

The Treasury

Briefing to the Incoming Minister for Infrastructure

March 2023

This document has been proactively released by the Treasury and released on the Treasury website:

<https://www.treasury.govt.nz/publications/corporate-documents/briefings-incoming-ministers>

Information Withheld

Some parts of this information release would not be appropriate to release and, if requested, would be withheld under the Official Information Act 1982 (the Act).

Where this is the case, the relevant sections of the Act that would apply have been identified.

Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Key to sections of the Act under which information has been withheld:

[33] 9(2)(f)(iv) - to maintain the current constitutional conventions protecting the confidentiality of advice tendered by ministers and officials

Where information has been withheld, a numbered reference to the applicable section of the Act has been made, as listed above. For example, a [33] appearing where information has been withheld in a release document refers to section 9(2)(f)(iv).

Copyright and Licensing

Cabinet material and advice to Ministers from the Treasury and other public service departments are © **Crown copyright** but are licensed for re-use under **Creative Commons Attribution 4.0 International (CC BY 4.0)** [<https://creativecommons.org/licenses/by/4.0/>].

For material created by other parties, copyright is held by them and they must be consulted on the licensing terms that they apply to their material.

Accessibility

The Treasury can provide an alternate HTML version of this material if requested. Please cite this document's title or PDF file name when you email a request to information@treasury.govt.nz.



TE TAI ŌHANGA
THE TREASURY

Briefing to the Incoming Minister for Infrastructure

February 2023

Contents

- 1 Your responsibilities and how the Treasury assists you.....2
 - 1.1 Portfolio context2
 - 1.2 You are the responsible Minister for Te Waihanga5
 - 1.3 Ensuring effective governance of Te Waihanga5
 - 1.4 Ensuring effective performance of Te Waihanga8
 - 1.5 Key Treasury Contacts.....10
- 2 Upcoming decisions and key areas of interest.....11
 - 2.1 The Government response to Rautaki Hanganga o Aotearoa, the New Zealand Infrastructure strategy.....11
 - 2.2 The New Zealand Public Private Partnership (PPP) Programme.....12
- Annex One: Te Waihanga’s Board13

1 Your responsibilities and how the Treasury assists you

This briefing provides you with an overview of your role as Minister for Infrastructure. Further briefings will be provided on specific topics, guided by your priorities.

This briefing provides also further information on your role as responsible Minister for the New Zealand Infrastructure Commission, Te Waihanga (Te Waihanga) and how the Treasury supports you as performance advisor in the role and as a secondary policy advisor. It complements briefings you will receive from Te Waihanga as your primary policy advisor.

1.1 Portfolio context

The Infrastructure portfolio is primarily a strategic role in that the Minister for Infrastructure does not have direct responsibility for delivering individual infrastructure projects. The **two most important levers** available to you to influence the performance of the infrastructure system and improve the wellbeing of New Zealanders are the:

- long-term infrastructure strategy
- collaborative working relationship with Ministerial colleagues on strategic issues, particularly the Minister of Finance.

In setting and delivering on the Government's long-term infrastructure strategy you will have an interest in and will seek to influence the elements of the infrastructure system that enable the delivery of strategic infrastructure and related outcomes.

This will include ensuring that the infrastructure sector has the capacity and capability to deliver infrastructure projects efficiently and effectively including through market development, delivery assurance, and capacity management through working with portfolio Ministers, infrastructure entities such as Crown Infrastructure Partners (CIP) and the Crown Infrastructure Delivery agency (CCID), and engaging with industry partners.

For some projects or programmes, you will be part of the ministerial governance or oversight, such as three waters reform. For others, primary decision-making will rest with portfolio ministers and your role may depend on discussions with ministerial colleagues, the Minister of Finance, or the Prime Minister.

Utilities Access Act 2010

You are also the Minister responsible for the Utilities Access Act 2010. The Treasury administers this Act and advises you in your role.

The Utilities Access Act governs the National Code of Practice for Utility Operators' Access to Transport Corridors (the Code).

The Code provides a nationally consistent and cooperative framework for corridor managers and utility operators, to manage transport corridors while also providing for the access rights of utility operators.

