DENTONS

Transforming Challenges into Opportunities

A new era of infrastructure delivery

Grow | Protect | Operate | Finance

August 2024

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Introduction

New Zealand's infrastructure landscape is stretched to breaking point. Challenges posed by the global pandemic, natural disasters, and evolving economic conditions have increased already existing pressures on our ability to deliver the infrastructure that a growing country needs. We are at a sliding doors moment. Significant investment in key projects, from transport and water systems to digital infrastructure and energy, will be critical in shaping New Zealand's progress towards a more sustainable and connected future. How do we get big things done, within our economic ability, while maintaining what is important to us?

Recent years have seen a concerted effort to not only address existing infrastructural deficits but also to future-proof the nation's assets against the demands of a rapidly changing world. This has included initiatives to improve urban mobility, enhance regional connectivity, and transition towards greener, more resilient infrastructure systems. These efforts are part of a broader commitment to building a robust foundation that supports economic growth, social wellbeing, and environmental sustainability.

The future of New Zealand's infrastructure is poised at a crossroads of opportunity and challenge. With the government, private sector, and communities increasingly recognising the need for innovation and sustainability, the coming years must bring a renewed focus on integrating advanced technologies, adopting more sustainable practices, and fostering inclusive growth. The path forward will require collaboration, forward-thinking policies, and a commitment to creating infrastructure that serves all New Zealanders and enhances our global competitiveness.

In August, the Government announced a new framework to establish Regional Deals between central and local governments, aimed at driving economic growth and delivering essential infrastructure to address the country's infrastructure deficit. With a growing population, we must provide long-term infrastructure solutions for both cities and regions. The focus will be on economic growth, resilient critical infrastructure, and improving the supply of affordable, quality housing. Regional deals must also help coordinate capital investment and enable regions to utilise new and existing funding tools for infrastructure projects. The new National Infrastructure Agency, to be established by the end of this year, is intended to support this new way of working.

In *Transforming Challenges into Opportunities: A new era of infrastructure delivery*, we explore the future for New Zealand's infrastructure sector. As a global firm, we unashamedly take a global view. What can New Zealand learn from Canada as a global leader in public-private partnerships (PPP) projects? What benefits and challenges can the fast-track process provide the sector? We look at the complexities of New Zealand's water reform process and the possibilities offered by offshore wind projects. We also explore the intersection of technology and infrastructure, highlighting how digital advancements can enhance traditional infrastructure. We have both a uniquely global view, and a deeply local perspective. We work with the Government, the private sector, and international partners on projects essential to New Zealand's future. Our hope is that – as a country – we grasp this challenge and take the opportunity to shape a resilient and sustainable future for New Zealand's infrastructure.

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Public-Private Partnerships: The Canadian experience and case for enhanced collaboration in infrastructure projects

Dentons Canada and New Zealand discuss the Canadian experience and merits of enhancing collaboration in project delivery

Canada has emerged as a global leader in public-private partnerships (PPP) as a means to procure, deliver, and operate infrastructure projects. New Zealand can learn a lot from the experiences and successes of Canada and other overseas jurisdictions. The PPP approach is once again topical in New Zealand. The model is not without challenges, nor is it the only project delivery method worth pursuing. Dentons Canada and New Zealand break down the advantages of these partnerships, explain their success, and suggest ways they can be improved for both the public owners and their private sector partners.

Canada has developed a reputation for successfully delivering infrastructure projects using a PPP (called 'P3' in Canada) approach. What are some of the features that have made the PPP model so attractive?

Canada's success in delivering PPP projects can largely be attributed to one factor: stability.

