

Departmental Disclosure Statement

America's Cup Road Stopping Bill

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 of Business, Innovation and Employment.

The Ministry of Business, Innovation and Employment certify that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

18 June 2018

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Part One: General Policy Statement

The purpose of the Bill is to support construction relating to, and the operation of, the 36th America's Cup (the America's Cup) in Auckland by permanently stopping a portion of Brigham Street on Wynyard Point. Hosting the America's Cup has the potential to bring economic, social and cultural benefits to New Zealand, including the opportunity to leverage the event for short- and longer-term legacy benefits to New Zealand.

On 13 April 2018, a resource consent application was lodged with Auckland Council for the construction of bases on Wynyard Point for the America's Cup. The Wynyard Hobson base option allows for minimum incursion into the harbour and a lower cost than other options explored, but it does require the stopping of a portion of Brigham Street in a timely manner.

The portion of Brigham Street is required to be stopped by 1 November 2018, to allow construction to start. The road stopping is also required to allow the America's Cup events to take place, as syndicate bases are intended to sit across the existing road to gain direct access to the water for launching racing yachts.

The portion of Brigham Street to be stopped is 0.322ha and directly abuts the water. It is owned by Auckland Council and managed by Auckland Transport. The Bill will remove the road status of that portion of Brigham Street, and allow for Auckland Council, as owner, to apply for title for the former portion of road.

As Brigham Street runs along the water's edge, stopping the road under existing processes of the Public Works Act would trigger the requirement to provide an esplanade reserve (as set out in s345(3) of the Local Government Act 1974). The Bill clarifies that no esplanade reserve is to be created where the portion of Brigham Street is stopped under this Bill, as an esplanade reserve would be incompatible with the construction relating to, and the operation of, the America's Cup.

This Bill is intended to fulfil the specific purpose of stopping a portion of Brigham Street in a timely manner to enable construction for the America's Cup. The Bill has no wider application.

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>MBIE commissioned a high level economic assessment evaluation into New Zealand hosting America's Cup, which found the anticipated benefits will outweigh the costs, particularly when factoring in potential benefits beyond 2021 and the wider benefits with hosting major events that are hard to monetise, such as national identity and pride. http://www.mbie.govt.nz/info-services/infrastructure-growth/documents-and-images/36th-americas-cup-economic-assessment-evaluation.pdf</p>	

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
<p>The Regulatory Quality Team at The Treasury agrees that no formal Regulatory Impact Assessment is required in support of this proposal since the impacts are expected to be minor and confined only to a limited number of businesses.</p>	

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

2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be impacted by:	
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(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

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 Bill implements policy which can also be given effect to without legislation, being the revocation of road status. We do not consider the Bill risks breaching any of 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?

The Office of Treaty Settlements and Te Puni Kōkiri have been consulted on the policy and/or the related Treaty settlement proposal.

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?

NO

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

3.4.1. Was the Ministry of Justice consulted about these provisions?

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
In the policy development of the proposal, MBIE has consulted with Auckland Council, Auckland Transport and Panuku Development Auckland. The road stopping plan also formed part of Auckland Council's resource consent for the 36 th America's Cup, which was open for public consultation.	

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

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