

Departmental Disclosure Statement

Waitangi National Trust Board Amendment Bill
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2013 No 169

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 for Culture and Heritage.

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

5 November 2013.

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Part One: General Policy Statement

The Waitangi National Trust Board Act 1932 incorporates the Waitangi National Trust Board (the **Board**), which administers the Waitangi Treaty Grounds and associated lands. The Act also gives statutory effect to the Waitangi National Trust deed (the **Trust Deed**), which is replicated in Schedule 1 of the Act.

During 2006 to 2008, the Ministry for Culture and Heritage led a review of the Act, which identified a potential for conflict between the constitutional and trusteeship roles of the Governor-General and Ministers as *ex officio* members of the Board. The review also identified a need for the Trust Deed and the Act to provide fixed terms of appointment for Board members.

The Bill addresses those issues by:

- removing the provision in the Trust Deed for the Governor-General, Prime Minister, Minister of Conservation, and Minister of Māori Affairs to be *ex officio* members of the Board:
- providing for the Governor-General to be an honorary patron of the trust at his or her pleasure:
- creating a Crown representatives group comprising the Prime Minister, the Minister for Arts, Culture and Heritage, and the Minister of Māori Affairs to foster good relations and information sharing between the Government and the Board:
- providing for the appointment to the Board of 2 nominated members who are Members of Parliament: 1 to represent the Government and 1 to represent the Opposition parties:
- providing for representative members of the Board to hold office for 3 year terms with a maximum of 9 years in total.

In addition, the Bill makes other minor amendments to modernise provisions of the Trust Deed.

The Bill is intended to create a clear separation between the Government and the Board, while providing a means to ensure a positive working relationship through—

- the Governor-General's patronage of the trust; and
- the creation of a Crown representatives group; and
- the appointment of 2 Members of Parliament as full members of the Board.

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?	NO

Relevant international treaties

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

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 has not been prepared for the Bill because an exemption from the Regulatory Impact Assessment requirements applies. The Bill deals with the internal governance arrangements of the Waitangi National Trust Board and will have no impact 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

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
The Bill deals with the internal governance arrangements of the Waitangi National Trust Board and will have no impact on any group outside the Board.	

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 Bill does not involve compliance with 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?

The policy to be given effect by the Bill concerns the internal governance arrangements of the Waitangi National Trust Board. New Zealand's international obligations are not relevant to these arrangements.

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?

The Ministry has consulted with Te Puni Kōkiri and the Office of Treaty Settlements.

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

A copy of the advice can be accessed at:

<http://www.justice.govt.nz/policy/constitutional-law-and-human-rights/human-rights/bill-of-rights>

Offences, penalties and court jurisdictions

3.4. Does this Bill create, amend, or remove:

(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?

NO

(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?

NO

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

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
<p>The Waitangi National Trust Board has been consulted and supports the Bill.</p> <p>The Office of the Ombudsmen has been consulted about whether the Waitangi National Trust Board should continue to be subject to the Official Information Act 1982 (OIA). The Office of the Ombudsmen advised that the Board should continue to be subject to the OIA and should also be subject to the Ombudsmen Act 1975 (OA). The Ministry for Culture and Heritage does not agree that the Board should be subject to the OA, as the Board is an independent trust board which does not receive operational funding from government.</p> <p>The Office of the Auditor-General (OAG) has been consulted about whether the Waitangi National Trust Board should continue to be subject to the Public Audit Act 2001. OAG provided advice about the appropriate criteria to apply in assessing this question.</p>	

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

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 affecting individuals

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

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

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

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