You must approve any amendments to the Code, and you receive annual reports on the performance of the Code from the New Zealand Utilities Advisory Board.

New Zealand Infrastructure Commission/Te Waihanga Act 2019

You are the responsible minister for the New Zealand Infrastructure Commission/Te Waihanga Act 2019. The Treasury administers this Act and advises you in your role.

The Act governs the purpose and functions of Te Waihanga, including the development of the New Zealand Infrastructure Strategy.

Rautaki Hanganga o Aotearoa, the New Zealand Infrastructure Strategy

Your role is to ensure that the long-term infrastructure strategy and system settings for infrastructure deliver on the Government's objectives. You also have a role in ensuring that the infrastructure sector has the capacity and capability to deliver infrastructure projects efficiently and effectively.

Te Waihanga delivered Rautaki Hanganga o Aotearoa, the New Zealand Infrastructure Strategy in May 2022, and the Government Response to the Strategy was published in September 2022.

The Strategy covers a 30-year period and must be developed at least every five years. It sets out a framework for New Zealand's infrastructure needs and is not just focused on projects. In developing the strategy, it is important for Te Waihanga to build a consensus on the long-term vision for infrastructure and the outcomes New Zealanders want to achieve.

This is the first infrastructure strategy that Te Waihanga has delivered. You will receive further information on the Strategy from Te Waihanga through their briefing to you.

Collaborative working relationships

You work closely with the Minister of Finance as they are responsible for oversight of the investment management system, of which infrastructure investment is one part. There are important links between the Infrastructure and Finance portfolios given the fiscal significance of many infrastructure decisions.

Statutory responsibility for infrastructure issues in particular sectors, for example transport, energy, housing and urban development, health, education, or local government, sits with the relevant portfolio Minister. You will also need to engage with your Ministerial colleagues to ensure that infrastructure activities across their portfolios are aligned to deliver the long-term infrastructure outcomes the Government is seeking.

The Treasury's role in infrastructure

The Treasury advises Ministers on significant capital projects as part of our Public Finance Act responsibilities including on funding and financing, project governance and delivery, entity form and entity monitoring, investment system management and policies, and managing fiscal risks.

The role of the Treasury is outlined in the table below.

Table One: Key advisors and roles

Te Waihanga Role		Treasury Role
Strategy & Planning	Major Projects Support	
Providing advice to Government on infrastructure matters Developing New Zealand's long-term infrastructure strategy Reports relating to infrastructure as directed by the Minister for Infrastructure	Acting as a 'shop front' for the market and publishing a pipeline of infrastructure projects Producing best practice guidance on infrastructure procurement and delivery Supporting infrastructure project procurement and delivery	Monitoring of a number of Crown infrastructure agencies and entities for relevant Ministers Secondary advisor on infrastructure to the Minister of Finance (and to other Ministers as appropriate and agreed) Vote and other economic, commercial, and financial advice relating to infrastructure to the Minister of Finance (and to other Ministers as appropriate and agreed)

Specifically, for the Minister for Infrastructure, in addition to supporting you in your legislative responsibilities, the Treasury is the monitor for Te Waihanga, and adviser to Ministers in response to infrastructure recommendations put forward by Te Waihanga.

Additionally, the Treasury is the lead adviser of the Government's investment management system and is responsible for developing and maintaining the integrity of the system as a whole. This role includes oversight of the Better Business Case process and asset management across the public sector and ensures that all investment decision-making across the public sector, including infrastructure investment, is robust, transparent, effective, and efficient.

1.2 You are the responsible Minister for Te Waihanga

Te Waihanga is an Autonomous Crown entity, established by the New Zealand Infrastructure Commission/Te Waihanga Act 2019.¹ Crown entities operate at arm's length from Ministers.

You are the sole responsible Minister of Te Waihanga.

The Crown entity system relies on Ministers, monitoring advisors (the Treasury's role) and entities working well together. Responsibilities are set out in the Crown Entities Act², and in guidance material issued by the Public Service Commission³, which expects:

- clear roles and responsibilities
- strategic alignment
- trusted engagement
- efficient and effective monitoring.

