



Crombie Lockwood Tower
Level 16, 191 Queen Street
PO Box 7244
Wellesley Street
Auckland 1141
New Zealand

Phone: +64 9 377 5570
Email: info@infrastructure.org.nz

26 October 2018

Infrastructure Body Consultation
The Treasury
PO Box 3714
Wellington 6140

Per email: infrastructure@treasury.govt.nz

Infrastructure New Zealand is the peak industry body for the infrastructure sector and promotes best practice in national infrastructure development through research, advocacy and public and private sector collaboration. Infrastructure New Zealand members come from diverse sectors across New Zealand and include infrastructure service providers, investors and operators.

This submission represents the views of Infrastructure New Zealand as a collective whole and may not necessarily represent the views of individual member organisations.

Infrastructure New Zealand feedback on the New Independent Infrastructure Body Consultation Document

Infrastructure New Zealand (Infrastructure NZ) supports the establishment of a new independent infrastructure body (the Body) and commends the Government on progress made to date to improve the planning and procurement of New Zealand's capital stock.

We have undertaken substantive research into best practice infrastructure policy in the UK, Australia, Canada and elsewhere, including on the composition and function of dedicated infrastructure bodies, and this has informed our submission.

Overview

New Zealand's public infrastructure is performing well below other services provided by authorities and below infrastructure provided by private companies.

The result is a New Zealand economy which continues to deliver incomes well below other OECD countries, a high rate of poverty, reduced social mobility, declining environmental performance and a lower standard of living across the country.

Why? Who is accountable? What should be done and who should pay?

There is no agreement on the answers to these questions.

An entity is required which is respected, non-partisan and able to generate a shared understanding of the challenges facing New Zealand's capital stock so that an effective and enduring response can be mobilised.

This, then, is **the principal purpose of the Body: to oversee an improvement in New Zealand's infrastructure performance.**

In "overseeing" infrastructure improvement, the Body is neither responsible for nor in charge of delivering this improvement: political leaders are responsible for public services and delegated ministries and other public agencies responsible for implementing political priorities.

The Body's principal objective is: to successfully influence political leaders and delivery agencies through expert research, analysis, monitoring and advice so that infrastructure performance, as measured by the outcomes delivered by infrastructure assets and services, improves.

Decisions around the resourcing, structure and oversight of the Body should be made to achieve this objective. If the calibre and adequacy of resources is not sufficient, then the ability for the Body to deliver improvements in outcomes will be compromised.

The primary attribute required for the Body to influence infrastructure performance is for it to possess independence from any one individual or Government. There are two main reasons why:

1. Infrastructure is the responsibility of not just central government, but local government and the private sector. The Body is required to assist and advise on all infrastructure needs and challenges across New Zealand: central, local and private.
2. Infrastructure is by definition "long lived". Infrastructure decisions concerning the planning, construction and operation of assets will outlive the Government of the day and its priorities. Both the Government and opposition require advice and support to inform intergenerational policy.

The Body should report to Parliament so that its advice is bipartisan and addresses infrastructure needs across all of New Zealand.

It needs to be established under statute, so that its purpose, role and functions are clear, transparent and resilient.

The primary role of the Body, therefore, is to provide an informed and independent perspective of the entire infrastructure system (comprising all the government ministries and agencies, local government and private sector organisations, as well as the legal, regulatory and funding framework in which they operate) to facilitate good long term infrastructure outcomes across New Zealand.

A secondary opportunity exists to supplement this strategic advisory function with a delivery advisory function.

The purchase, construction and operation of infrastructure which delivers value to New Zealand over many decades is extremely, and increasingly, complex.

It requires a combination of project management, engineering, financial, legal, economic, environmental and social expertise which is not possessed by any single individual. Mistakes, miscommunication and conflicting priorities are common, leading to large cost overruns and lost opportunities to New Zealand.

Procurement challenges are exacerbated by limited practitioner experience. Infrastructure procurement has to date been treated not as an activity in itself, but as an activity of respective health, transport, education, etc service providers.

Skills are dispersed, expertise is undermined and costs are incurred.