- **Firstly:** there is a *stable pipeline of projects in Canada*, with nearly every province, territory and the federal government consistently bringing new projects to market. New Zealand has no such dedicated pipeline. No new PPP projects have been procured in the last seven years, with the pipeline heavily dependent on political mindset and positioning – *What if there is a change of government in two years' time?*
- **Secondly:** the *form of PPP agreement* used across Canada is stable. While differences remain depending on jurisdiction and project type, the contractual documentation issued by public authorities across Canada has been and remains relatively consistent. This applies both in regards to overall structure and more specific provisions, such as those covering indemnities, change in law, supervening events and dispute resolution. In New Zealand there has been a reasonably stable form of PPP Project Agreement used; however, that agreement now requires review – if for no more than to address the overly extensive transfer of risk to the private sector partner.
- **Thirdly:** Canada has a robust project *financing environment*, with lenders that understand PPP structures and regularly finance PPP projects.
- **Fourthly:** Canada's P3 projects have, for the most part, favoured payment mechanisms that provide for *predictable payments* to the private partner. Payments are generally based on the asset's availability (i.e. a service and availability approach) rather than the level of public use (i.e. a demand risk approach). This availability approach significantly reduces the risk level on the project for the private partner. New Zealand is consistent with Canada in this regard – it has not adopted a demand risk approach. Service and availability payments prevail in New Zealand. However, the KPIs, KRAs, payment mechanisms, deductions, and abatements that are used in New Zealand require review.

In Canada, as with other overseas jurisdictions, the bid process is simplified and de-risked for potential private partners through the prequalification of a limited number of bidders for each project, generally no more than three. Partial compensation is also paid to losing bidders who submit a conforming proposal, in the form of a bid stipend. These two elements together reduce the risks and costs associated with bid preparation to bidders.

In addition, Canadian and more increasingly Australian projects are better addressing risk allocation between the public and private sector. New Zealand PPP projects need to better address the allocation of risks.

What distinguishes the PPP model from other contractual structures used to deliver public infrastructure, such as traditional design-build and design-bid-build approaches?

There are two principal distinguishing factors in most PPP structures: a long-term at-risk performance obligation combined with a financing component, both of which are the private partner's responsibility.

For a project to truly be considered a PPP in the Canadian and New Zealand context, the private partner must be responsible for the design and construction of the project, as well as its long-term operation and/or maintenance. The private partner's compensation and risk profile are therefore dependent on its ability to successfully deliver the "whole project". One of the benefits of a PPP is that it factors in the whole-of-life cost of a project (the design and construction, and maintenance costs must be considered together).

PPPs require some form of long-term project financing. Public owners can take comfort from the involvement of lenders (debt and equity) who agree to assume risk vis-à-vis the private partner. Lenders undertake a due diligence review of the project's commercial and technical elements. This initial due diligence exercise implicitly validates the project and its feasibility for the public owner. After the Project Agreement is signed, the public owner can also take comfort from the lenders' continuing role, which includes continued scrutiny and oversight.

In contrast, under more traditional approaches (such as build-only or design and construct models), the public sector delivers the project using public funds (rather than through private finance). The public sector owner separately engages multiple parties such as designers, other consultants, construction contractors and suppliers. The public sector owner may often leave operation and maintenance to its own employees, or to yet another separately retained contractor. Various critical aspects of a project are therefore handled by different parties, leaving to the public owner the usual costs and challenges of managing interfaces, possible inefficiencies, etc (this is effectively the other end of the scale from the 'whole of life' profile that PPPs provide).

Collaboration between public and private sector parties is increasingly viewed as an important component for successful delivery of infrastructure projects. Why has collaboration between these parties been lacking in some cases, and is collaboration more difficult to achieve under a PPP approach?

One of the key features of the PPP model is that it – at least in theory – requires collaboration among project participants to successfully deliver a project, both (1) between the public and private partners, and (2) among the various members of, and subcontractors to, the private partner. This is in part due to the long-term nature of PPP arrangements and the early stage at which they are established.

Indeed, many public owners recognize the value of engaging with the private partner earlier than later in their project development process. This allows the public partner to rely on the private partner to come up with the best or most economical solution for the public owner's needs, before costly decisions are made.