You are able to direct Te Waihanga to provide a report on any matter relating to infrastructure; however, you must have regard to the impact that direction will have or is likely to have on Te Waihanga's ability to manage its functions and operations and have regard to Te Waihanga's available resources.

Regular reporting and relationship meetings are better means to ensure strategic alignment between the Board and yourself, and to achieve a common understanding of entity performance.

Given the arm's length model, the **two most important levers** available to Ministers to influence the strategic direction and performance of entities are the:

- appointment of effective boards
- annual business planning and reporting process.

1.3 Ensuring effective governance of Te Waihanga

Governance and performance are the responsibility of Te Waihanga's board, which is appointed by Ministers, subject to Cabinet approval.

The Board operates at arm's length from Ministers and in response to Ministerial expectations, and in accordance with legislation. The Board of Te Waihanga develops the overall strategy for Te Waihanga and appoints the chief executive officer, to whom they delegate management decisions to implement the strategy.

¹ Other relevant legislation includes the Crown Entities Act 2004, the Public Finance Act 1989, and the Public Service Act 2020.

² See sections 27 and 27A for the Minister's and Monitor's roles, and sections 49-52 for the Board's role.

³ *It Takes Three: Operating Expectations Framework for Statutory Crown Entities*, SSC, July 2014.

A high performing board, with the confidence of Ministers, is a critical enabler for strong Crown Entity performance. Membership of a high performing board needs a balance of capabilities, skills and experience, and diverse perspectives that work well together to drive performance of the entity.

Opportunities to influence

As responsible Minister, you are responsible for appointing directors to the Board. You can expect the Board, primarily through the Chair, and management of Te Waihanga to engage constructively with you and officials, and to work collaboratively with other public entities, to achieve wider Government goals.

The details of Te Waihanga's board members are provided in Annex 1. As outlined in Annex 1, Mr Maurice Davis is the only member with a term expiring in 2023. The Treasury will provide advice in the coming months recommending Mr Davis' reappointment, subject to discussions with the Chair and the director's interest in being reappointed.

'No surprises' policy

Under the 'no surprises' convention, the boards of Crown entities are expected to:

- be aware of any possible implications of their decisions and actions for wider government policy issues
- advise the responsible Minister of issues that may be discussed in the public arena or that may require a Ministerial response, preferably ahead of time or otherwise as soon as possible
- inform the Minister in advance of any major strategic initiative.

This includes information required to answer parliamentary questions, information required by/for parliamentary select committees, and information required for Budget and appropriation processes.

The Treasury supports your Te Waihanga appointment processes

The Treasury's Governance and Appointments team supports you in your appointment decisions and processes. The Treasury follows the Cabinet Approved Appointment process providing advice, administrative and nomination support throughout this process, and prepares the Cabinet documentation to confirm appointments.

In providing this advice the Treasury considers:

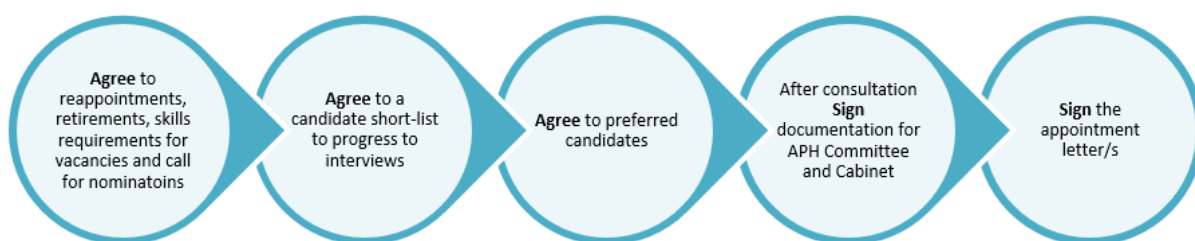
- member composition across the board – ensuring there is a mix of capabilities (governance and executive level experience, skills, and backgrounds), and demographic diversity such as gender, age, ethnicity, and perspectives to achieve portfolio objectives
- director capabilities as outlined in Treasury's Board Governance Capability Framework, giving consideration to whether members have the required:
 - a. **Crown portfolio alignment** - demonstrates awareness of context, understanding of own motivations, and commitment to requirements