There is a need to supplement procurement capability with expertise so that the wide range of skills necessary to deliver successful long term assets can be brought together, fostered and developed as a specialised activity.

The Body should operate as a repository for infrastructure procurement knowledge and expertise, providing advice to delivery agencies across central and local government on infrastructure procurement models and processes.

The functions of strategic and delivery advice are complementary and necessary to support a healthy and competitive infrastructure industry.

A third objective of the Body should be to ensure New Zealand's infrastructure industry delivers long term value to New Zealand.

Competition is required to keep project costs low, but low project costs are only one input of the broader objective to improve New Zealand's infrastructure performance.

The Body needs to ensure that the infrastructure industry is delivering the best long term value from each dollar of infrastructure investment.

Doing so requires a healthy industry which is incentivised and enabled to invest and innovate to deliver the best value outcomes for New Zealand.

We support the establishment of an independent infrastructure body to improve New Zealand's overall well being by influencing infrastructure policy and supporting public and private infrastructure activities.

A new independent infrastructure body is required

New Zealand infrastructure is not delivering for New Zealanders.

Transport infrastructure is performing poorly. New Zealand's cities are heavily congested relative to other cities of comparable size¹ and safety is reducing.²

Water infrastructure is performing poorly. In Havelock North in 2016 up to four people died after the local water source become contaminated. Over \$500 million is immediately required to bring drinking water services up to standard and a further \$2 billion is needed to stop poorly treated wastewater discharging into freshwater.³

Health infrastructure is performing poorly. One fifth of New Zealand's health assets are in poor or very poor condition.⁴

Transport and water infrastructure failure has spread into the wider economy, materialising as a housing crisis in growth centres.

In the most recent annual Global Competitiveness report, New Zealand's infrastructure was rated 39th out of 144 countries, one rating below Greece. This contrasts to our institutional settings, which are ranked first in the world.⁵

How does a country perform so strongly in terms of its institutions yet so poorly in terms of the investment services those same institutions deliver?

An objective and respected voice, supported by the best research and analysis is needed to answer this question and address the issue it reveals.

An entity which is capable of identifying New Zealand's infrastructure challenges, its long term needs and assisting leaders with the prioritisation of initiatives is required.

We support the establishment of a new independent infrastructure body to advise Government and the wider public and private sector on infrastructure matters as a whole across all of New Zealand.

There are two main reasons why the Body is required:

- 1. To advise and support decision makers on strategic infrastructure matters**

The arrangement of New Zealand's public services is oriented around discrete portfolios, resulting in weak integration across departments and prioritisation of inputs over public

¹ TomTom Traffic Index

² <http://www.sipotra.it/wp-content/uploads/2017/10/Road-Safety-Annual-Report-2017.pdf>

³ GHD and Boffa Miskell, Cost Estimates for Upgrading Wastewater Treatment Plants to meet Objectives of the NPS Freshwater, September 2018.

⁴ <https://treasury.govt.nz/sites/default/files/2018-03/is18-hphp-wellbeing.pdf>

⁵ World Economic Forum, Global Competitiveness Report 2018.

outcomes.⁶ The portfolio approach has led to siloed short-term capital investment decision-making which has impeded long-term planning across both the public sector and private supply industry. A new independent infrastructure body can collate long term investment intentions across the sector, identify gaps and recommend options, thereby improving integration and facilitating a long-term whole-of-life approach to well-being.

2. To advise and support public bodies in their procurement of infrastructure services

Changing technologies, expectations of environmental performance and priorities around resilience and climate change have made the planning, coordination and procurement of infrastructure much more complex in recent times. Organisations which once were competent procurers of infrastructure may not be in the modern context. Successive evidence has shown that private companies who work with public bodies to design, build and operate infrastructure find the process increasingly difficult and expensive.⁷ Dedicated bodies which harbour and foster expertise in the delivery of public infrastructure services are a common response internationally to the challenge of increasing procurement complexity. A similar response here is highly likely to result in improved capital efficiency.

We support the Proposal

The proposal outlines the Government’s intention to establish the Body to “carry out functions spanning two broad areas – strategy and planning, and project delivery support.”