In a PPP, the private partner is expected to deliver a project that meets the public authority's minimum output specifications for the project's design and construction and its long-term maintenance. This means the private partner coordinates the activities of the design-builder and the asset maintenance provider, requiring them to work together so that the project can be designed, built, and maintained to meet the public authority's requirements throughout the PPP contract's term. The long-term fixed-price nature of PPP contracts and subcontracts also motivates the parties to appropriately allocate project risks among themselves, with the goal of allocating each risk to the party best able to manage it.

However, this theory has not always been practiced by the parties when procuring, executing or managing PPP projects, resulting in a number of disputes. Factors contributing to this include team changes post-contract signing, misunderstandings, inexperience, reluctance to accept unfavourable

outcomes (including for fear of setting a precedent for other projects), reputational concerns, trust issues, and political interference.

In what ways might the existing PPP model be enhanced to allow for more collaboration? Would there be any risks or disadvantages from making these changes?

The parties to a PPP contract are often most challenged after pricing is agreed and the Project Agreement is signed. This can be because the circumstances that existed at contract signing change, so that one or more of the contract conditions no longer aligns with the parties' initial intent. The parties usually anticipate this scenario by including comprehensive procedures in the Project Agreement to deal with such matters as: potential changes/variations; change of law; force majeure events; and delays by a counterparty or third parties. This risk allocation, as well as the related schedule and price adjustment mechanics, is then "dropped down" among the parties that are expected to perform various components of the PPP project (i.e. the Major Subcontractors and their subcontractors).

Public owners often rigidly apply such mechanisms, to try and avoid delays, save costs and stay within budgets. This is followed by the private partner who passes the mechanisms down the chain to its subcontractors to avoid incurring costs or delays it cannot recover from the public owner.

The rigidity of this 'pass-down' leads to a less collaborative atmosphere, especially when trying to deal with changes that are not expressly contemplated in the Project Agreement. As risks and change/variation requests flow through the contract chain, tensions rise among all parties, potentially causing project paralysis, particularly for unforeseen or unclearly allocated risks. The COVID-19 pandemic exemplifies such a scenario.

Based on Canadian, Australian (and some New Zealand) experience, below are some approaches that can encourage collaboration at the outset of and throughout the PPP delivery process:

- When drafting and commenting upon the Project Agreement, carefully consider the necessity, placement and wording of general provisions or rules that may inadvertently cut across multiple provisions and undermine their effectiveness. This is perhaps inevitable in a contract as large and complex as a PPP Project Agreement, but poor drafting can lead to material uncertainties and disputes during implementation.
- Consider providing for a neutral or independent party or committee that is retained by both the public and private sector parties at the outset of the project to stay abreast of, and help resolve, potentially problematic situations. It may also be helpful to provide in advance for the appointment of multiple referees, each with a particular focus or specialty, e.g., scope disputes, financial disputes, etc.
- Before signing the PPP contract, have the parties' respective legal advisors review the technical scope documentation to ensure it is written in plain language that does not contradict the contractual provisions in the main body of the PPP documents. It can be tempting to skip such review, especially where the contract provides for a hierarchy among contract documents. In our experience, the risk of technical disagreements that develop into major disputes can be further reduced by having the legal team search for internal contradictions within the schedules, troublesome general statements or other language that attempts to restate what is already clearly stated in the main body of the contract.

While adopting the above measures would likely involve additional costs, doing so should contribute to improving collaboration, increasing trust, accelerating the resolution of issues (and therefore reducing delays to the overall schedule), and reducing overall project costs for all parties.

But, do the above go far enough or is something more fundamental required?

There has been a lot of discussion about incentivised target costs (ITC) and integrated project delivery (IPD) approaches. What about these approaches being implemented under a PPP structure?

As noted above, long-term asset maintenance and private financing are two key characteristics of PPP structures.

The main perceived advantage of ITC and IPD approaches is their ability to better align the respective interests of an owner and the various contractors required to design and construct a project, and better share the risks between the parties. The parties basically accept to share more risk among them in exchange for a lower cost outcome, faster execution and fewer disputes.

ITC, IPD and Progressive P3 models are being adopted within PPP projects in Canada and Australia. They should be considered in New Zealand.