- b. **Skills, Knowledge & Experience** - the expertise that a director brings to the role, and their understanding and applications of practical and theoretical information
 - c. **Behaviours, Attributes and Characteristics** - disposition that shapes a director's responses and behaviours
- Te Waihanga specific goals in the Letter of Expectations, strategic objectives (current and future), and priorities
 - Te Waihanga leadership and organisational performance results
 - views of the current chair and entity monitors, skills assessments, recent board evaluations, and reviews of the board
 - available opportunities for early-stage directors and/or future directors.

Increasing both demographic diversity and wider diversity has been a key focus for appointments to Crown boards. Nominations and expressions of interest are sought from:

- You and your caucus colleagues
- Chairs
- nominating agencies across government
- the public notification of vacancies through the Treasury's database of 6000+ candidates,
- advertising the vacancy on LinkedIn, through the Community Governance NZ website, the Super Diversity Institute membership, Infrastructure New Zealand LinkedIn page and other community or industry groups where particular capabilities are sought.

The Treasury will engage you throughout the board appointment process and ask for your input and to make decisions at five points as outline below.



Appointments occur throughout the year, and can be driven by the board's composition, term end dates, the length of time directors have been on boards, and whether board members seek reappointment or resign, for example due to changes in their circumstances. A typical appointment round can take five to seven months, from identifying upcoming vacancies, working with the Chair to develop the capabilities and skills profile, and calling for nominations, to new board members commencing in their role.

The initial term for newly appointed directors is usually three years. Directors are typically reappointed for a further three years if they have performed well and their skills remain relevant. Directors may be reappointed for a third term in exceptional circumstances and there is no maximum number of terms a director can serve.

Crown entity boards are expected to have good practice self-monitoring processes in place to assess the individual and collective performance of board members and identify opportunities for development.

In the short term, you may wish to have a discussion with the Board Chair on the Government's expectations for Te Waihanga. Over the medium term, you may wish to:

- meet regularly with the Board Chair to discuss performance and strategic direction
- invite the Board to provide advice on its proposed strategy and priorities before these are included in a draft Statement of Intent or Statement of Performance Expectations
- provide written comments, or enter into discussions with the Board, on draft Statements of Intent or Statement of Performance Expectations before they are finalised.

The Treasury can support you with these activities.

We also work closely with other agencies on the appointment of Directors to the boards of significant infrastructure companies and entities. Recently, these have included the boards of Auckland Light Rail, City Rail Link and Three Waters Advisory. In these instances, we provide advice to agencies on the appointment processes, refer and source potential candidates, participate in interviews and /or submit joint recommendations to Ministers.

1.4 Ensuring effective performance of Te Waihanga

You have responsibilities under the Crown Entities Act 2004 to provide oversight of the overall performance of Te Waihanga. This is achieved primarily through regular reporting and the relationship with the Te Waihanga Board, particularly with the Board Chair.

Opportunities to influence

A key point of influence in engaging with Te Waihanga is through the annual Letter of Expectations (LOE).

This was sent to Te Waihanga in December 2022 by the Minister for Infrastructure. The LOE asked Te Waihanga to focus on the successful delivery of outputs under core functions of Te Waihanga, and effective engagement with relevant officials and other stakeholders.

Effective engagement includes working with agencies to clarify lines of responsibility where shared interests exist and consulting appropriately with agencies where Te Waihanga advice could result in changes to agencies' work programmes. More specifically, the LOE highlights the expectation that Te Waihanga:

- contributes collaboratively to the Auckland Light Rail project and makes the most of the opportunity to add value to the planning process;
- has a role in any proposed solution. Te Waihanga should identify the role it will play as part of the solution in any proposal to Ministers;
- strikes a balance between expressing its independent views and maintaining its influence with decision-makers;

- having completed the successful delivery of the Infrastructure Strategy, will now work with government agencies and entities to support the implementation of the Response, and assist in the delivery of priorities outlined in the Response;
- continues to maintain a focus on workforce needs; and
- takes a focussed and prudent approach, given its financially constrained environment.