This is consistent with the two challenges described above and in the consultation document. Linking infrastructure system oversight functions of the Body with inhouse project procurement and delivery capability will ensure that strategy and delivery are connected and mutually supportive.

We support the Proposal, including the five functions which give effect to the strategy and planning role:

1. Assess the condition of New Zealand’s infrastructure assets
2. Develop a shared understanding of New Zealand’s long-term infrastructure strategy
3. Identify New Zealand’s highest priority infrastructure needs
4. Identify and comment on the barriers to delivering good infrastructure outcomes
5. Publish long-term capital intentions

And we support the three further functions which give effect to the project delivery role:

6. Act as a ‘shop front’ for the market including publish a pipeline of infrastructure projects
7. Provide project procurement and delivery support
8. Provide best practice guidance on project procurement and delivery

⁶ State Services Commission, Reform of the State Sector Act 1988: Directions and Options for Change, September 2018.

⁷ Entwine, Creating Value through Procurement, August 2018; Infrastructure NZ, Procurement Survey 2017.

We support the Body having strategy and planning functions

1. The Body is required to independently assess the state of New Zealand’s infrastructure assets. Recent attention drawn to the quality of New Zealand’s hospital assets and longer term challenges around leaky schools highlight two of the most obvious examples of where independent assessment of public assets could have prevented infrastructure failure.
2. The Body is required to provide advice on the nation’s long-term infrastructure needs and help to build consensus on complex and politically challenging issues.
 - The long term strategy must incorporate a 30 year time horizon, consistent with long term project evaluation analyses.
 - Different scenarios should be both tested and published, highlighting the strengths and weaknesses of various approaches. For example, transport scenarios with more and less road and rail investment should be investigated. This process is critical to supporting an evidence-based discussion of all options at different levels of government and stakeholders.
 - The Government should be required to respond to the strategy, either by adopting its recommendations or publishing reasons for its different view. This requirement is critical for the Body to have influence and standing.
 - Agencies should not be compelled to align plans to the strategy, but their failure to do so should be subject to ongoing assessment by the Body and the Government should be required to explain why agency plans are not consistent.
 - The strategy should be reviewed every five years, noting there is no clear benefit from aligning the independent Body’s strategy with the political cycle and the relatively slow pace of change in the infrastructure sector.
 - Consultation on the strategy should be required, including through formal hearings, noting that feedback from stakeholders is critical for the Body remaining informed of all issues likely to impact infrastructure over the medium-long term.
3. The Body should complete a national needs-assessment undertaken every three years, to align with the political cycle. This process should include a ranking of projects required to meet infrastructure needs. The Body must have regard to particular policy statements and other instruments, identifying issues or conflicts between existing standards and effective infrastructure policy.
4. Having undertaken this analysis, the Body should report on whether the infrastructure system (comprising all the government ministries and agencies, local government and private sector organisations, as well as the legal, regulatory and funding framework in which they operate) is meeting New Zealand’s current and anticipated future needs and, if not, what the barriers are.
5. The Body should publish a 30 year capital intentions plan for all “major” projects (discussed below), with the project pipeline limited to 10 years. The long term investment planning horizon is required to understand needs, risks and gaps over the long term.

In summary, we consider that a new independent infrastructure body which has the resourcing and mandate to assess the condition of New Zealand’s infrastructure assets, develop a shared understanding

of the long-term infrastructure strategy, identify highest priority infrastructure needs, comment on the barriers to delivering good infrastructure outcomes and publish long-term capital intentions, will materially and significantly improve strategic infrastructure planning for New Zealand.

We support the Body having specialised procurement capability

6. The Body is required to publish a ten-year infrastructure pipeline across central and local government and provide an interface for the infrastructure market to engage on this pipeline. The pipeline needs to identify responsible agencies, project status, approximate contract size and potential procurement options, including where private capital will be considered. It should be reviewed annually, with ongoing updates made to a digital version throughout the year.
7. The Body should become the foremost depository for procurement expertise, knowledge and capability in New Zealand. It should lead development of procurement skills, technology and delivery models, advise on governance and connect with equivalent bodies overseas to share and import learnings. This function is critical to ensuring procurement continues to evolve as a core activity and that improvements are constantly made.
8. The Body is required to assist central and local government infrastructure providers with the procurement and delivery of infrastructure services. The Body should advise on the most appropriate procurement model, as well as the timing and process for engaging the market, evaluating tenders and providing feedback to industry.