In subsequent articles we will dig deeper into the adoption of these models in Canada and Australia, and the benefits they may bring including:

- Creating a more collaborative culture during the delivery phase
- Moving away from hard risk transfer and allow for the better allocation of risk
- Ensuring pricing is more accurate and properly takes into account project risks
- Moving to some open book processing allowing for greater transparency
- Allowing the parties to better deal with differences between cost (better reflecting an alliance type approach), time (allowing for flexibility between alliance and D&C options) and quality and liability (aligned with the D&C approach).

We will also explore the Canadian Progressive P3 model, which takes projects to a further level, also allowing for the benefits of the ITC model.

What is clear is that there are real options to change the current model, better allocate risk and act more collaboratively on PPP projects in New Zealand.

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Life in the fast lane — Navigating fast-track consenting for infrastructure

This article focuses on how the FTA could work, *in practice*, for those looking to use the system for infrastructure projects. We offer some practical advice based on the current drafting of the Bill, to help get you prepared for using the Fast Track process.

Consenting infrastructure projects is costly, time consuming and challenging. According to the Infrastructure Commission's research, New Zealand infrastructure developers collectively spend NZ$1.29 billion each year getting their projects consented — in council fees, expert and legal costs, and internal staffing costs. The Fast-Track Approvals Bill (FTA) was introduced into parliament under urgency as part of the Government's 100-day plan and aims to establish a new fast-track consenting one-stop shop regime.

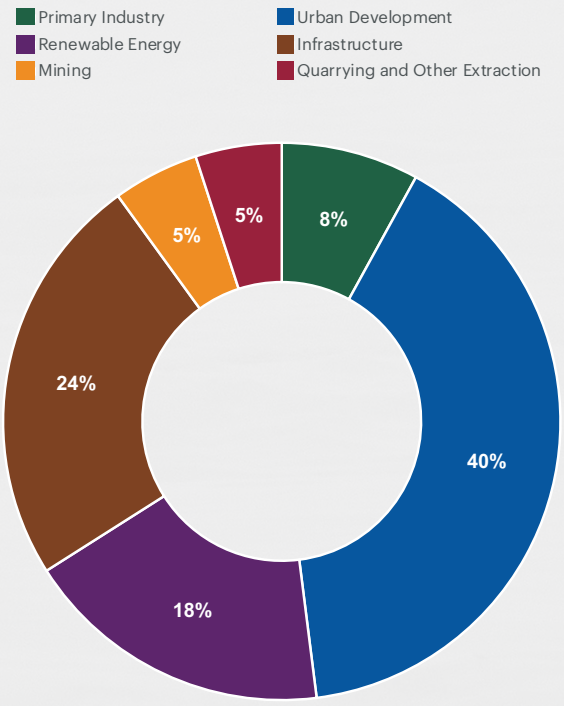
While largely modelled on the antecedent COVID fast track legislation, the FTA focuses on infrastructure and projects that are 'nationally or regionally significant'. What sets the FTA apart from the previous fast track regime is its 'one stop shop' approach, which means that approvals can also be granted under the FTA pursuant to a wide range of legislation including the Wildlife Act 1953 and the Fisheries Act 1996.

Following the introduction of the FTA, Cabinet has recommended a number of changes to FTA to the Environment Select Committee. Significantly, there has been a sensible backtrack from the idea that Ministers would make the final decisions on applications, to placing the decision-making responsibility in the Expert Consenting Panel. You can read more about the substance of the FTA as currently drafted in our previous articles available here, and here.

If you're not on the list, you will need to apply for referral

If your project is not on either of the lists that are to be included as schedules to the FTA, then you will need to apply for referral. In making the decision, the Minister of Infrastructure must take into account the capacity of the fast-track system to deal with the application. Minister Bishop and Minister Jones have announced that 384 projects have applied to be listed in the FTA. While we do not know how many will make it onto the final lists, the capacity for the fast-track system to accept referred decisions is likely to be limited. In addition, applicants will need to clearly identify the significant regional or national benefits flowing from their projects in order to access the fast-track system.