It was expected that Te Waihanga work collaboratively to provide support to government agencies who are developing policy advice that relates to infrastructure, and to those delivering infrastructure projects.

You should expect Te Waihanga to advise you on infrastructure matters, but policy and project responsibilities usually lie with other government agencies. It is therefore important that Te Waihanga, as your advisors, continue to work collaboratively with these agencies so that the perspectives of Te Waihanga are incorporated into the advice received by government. In addition, you should expect that differences of views between officials are resolved before advice is presented to you and your Ministerial colleagues.

Te Waihanga may send you a Strategic Issues Letter in response to the LOE.

Te Waihanga is required to prepare accountability documents

The Crown Entities Act 2004 requires Te Waihanga to prepare a Statement of Intent (SOI) at least once every three years.

The Statement of Intent represents a medium-term outlook for Te Waihanga's strategic direction. Te Waihanga's current SOI covers the period 1 July 2019 – 20 June 2024, and is due to present a revised Statement of Intent for the period beginning 1 July 2023 (draft is due to you, as responsible Minister, by 30 April 2023). This will provide an opportunity for Te Waihanga to refresh its overall strategy for delivering on its legislated function and objectives.

Te Waihanga is required under the Crown Entities Act 2004 to prepare a Statement of Performance Expectations (SPE) annually. The draft SPE for 2023/24 is due to you, as responsible Minister, by 20 April 2023. The SPE will include Te Waihanga's performance measures, reportable outputs, and prospective financial statements for the year.

You are required to present these reports, as well as the Annual Report, to the House of Representatives shortly after receipt of the final annual report for 2022/23. The Treasury will engage with you later in the year regarding timing of Annual Report.

The Treasury assists you to manage the performance of Te Waihanga

The Treasury is the monitor of Te Waihanga. As monitor, the Treasury will support your work with Te Waihanga including articulating Government's policies and your expectations of them. The Treasury's role as monitor is to assist you, as responsible Minister carry out your duties in regard to:

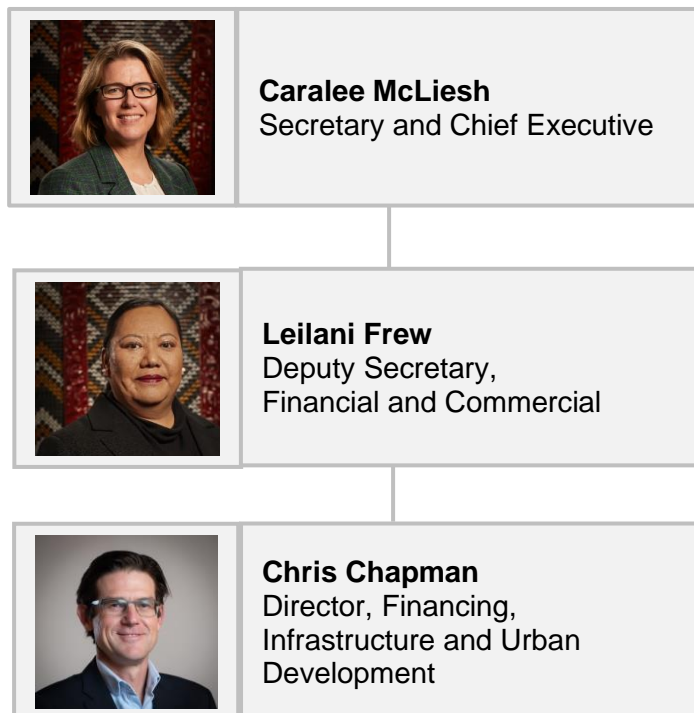
- obligations under the Crown Entities Act 2004, Public Service Act 2020 and the "arm's-length" regime

- engage with Te Waihanga on accountability documents, including ensuring the strategic direction in the SOI and performance expectations in the SPE is fit for purpose, and advise you during the process
- review the financial and non-financial performance of Te Waihanga, including providing advice to you on Te Waihanga's performance
- answering to Parliament for the performance of the entity as required
- ensuring Te Waihanga give regard to government policy as an autonomous Crown entity.