More generally, the Body needs to include a market facing procurement and delivery unit to provide leadership, expertise and consistency in the procurement of complex capital projects to deliver measurable benefits for taxpayers.

The unit would be the equivalent to internationally recognised exemplars like Infrastructure Ontario, Partnerships British Columbia and the Scottish Futures Trust. Like their international peers, the New Zealand entity would collate and promote New Zealand's national and regional infrastructure pipelines to foster market confidence in the investment programme and procurement and delivery capability.

It would then support or lead major projects delegated by Government. This would enable internal project delivery expertise to be transferred to agencies, real time, on a project by project basis.

The extent of the Body's involvement either as lead agency, a support role or just strategic oversight would depend on the relevant procuring agency's track record and internal capability. Procurement support would be provided to Local Government either as requested, or, if required by Ministers, as a condition of any central government funding support.

The unit would develop, promulgate and implement capital, asset management and procurement guidelines across public agencies and report on procurement capacity, capability and performance across the system.

Its mission would be to achieve a "value add" of up to 5% per annum, or more. On a capital programme of \$100 billion plus over the next decade, that's a return of \$5 billion - the equivalent of a new Auckland harbour tunnel for nothing.

By way of example, since establishment in 2008, the Scottish Futures Trust has consistently delivered between £100 - £150m of savings and benefits each year, up to fifteen times their operating budget.

Value results from more efficient infrastructure procurement processes, leveraging private capital to best advantage, having a wider range of procurement options to draw on, better programme sequencing and coordination across public services, and shifting to prioritising the net benefit of public investment over the individual cost of projects.

Although savings are important, we believe the principal gain will be ensuring that New Zealand's infrastructure delivery system is fit for purpose and providing the physical platform for national development.

In summary, we consider that a body which is empowered to act as a 'shop front' for the market, provide project procurement and delivery support and provide best practice guidance on project procurement and delivery will improve the effectiveness, efficiency and value for money of New Zealand's capital assets and ensure a sustainable and competitive service industry.

The Body should review and recommend business cases for major projects

While we agree with the eight functions for the Body, as described in the proposal, we submit that the Body should have one further function which is not discussed in detail: the ability to review and recommend business cases for all "major" projects, as well as conduct ex post evaluations of projects to understand how they have performed relative to business case projections.

We emphasise that the decision to proceed with an investment on the basis of the business case would remain with the responsible Minister, but that the Body would have a role in the development or review of a major project business case.

We do not hold a fixed position on what may define a "major" project, but it could be, for example, any project above a certain threshold in value or as delegated by Government.

A capital cost threshold of, for example, \$50 million would see the Body reviewing around ten business cases per annum, using Treasury's existing Capital Intentions Plan as a guide.

Responsibility for developing and reviewing business cases is consistent with infrastructure body functions in Australia and the UK, and current practice in New Zealand for major projects requiring Treasury funding, so would not be new or risky.

There are several benefits:

- The Body will be able to ensure that each business case is technically accurate and has been developed according to the Government's Better Business Case requirements.
- The Body will be able to form a view as to how the need for the project compares with other Government priorities.
- The Body will be best placed to identify the broadest spectrum of project benefits, including from improved integration with other initiatives, resilience, wider social and environmental impacts and other hard to measure qualitative benefits.

- The Body will possess the capability to identify the broadest range of project risks and costs, including from climate change and financial trends, that a service-oriented department is less equipped to evaluate.

We recommend that a business case function for all “major projects” is included in the list of responsibilities for the Body.

Powers of the Body

The Body must have sufficient powers to ensure its advice carries weight, without undermining the responsibility and accountability of decision makers.

In addition to a business case review and recommendation function, it is critical that the Body has the power to require information to undertake its strategic leadership and project delivery functions.