Applications by sector



Importance of a robust AEE and expert reports

The FTA involves a faster consenting process but is not a 'free pass' (despite how it has been depicted in the media by the Greens, Labour and environmental protection groups). The effects of the project must still be comprehensively managed. While the fast-track approvals process would simplify the consenting process (by eliminating public submissions and tipping the scales in favour of granting consent), it would not reduce the technical work required to support an application. Applicants must not underestimate the amount of up front work required to prepare their applications (and draft conditions) for the fast-track process.

Fast track applications are generally decided on the papers without a hearing, so the application material must be comprehensive, succinct, and easy to understand. There is generally no opportunity for experts or corporate witnesses to explain the project or present evidence to the Expert Consenting Panel. Applicants do not get a 'dry run' of a council hearing or even a hearing in the Environment Court. There is only 'one shot' to get your application right with limited appeal rights. The Expert Consenting Panel (and the decision maker) will primarily rely on the quality of the Assessment of Environmental Effects ('AEE') and expert reporting. The quality of your application, expert reporting and draft conditions will directly affect the outcome.

Resource intensive process under very truncated timeframes

While the fast-track process is much quicker than other RMA consenting processes, it is also extremely resource-intensive over a very short timeframe. Applicants should be ready to mobilise their experts well in advance of lodging their application, and secure their availability for the duration of the process. Experts will need to be available to respond to issues raised by council, stakeholders and other members of the public invited to comment on the application under extremely tight timeframes. Expert conferencing may also be required.

Project benefits must be well understood

A full and robust analysis of the benefits of the project should be included in the application, even if the project is listed in the schedules to the FTA. The benefits of a project (including environmental, social, economic and cultural benefits) are given the most weight in the assessment hierarchy set out in the FTA. If there are residual adverse effects that cannot be addressed, then the benefits of the project will be an important part of the assessment process.

Obtaining a level of social licence

One of the main criticisms of the FTA is that, since applications are not notified, public participation in the process is excluded. The Expert Consenting Panel may only invite comments from a limited range of affected parties (e.g. iwi authorities, adjacent landowners and occupiers and certain ministers) and anyone else the Panel considers 'appropriate'. There is no requirement to consult stakeholders prior to lodging the application (except for iwi).

Infrastructure commonly has a 'public benefit' element and infrastructure providers have become increasingly aware of the importance of input from the end users of projects. The construction phase also often has significant effects on communities.

Infrastructure projects using the fast-track process will still have to implement an effective community engagement programme well in advance of lodging their application. Engagement with potential submitters before lodging an application also provides an opportunity to flush out and resolve potential issues prior to lodgement.

Prepare a full set of robust, workable conditions

We recommend engaging with council on a draft set of conditions prior to lodgement, with the aim of getting agreement on the conditions as far as possible. Some councils may struggle to adequately resource both their responses to, and input into, fast track applications – particularly if they are responding to multiple applications at the same time. Councils may need help resourcing their ability to respond to draft conditions prior to lodgement.

The Expert Consenting Panel will provide a copy of draft conditions to the parties and invite further comments from those that provided comments on the application earlier in the process. This process can lead to condition creep – as more and more onerous conditions are imposed during the process and highlights the importance of agreeing an appropriate condition set with council as early in the process as possible.

We suggest applicants carefully integrate the designation and resource consent conditions with any conditions for other approvals (e.g. wildlife permits and archaeological authorities) into a single set of conditions. A single set of integrated conditions will simplify compliance with conditions during the construction period. Consideration will also need to be given to identifying which enforcement authority is responsible for enforcing each condition.

Preparing compensation and offsetting packages

Compensation and offsetting packages (normally used to address effects on biodiversity) may be required to support RMA applications, as well as applications under other legislation. We suggest focussing on these packages early, so there is time to engage with stakeholders, understand costs and ensure they are workable.