Advice provided directly to the Minister of Finance that could be relevant to you in executing your Minister for Infrastructure role would be either:

- copied directly to you, or
- recommended to be forwarded to you by the Minister of Finance.

1.5 Key Treasury Contacts



2 Upcoming decisions and key areas of interest

We would like to engage with you on a range of key decisions and key areas of interest. These relate to legislative requirements, your manifesto priorities, and other priority issues. Ahead of our first meeting, you may wish to seek advice on two matters that will be raised at Cabinet in February and March.

2.1 The Government response to Rautaki Hanganga o Aotearoa, the New Zealand Infrastructure strategy

As the Minister for Infrastructure, you are responsible for leading the Government's response to *Rautaki Hanganga o Aotearoa, the New Zealand Infrastructure Strategy*.

The Government Response is in two parts. The first part outlines the direct response to the recommendations in the Strategy and discusses how these will be addressed. The second part is an Action Plan that demonstrates what the Government will do to turn this vision into a reality over the next few years.

The Strategy has 68 recommendations, and in part one of the Government's Response to the Infrastructure Strategy, The Government indicated that 52 of the recommendations are already underway in full or in part. The Government fully supported 22 actions, supported 21 (when the Government is already addressing or has agreed to address at least part of the recommendation), in principle supported 15, and noted 10 recommendations.

The Action Plan, in part two of the Government's Response to the Infrastructure Strategy, provides a summary of the investments that will help New Zealand to build, renew and maintain our infrastructure to set New Zealand up for success, and to meet the infrastructure deficit. It also outlines the key work programmes the Government is progressing to be smarter about the way New Zealand plans, delivers, and uses our infrastructure. This means getting more from the infrastructure New Zealand does build, reducing costs and prioritising for the greatest impact.

Te Waihanga will monitor and report on the Government's progress towards these actions and the objectives of the Strategy and continue to prepare updated infrastructure strategies every five years. You can expect to receive advice on the monitoring and progress of the Strategy from Te Waihanga.

The second issue you may wish to seek advice on is a Cabinet report back on the Action Plan. In December 2022, Cabinet agreed that the Minister for Infrastructure is to report back to DEV [33] with further advice on the prioritisation and sequencing of the commitments in the Infrastructure Action Plan.

2.2 The New Zealand Public Private Partnership (PPP) Programme

As Minister for Infrastructure, you have a strategic interest in the review and delivery of the New Zealand Public Private Partnership (PPP) Programme. Te Waihanga acts as the Government's lead advisor on PPPs. Te Waihanga also supports agencies to implement their responsibilities under PPPs.

In general, responsibility for decisions on individual PPP projects sit with the Minister of Finance and the Minister for the procuring entity. However, the Minister for Infrastructure has a strategic interest in PPP projects in terms of ensuring that PPP projects and policy help the Government deliver on its infrastructure priorities.

Given the ongoing impacts of COVID-19 and supply chain constraints, the Government has received significant claims on its major projects, including the three PPPs currently under construction. [33]

Annex One: Te Waihanga's Board

Board Member	Gender	Position	Term	Term Start	Term end	Region
Dr Alan Esmond <u>Bollard</u>	M	Chair	2 nd term	25 Sept 2019	30 Sept 2024	Wellington
Suzanne (Sue) <u>Tindal</u>	F	Deputy Chair	2 nd term	25 Sept 2019	30 Apr 2024	Australia
Sina Kitiona <u>Cotter-Tait</u>	F	Member	1 st term	1 Nov 2021	30 Sept 2024	Canterbury
Maurice <u>Davis</u>	M	Member	2 nd term	1 July 2020	30 Sept 2023	Auckland
Geoffrey Stewart (Geoff) <u>Hunt</u>	M	Member	1 st term	1 Oct 2022	30 Sept 2025	Auckland
Raveen Prakash <u>Jaduram</u>	M	Member	2 nd term	25 Sept 2019	30 Apr 2025	Auckland
Sarah Kathryn <u>Sinclair</u>	F	Member	2 nd term	25 Sept 2019	30 Apr 2025	Auckland