The Body’s strength will always be its expertise and it will not be able to effect this expertise without access to information.

The Body could also be used to manage and allocate central funding for identified specific policy initiatives consistent with the overall infrastructure strategy. For example, the Provincial Growth Fund approach has been instrumental in incentivising local government and other bodies to advance proposals for regional economic development. The Body could oversee similar funds on behalf of the Government, using its business case expertise to prioritise investments according to outcomes achieved.

Other comments on the role and approach of the Body

To be effective in building alignment, the Body will need to operate in an open and collaborative way building consensus through inclusiveness.

It should reduce systemic risk through oversight of the system and continuously reviewing alignment between agency project prioritisation, implementation and long-term strategy and outcomes.

We support the extension of the Body’s advice and assistance to both central and local government, noting that capability across councils is in most cases below that of major Government departments.

We support the Body’s mandate to be complementary, rather than duplicative, of existing departments and workflows and expect much consolidation of functions and responsibilities currently spread across Treasury and the Ministry of Business, Innovation and Employment, among others.

Governance of the independent infrastructure body

While we consider that the description of the functions of the Body have been sufficiently highlighted in the consultation document, we were somewhat surprised by the lack of discussion on the Body’s governance, structure and independence.

This discussion is critical to the efficacy and success of any infrastructure entity and must carefully negotiate the tension between a body which has greater or lesser independence versus a greater or lesser role in implementing policy.

Infrastructure NZ's views are set out below.

Report to Parliament

The Body must have requisite authority borne of its recognised expertise to raise issues, influence and lead change, where needed. Independence is central to this.

Its mission must be to build durable cross-party support on solutions to long term challenges.

We submit that the Body should be established by Statute and report independently to Parliament.

The I-Body needs to be influential

However, while the Body needs to be independent, it must also be close to political decision making. It is critical that it fosters an effective working relationship with the government and maintains a “no surprises” partnership with ministers and officials in government.

The culture of the organisation needs to be collaborative, building a “trusted advisor” status with current and future governments.

The I-Body will recommend but not decide

Governments are elected to govern and will always have the power to make the decisions. The power of the Body will lie in the quality of the work that it does and the calibre of the recommendations it makes.

Agencies would continue to work as they do now, with relevant delegated authorities, but the I-Body would monitor performance, report on outcomes and provide strategic advice and procurement support, where needed.

The Body should have an independent board

In order to succeed, the Body will require high calibre individuals to put themselves forward at both the governance and executive levels.

If the perception is that the Body is disempowered, lacks independence or is otherwise perceived to become ineffective, good people will not put their names forward for importance positions.

A structure is required which ensures that high calibre people can make a difference, yet there is no discussion in the consultation document of what this structure looks like.

We submit that the I-Body should have an independent Board appointed by Parliament comprising up to nine members. The mix of appointees should include public and private sector experts with both strategic and major project delivery experience.

Executive appointments would comprise the very best capability sourced from across the public and private sectors – and pay accordingly.

The Body should be a creation of statute

We consider an Act of Parliament is required to establish the Body.

The Body needs to be established under statute, so that its purpose, role and functions are clear, transparent and resilient.

We support a mandatory review of the Body and its performance against expected outcomes included in the legislation which establishes the Body. The review could be required after, for example, five years.

Establishment committee

We support the decision to appoint a group of infrastructure experts to assist with the establishment of the Body.

However, we consider that several additional appointments are required.

Additional private sector representation, particularly from the engineering and construction fields, would provide an in practice, real world perspective on risk and how best the Body can engage delivery partners.

A key objective of the Body must be to oversee a whole-of-industry improvement in project planning and delivery, including across suppliers.

Appropriate representation on the establishment board is necessary.

In addition, local government representation is required. Lifting local government infrastructure planning and delivery is also a key objective of the Body.

Local government is responsible for around half of infrastructure spending in New Zealand and is challenged by the increasing complexity and demands of modern infrastructure.

Designing the Body so that it can support local government is about making the entity fit for purpose. A local government perspective on the establishment committee is necessary to achieving this.

We thank the New Zealand Treasury for this opportunity to submit.

This submission is supported by CadeNZA