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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 has been developed with the input of Infrastructure New Zealand's broad membership.

Infrastructure New Zealand submission to the Finance and Expenditure Committee on the New Zealand Infrastructure Commission / Te Waihangā Bill

Introduction: We support the Bill

Infrastructure New Zealand supports the New Zealand Infrastructure Commission / Te Waihangā Bill (the Bill) and welcomes this opportunity to provide feedback.

For many years we have drawn attention to the disjoint in infrastructure planning, funding and delivery across New Zealand. In recent times we have advocated strongly for independent expert advice, consistent with practice in similar jurisdictions, as a means to improve New Zealand's infrastructure outcomes.

We would be concerned with any substantive change to the purpose or functions of the proposed New Zealand Infrastructure Commission (the Commission).

Our feedback addresses several comparatively minor gaps we observe in the Bill, the inclusion of which would, in our view, enhance the scope and reach of the new Commission, facilitating better infrastructure outcomes for New Zealand.

Subpart 1 – Establishment of the Commission

We support the establishment of the Commission as an Autonomous Crown entity.

- The creation of the Commission as a body independent of the Government is critical to sustaining the entity's influence and integrity with the industry and public. If the Commission is perceived to be a mouthpiece of the Government, then its strategies and advice will not be viewed as separate from the Government and recommendations will carry less weight. The Commission's ability to then improve infrastructure outcomes will be compromised.
- An effective and respected Commission is required to attract and retain the highest calibre staff and achieve the objective of the Commission becoming a centre of infrastructure expertise.
- We emphasise the importance of attracting and appointing the "right" people. The Commission's success will be heavily dependent upon skilled engagement across multiple public, private and political stakeholders, each with varying priorities. An appropriate mix of public and private sector experience and expertise will be required.
- Given the scope of the Commission's work, we consider it will be necessary to appoint more than three Members of the Commission in order that infrastructure planning, financing, procurement, delivery and operation are adequately represented at the governance level. We recommend between five and nine members.
- Our view is that the appropriate classification for the Commission is an Autonomous Crown entity.

Recommendations

1. That the Commission be established as an Autonomous Crown Entity.
2. That 2.1.8 (1) be amended as: The Commission must have no fewer than 5, and not more than 9, members.

Subpart 2 – Functions of the Commission

We support the main and additional functions of the Commission.

- We are pleased with the degree of scope provided to the Commission to provide advice on the full range of issues and opportunities facing New Zealand infrastructure over the long term.
- We would additionally emphasise the importance of consensus building. Within a democratic system, political leaders must always retain the ability to challenge and define policy, but through careful, objective, evidence-based analysis the Commission can ensure that such infrastructure debates operate within an informed environment.
- The facilitation of bi-partisan political agreement over long term needs and the appropriate actions to meet those needs should be an overriding objective for the Commission.

Recommendation

1. That 2.2.10 (a) be amended as: to promote broad public agreement on the approach under section 9 and the strategy reports provided under subpart 3:

We agree with the *Support functions* set out in the Bill, however, we consider that greater specification of the support functions is required to deliver the intentions set out in the Bill's general policy statement.

- The Bill's general policy statement signals a Commission which acts as a shopfront for the market, is a centre of expertise, publishes a pipeline of infrastructure projects and produces best practice guidance on infrastructure procurement and delivery, as well as provides advisory support services to both central and local government.
- We support the outline given in the general policy statement, but note that the content of the Bill is lighter in detail.
- We would like to see specification in the Bill of minimum project support functions to ensure that resourcing of the Commission is sufficient to carry out all of its functions competently.
- Our summary of all the project support functions necessary for the Commission to carry out, include:
 - Support central and local government agencies in the procurement and delivery of major infrastructure projects.
 - Interface with the market, providing information to existing and potential investors, contractors and other infrastructure partners.
 - Interface with equivalent bodies and experts internationally to ensure New Zealand project delivery follows global best practice.
 - Establish a centre of expertise in project delivery (and infrastructure policy more broadly) to enhance and evolve major project procurement across New Zealand.
 - Publish a major project pipeline of anticipated and committed infrastructure projects across central and local government, including project capital cost range, procurement timing, responsible agency, funding commitment, delivery model options and any other information the Commission deems useful to informing the market. It will be necessary for the Commission to be able to distinguish projects which are realistic and viably deliverable in the defined timeframe from those comprising a "wish list".
 - Monitor project delivery performance, including publication of information on whether projects are being delivered on time, on budget and to specification, as well as recording lessons learned for ongoing improvements.
 - Report on, and publish guidelines for, best practice project delivery process.
 - Conduct and publish a small number of ex post project evaluations each year to monitor project performance against business case expectations.
- We also think that greater prescription and direction should be given to the Commission to work with both central and local government infrastructure entities in the procurement and delivery of major infrastructure.
 - Compulsion is one option. For example, the Bill could necessitate that all projects requiring a Crown capital injection above a certain value must be procured with Commission input. However, our preference is that government entities and councils should be given an incentive to include the Commission – as New Zealand's preeminent hub of infrastructure expertise – in project planning and procurement at an early stage. The incentive approach will help counter any potential feelings of intrusion or loss of responsibility across public

infrastructure providers. Options range from free provision of advice to increased Crown investment.