Applicants should not just jump straight to offsetting adverse effects or providing compensation. An effects management hierarchy will normally need to be applied which requires consideration to be given to whether the effects to be avoided, remedied or mitigated before considering offsetting or compensation. In addition, relying on the benefits of a project to override any significant residual adverse effects of a project is not without risk. There could be some projects where the residual adverse effects of a project do not outweigh the benefits, even when those benefits are given the most weight.

Progress land acquisition early

Start thinking about land acquisition early – a review of the Public Works Act is underway, but at the current time land acquisition remains one of the key risks to your project timeline, and it will continue to be an issue until such time as the PWA is reformed. You can minimise the risk to some extent by kicking off the process early.

Issues to focus on during the life of a fast-track application

Referral process:
make sure the project is eligible; focus on the need for speed, regional and national benefits of the project.

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Post-referral:
ensure expert reports and effects assessments are comprehensive, and easy to understand.

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Pre-lodgement:
engage with the community and potential submitters; prepare workable conditions in consultation with councils.

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During processing:
ensure team is available for expert conferencing and to respond quickly to any information requests.

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Post-approval:
work with councils and stakeholders to streamline implementation.

Concluding comments

The fast-track process holds significant promise in terms of cutting down the timeframes for and the cost of consenting infrastructure projects. While the benefits of projects will be accorded significantly more weight than under current RMA processes, the fast-track process is not a free pass in terms of the requirement to manage adverse effects. The very short timeframes, lack of a hearing and limited ability to pause the process mean that applicants will need to put more effort into their applications and AEEs prior to lodgement. As the applicant, you will want to make the process as easy as you possibly can for the Expert Consenting Panel in order to get a positive outcome and workable conditions. A robust AEE and expert reports, together with early engagement with the community, iwi and councils, will be key to ensuring success.

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Water reform – the meter is still running

New Zealand's water reform rollercoaster has put the nation in a state of uncertainty for the past several years. Labour had Three Waters, then it had Affordable Water, Affordable Water was repealed, and now we have Local Water Done Well (LWDW). Despite the whiplash, one thing is clear. There is deferred work to be paid for to the tune of nearly 200 billion dollars.

When we talk about New Zealand's 'infrastructure deficit', that deferred work sits at the heart of it.

Our Environment and Planning team has been closely following the water reform process since it was first kicked off by the previous Labour Government. Katrina Van Houtte in our Major Projects and Construction team recently attended the Infrastructure New Zealand delegation to Ireland and Denmark. This article provides an update on where things are at with water reform here and l ooks at some possible lessons we can learn in New Zealand from overseas' experience.

Local Water Done Well – where are we up to at home?

LWDW is the Coalition Government's answer to Labour's Three Waters reform. The first piece of legislation in the LWDW suite (Water Services Acts Repeal Act 2024) repealed Labour's Three Waters legislation, while the Local Government (Water Services Preliminary Arrangements) Bill, which passed its third reading on 27 August 2024, establishes the preliminary arrangements for local government water services delivery. The Bill is designed to ensure that water services meet regulatory standards and are financially sustainable.

Ultimately, the Bill provides:

- A requirement for councils to develop 'water services delivery plans' (WSDPs). Councils must submit their WSDPs within 12 months, detailing the current state and future strategy for water services;
- Additional information disclosure requirements which will 'lay the groundwork' for economic regulation. Councils must provide detailed information on their water services to ensure transparency and accountability; and
- The ability for councils to determine the structure, delivery method, and funding and financing arrangements for their water services. This can include the use of council-controlled organisations (CCOs) to manage water services.

On 8 August 2024, Local Government Minister Simeon Brown and Commerce and Consumer Affairs Minister Andrew Bayly announced new details on the water service delivery models which will be available under LWDW.

This confirmed that water CCOs will be eligible for increased lending from the Local Government Funding Agency (LGFA). CCOs will be able to borrow up to 500% of their operating revenues, provided they are financially supported by parent councils and meet 'prudent credit criteria' (and are able to assess, set, and collect water services charges from consumers). This is twice the lending currently available to councils.

