



Committee Secretariat  
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Finance and Expenditure Committee  
**WELLINGTON**

Submissions and Publications  
RE: John Hall

17 May 2019

**MATTER: NEW ZEALAND INFRASTRUCTURE COMMISSION/TE WAIHANGA BILL**

Dear Finance and Expenditure Committee (**the Committee**),

Transparency International NZ (**TINZ**) makes the following points in this submission on the New Zealand Infrastructure Commission / Te Waihanga Bill (**Infrastructure Bill**). TINZ applauds the Infrastructure Bill's establishment of an autonomous entity to co-ordinate, develop and promote infrastructure in order to improve the well-being of New Zealanders. However, we would like to see the inclusion of a requirement that the Infrastructure Commission only partner with organisations with strong integrity systems (systems designed to prevent and identify corruption and mismanagement). The construction sector, in particular, is sadly vulnerable to under the table transactions and other corrupt practices. TINZ is concerned to ensure that Te Waihanga does not find itself associated with entities that have not developed a strong culture of integrity.

TINZ has 5 recommendations with regard to Infrastructure Bill. TINZ is of the opinion that:

- 1 – *Te Waihanga should not be seen to be providing services to entities that are corrupt;*
- 2 – *Te Waihanga should be more explicitly mandated to have regard to the factors in clause 9 when conducting the functions in clause 10;*
- 3 – *the definition of infrastructure is open to an unintentionally narrow interpretation;*
- 4 – *the importance of having strong integrity systems for the development of safe and durable infrastructure should be identified in the Infrastructure Bill or through delegated legislation;*
- 5 – *the functions set out in clauses 9 and 10 need to be underpinned by a clear commitment to strengthening integrity and ethics across infrastructure developments in New Zealand.*

TINZ's concern in relation to integrity systems is particularly relevant to the functions anticipated in clause 10 (f) of the Bill. TINZ would like to propose the inclusion of a mechanism whereby delegated regulation may provide guidance to Te Waihanga on what processes it should follow in carrying out functions 10 (d) - (f).

## Overview

TINZ welcomes the inclusion of well-being in clause 9 and believes an understanding of well-being to include a commitment to integrity systems. However, TINZ is concerned that there appears to be no clause that would require Te Waihanga to have regard to well-being and the absence of corruption in the Infrastructure Sector. The OECD has identified in its Integrity Framework for Public Infrastructure<sup>1</sup> that there are major risks around capture and corruption in public infrastructure planning and investment. The OECD Foreign Bribery Report<sup>2</sup> identifies that 15% of all foreign bribery occurs in the construction sector, second only to the extractive sector.

TINZ believes the definition of infrastructure is unnecessarily narrow and points to the two definitions of infrastructure in the National Policy Statement on Urban Development Capacity 2016<sup>3</sup>. That statement provides for a definition of other infrastructure that includes social and community infrastructure and infrastructure. TINZ is of the belief that integrity systems are an essential aspect of all infrastructure operations.

For example, in our 2013 National Integrity System Assessment TINZ identified that a lack of sufficient funding and infrastructure in the judicial system and enforcement agencies leading to difficulty with processing legal proceedings<sup>4</sup>. We also note that the World Justice Project Rule of Law Index has identified unreasonable delay in civil justice (0.75), accessibility and affordability in civil justice (0.72) and timely adjudication in criminal justice (0.72) as falling behind New Zealand's national average in terms of rule of law (08.2)<sup>5</sup>.

TINZ is concerned to ensure that strong integrity systems are encouraged throughout all of these areas and also that the above areas of other infrastructure (particularly social and community infrastructure) are understood

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<sup>1</sup> OECD (2016), *Integrity Framework for Public Investment*, OECD Public Governance Reviews, OECD Publishing, Paris, <https://doi.org/10.1787/9789264251762-en>.

<sup>2</sup> OECD (2014b), *OECD Foreign Bribery Report: An Analysis of the Crime of Bribery of Foreign Public Officials*, OECD Publishing, Paris

<sup>3</sup> The National Policy Statement on Urban Development Capacity 2016 (NPS-UDC); Publication Reference Number ME 1275; October 2016

<sup>4</sup> Integrity Plus 2013 New Zealand National Integrity System Assessment; Transparency International New Zealand; 12/2013; ISBN 978-0-473-27092-6

<sup>5</sup> World Justice Project Rule of Law Index © 2019 IBSN (online version): 978-0-9964094-1-4



to be relevant to the provision of the aims set out in clause 9.

### **Conclusion**

TINZ therefore supports the establishment of Te Waihanga. However, we would seek to ensure that the importance of integrity systems in providing safe and durable infrastructure and in ensuring that strategic assessments are not unduly influenced is identified in the Infrastructure Bill. A new approach to infrastructure is long overdue but this approach should be protected by an explicit and mandated commitment to both well-being and integrity systems.

Please contact us if you have any questions or queries regarding this submission

Yours faithfully

**TRANSPARENCY INTERNATIONAL NEW ZEALAND**

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