- We would anticipate that the Commission report back to Parliament annually on project support outcomes. Such a requirement would not only improve transparency of process, but present an opportunity to highlight savings, value-add and benefit resulting from improved project procurement. The Scottish Futures Trust, for example, identifies the financial benefits of its activities each year, estimating £139 million of value in 2017/18. Annual reporting provides an opportunity to both benchmark against previous performance and highlight achievements.

Recommendation

1. That 2.2.10 identify minimum expectations for project support deliverables, without constraining the Commission’s ability to respond to emerging infrastructure strategy and support needs as they arise.
2. That 2.2.10 confirm that project support functions are available to local as well as central government bodies.

Subpart 3 – Strategy reports

We support the requirement for the Commission to produce strategy reports, as well as the provisions for Ministerial input and deadlines.

- Perhaps the greatest benefit that the Commission can bring to New Zealand infrastructure outcomes is to identify, and seek agreement on, long term infrastructure challenges and opportunities, thereby providing infrastructure leaders with sufficient lead time to respond. An inherent characteristic of infrastructure is the length of time required to plan, fund, consent and construct assets. Often extending beyond a decade, the infrastructure cycle far exceeds the political cycle and sometimes even the investment horizons of infrastructure providers. Independent, respected analysis of future needs and how these vary from existing plans is of the greatest importance to achieving the social, economic and environmental well-being of New Zealanders.
- It is appropriate that the Government be provided with an opportunity to respond to the Commission’s strategy and that the Commission be required to “have regard to” the Minister’s feedback in its final report. This instruction balances the independence of the Commission with the need to be cognisant of existing Government priorities.
- It is also appropriate that the Commission’s strategy be presented to the House of Representatives. This will ensure transparency of the infrastructure strategy, promote public discussion, elevate long term thinking in the priorities of the opposition and support accountability for sustainable decision making.
- Given the advisory role of the Commission and the sovereignty of the standing Government, it is necessary that the Government maintain the right to disregard the Commission’s advice. But it is also important that there be transparency around any such decision. We think the Bill achieves the right balance of Government autonomy and transparency of decision making.

- The Commission’s responsibility to report on the state of all infrastructure, public and private, should be confirmed.

We consider it necessary that the Commission report on progress with implementation of the strategy on a two-yearly basis.

- To improve accountability for implementation and foster public debate on infrastructure progress, Parliament needs more frequent visibility of infrastructure performance than five-yearly strategy reports.
- The Commission should provide an assessment of how well the agreed elements of the strategy are being implemented as part of its wider reporting obligations.
- This assessment would answer critical questions like:
 - Are the policies and projects necessary to meet need being implemented?
 - Are investments and initiatives having the desired effect?
 - Are policy, legislative and regulatory settings that have a material impact on infrastructure outcomes consistent with the national infrastructure strategy?
- The purpose would be ensure that current issues and needs that arise between five yearly strategies can be addressed.

Recommendation

1. That the Commission be required to deliver a progress report to the Minister, and thereafter the House of Representatives, two years after publication of a strategy report.

Subpart 4 – Directions to provide report

We support provisions which enable the responsible Minister to direct the Commission to investigate a specific matter and which prescribe publication of the Commission’s findings.

- We emphasise the importance of adequate resourcing, not only to enable the Commission to respond to the Minister’s direction, but also to carry out its ongoing functions.

Recommendation

1. That an additional clause be added to Subpart 4 (20) requiring the Minister to ensure that any direction under 20(1) is consistent with the Commission’s purpose and that the Commission will have adequate resources to undertake such investigations.

Subpart 5 – Power to obtain information

We support the requirement for government departments (excluding the GCSB and SIS), departmental agencies, statutory entities and the New Zealand Defence Force to all provide the Commission with necessary information, when requested.

- The collation of information relating to all the Government’s infrastructure assets, funding allocations and plans is a critical activity for the Commission. We expect that for some organisations, the provision of this information may in the first instance be challenging as it is likely that it will be the first time any such information will have been requested. This in itself will be of major benefit to both the organisation, political leaders and New Zealand as a whole.

We emphasise the importance of sensitive information confidentiality.

- We consider it necessary for the Commission to be able to obtain the information it requires to adequately advise the Government. However, we also note that the wider the scope of information accessible to the Commission, the greater the need for protections of sensitive information.

Recommendation

1. Provisions in the Bill should be reviewed to ensure that infrastructure investors and operators competing in a market environment are not disadvantaged through their adherence to new information-gathering requirements.

Our firm view is that local government should be required to provide information at the Commission’s request.

- Regional, district, city and unitary authorities together own and operate roughly half of all public infrastructure assets in New Zealand. If the Commission cannot compel councils to provide necessary information in order for a complete picture of New Zealand’s infrastructure needs and capability to emerge, then the Commission is unlikely be able to fulfil its objectives.
- Councils have for many years been required to provide comparatively high levels of information to their constituents and government entities. Consequently, we do not expect that extending the requirement for local government to provide information to the Commission to be onerous or unachievable.

Recommendation

1. That an additional clause (e) be included in 2.5.5 to expand the Commission’s power to obtain information from local government entities.

We thank the Committee for this opportunity to submit and would be pleased to provide an oral submission.