and require the infrastructure strategy have appropriate regard to resilience

Clause 11 does not require the commission to provide for or have regard to the financial and non-financial resilience of network infrastructure. Given the need to work with local government on these issues, the role of the commission in identifying infrastructure needs and priorities should be better aligned with the role of local authority infrastructure strategies. We suggest the addition of the same or similar words from section 101B para. 3(e) of the Local Government Act, be added to clause 11(b) to provide for the resilience of infrastructure assets by identifying and managing risks relating to natural hazards and by making appropriate financial provision for those risks. Section 101B para. 3(e) of the Local Government Act takes the following abbreviated form:

(3) The infrastructure strategy must outline how the local authority intends to manage its infrastructure assets, taking into account the need to-

(e) provide for the resilience of infrastructure assets by identifying and managing risks relating to natural hazards and by making appropriate financial provision for those risks.

4. Clarify the interpretation of key terms

a. Definition of *infrastructure*

Currently, the bill defines infrastructure as meaning “*physical infrastructure in New Zealand or that results in services in New Zealand*”. Council supports this definition of infrastructure, as the explanatory note in the bill provides some direction on the commission’s priority infrastructure types; “*transport, water, energy, social assets (such as schools and hospitals), and digital networks (such as mobile and broadband network infrastructure)*”. We seek confirmation that the scope of the commission’s work on transport infrastructure will include all modes of transport (by land, air and sea), including key transport nodes (such as ports and airports) that facilitate the movement of people, goods and services. Council considers waste should also be included, for reasons outlined below.

b. Include waste in the commission's remit

As highlighted in our previous submission, Council considers that the role and responsibilities of the commission should explicitly include waste and recycling infrastructure. The lack of a coordinated, nationwide approach to planning and delivering waste infrastructure has created a fragmented response to waste management that misses out on economies of scale and means that many communities have poor access to recycling services. By including waste and recycling infrastructure as part of the commission's scope of works, New Zealand will be better equipped to develop the infrastructure it needs to enable a more circular economy that allows waste to be turned into commodities and resources.

c. Definition of *community expectations*

Recommendation: That the bill's use of the term *community expectations* be changed to *community needs*

In addition to clarifying the definition of *infrastructure*, Council suggests that the bill's definition and use of the term *community expectations* be changed to *community needs*. In Council's experience, there may be substantial differences between a community's expectations of infrastructure and their actual infrastructure needs. Council considers that to use *community needs* in the bill would establish a far more robust and evidential basis for monitoring and advising on planning and delivery.

5. Provide a trigger for infrastructure projects

Recommendation: Include a trigger relating to strategic impact and/or significance of projects to determine the commission's involvement

It is not possible or appropriate for the commission to be involved in all infrastructure provided by local government. A trigger should be added to the bill that relates to the significance of projects in terms of strategic impact and/or investment to determine the commission's involvement. Council's interpretation is that clause 13 implies such a trigger. We note that this is the approach used in the Infrastructure New South Wales Act 2011, where a trigger is included in the definition of *major infrastructure project*¹.

¹ See section 4 (page 2) of the Infrastructure NSW Act 2011 No 23.
<https://www.legislation.nsw.gov.au/acts/2011-23.pdf>

6. Have greater focus on existing infrastructure

Recommendation: Clause 10 to acknowledge the management of infrastructure assets including maintenance, renewal and demand management and the funding and pricing of infrastructure assets.

While Council does not want the commission forming and lobbying a position on Council's operational funding decisions, we would like to see greater provision in this bill for advice on how to better manage existing infrastructure networks. Given the commission's role in improving the quality of information on our existing infrastructure networks, we consider this a natural fit for the commission, and an important 'value add' for local government.

Delivering new infrastructure is becoming more expensive, and local government is struggling to adapt its existing infrastructure networks to be more resilient to a changing climate. Many infrastructure assets provide services that span several decades. These have a long-lasting impact on urban form. It is important for the commission's role and responsibilities to appropriately recognise that most of our *future infrastructure*, even in 30 or 50 years' time, already exists today.

The commission could play a significant strategic role through advising on how to better manage existing infrastructure to meet future needs. For instance, through innovative thinking and leadership on topics such as; providing for growth (renewing and upgrading assets at the same time), better managing demand, applying new technology and changing the way we operate our networks.

7. Strengthen the independence of the commission

Recommendation: Amendments to clauses 15 and 18 to strengthen the independence of the commission and clarification on the intent of clause 22

Feedback from earlier consultation on this proposal revealed a widely-held view that for the commission to be credible and successful, it must be sufficiently independent of government and able to critique the sitting government's infrastructure priorities. However, there are several provisions in this bill that risk compromising the commission's independence.

Clause 15(3), requires the commission have regard to the Minister's comments on the draft strategy report. This specific requirement, in the absence of a requirement to have the same regard to any other parties' views on the draft report, could lead to

undue influence by the Minister. We suggest that the report also be provided to local government for comment prior to publication.

Clause 18 requires the Minister to present a statement of the government's response to the strategy report to the House. However, the bill does not specify what this response needs to include. Council's interpretation is that there is no provision in the bill that requires the Minister do anything more than acknowledge receipt of the report in his/her response. Ideally the Minister's response should outline, with reasoning, key differences in the government's infrastructure priorities from those of the commission.

Council asks for clarification/confirmation on the timing of the requirement under clause 22 for the commission to publish all strategy reports provided to the Minister. That is, whether the draft strategy report provided to the minister under clause 14 can be published prior to the Minister providing comments on the draft (and clause 15 being satisfied), and whether the final report can be published on a website once provided to the Minister (and clause 16 being satisfied), but before it is presented to the House under clause 17.

8. Include performance and review mechanisms

Recommendation: Ensure appropriate provision is made for performance and review mechanisms

The Cabinet Paper *Establishing a New Independent Infrastructure Body* (February 2019) outlined two performance and review mechanisms². The first was an annual performance monitoring process whereby the Minister could set annual performance expectations through a Statement of Intent and Statement of Performance Expectations, on which the commission would report. Council supports this and understands requirement for this is set out in the Crown Entities Act 2004. However, the recommendation that Treasury would review the form and functions of the infrastructure body five years after establishment has not been included in this bill. Council strongly recommends that this review is provided for in the bill.

Auckland Council does not wish to speak to its submission.

² See para. 55-57 and recommendation 16 (pgs. 13 & 16) of the Feb 2019 Cabinet Paper. Available online [here](#).