The Government and the LGFA are also exploring further measures such as increasing debt limits for 'high-growth' councils (potentially up to 350% of revenue), and also allowing lending to CCOs not supported by parent councils.

The legislation to implement the new water service delivery models, the Local Government Water Services Bill (aka the third instalment in the LWDW programme), is due to be introduced in December 2024, and will aim to establish 'enduring settings for the new water services system'.

The Bill is intended to provide for the long-term replacement regime, including:

- Setting long-term requirements for financial sustainability;
- Providing for a range of structural and financing tools, including a new class of financially independent council owned organisations;
- Considering the empowering legislation for Taumata Arowai to ensure the regulatory regime is efficient, effective, and fit-for-purpose, and standards are proportionate for different types of drinking water suppliers;
- Providing for a complete economic regulation regime to ensure consumers pay efficient cost-reflective prices for water services that are delivered to an acceptable quality and that water services providers are investing sufficiently in their infrastructure;
- Establishing regulatory backstop powers, to be used when required to ensure effective delivery of financially sustainable and safe water services.

Recently released Cabinet papers provide insight on the different structure options that will be available to councils, giving them a choice as to how they deliver water services. These include:

- Direct delivery by councils – with services provided 'in-house' (the current status quo in most parts of New Zealand);
- Separate council-owned water organisations, which could include:
  - Water CCOs and water council-controlled trading organisations owned by single or multiple councils;
  - Organisations owned by multiple councils, which are intended to be financially independent from a credit rating perspective;
  - Separate water organisations owned by consumer trusts or with mixed ownership (by councils and consumer trusts), which are intended to be financially independent from a credit rating perspective.

Minister Bayly also provided details on the new economic regulation regime under LWDW. The economic regulation regime will initially apply to drinking water and wastewater services and will provide flexibility to include stormwater services at a later date, if necessary. At least initially, current funding arrangements for stormwater services will be retained.

The recent announcement also confirmed that rates or water charges collected by councils or CCOs will need to be 'ring-fenced' for water services. The Commerce Commission will oversee the economic regulation of water services and will have a range of regulatory tools available to it, including mandatory information disclosure to ensure transparency.

Accordingly, the outline of water reform is now becoming clearer – the remaining questions come down to matters of detail and implementation

For example, it is unclear what the interplay will be between the proposed economic regulation and water service providers' ability to fund necessary upgrades and expansion, and how much of a role the introduction of water metering and consumer charges will play.

Related to this, there is some remaining uncertainty as to whether additional borrowing against those charges will be sufficient to address compounding pressures of:

- Ageing infrastructure;
- Population growth;
- Urban expansion (with the Government's "going for housing growth" programme simultaneously removing rural-urban limits);
- Climate change; and
- Increasing environmental expectations (and regulation from regional councils and Taumata Arowai)).

Lessons from UK / Europe on water - what can we apply here?

We are not unique in New Zealand in facing political challenges in respect of three waters – in both Ireland and Denmark, water reforms have been political, difficult to get through, and have not resulted in an outcome that everyone is happy with.

Ireland

For example, in Ireland, water reform faced significant opposition from 31 local authorities who managed water before it was taken over in 2018 by Irish Water (Uisce Éireann), a single water entity for Ireland. It was a long journey to water reform for Ireland, so we should not expect it to happen overnight in New Zealand either.

Like New Zealand, there is a mix of metered and unmetered supply (however, metering in Ireland is used to track leaks, not charge for water). In Ireland a political decision has been made not to charge household consumers for water: only commercial consumers pay. Otherwise, water is government funded through taxes. Irish Water does not look after stormwater – that stays with the local authority (which is an option for councils under LWDW).

Consistent with this, funding of water capital investments is not done through PPPs, because there is such a big concern about privatisation of water.

Denmark

Denmark has also undergone municipal water reform, consolidating 270 water entities into 98 (which is still more than New Zealand's 67 local councils for a similar sized population). There has been talk for some time of further consolidation (not of municipalities, but merging some water entities), but Denmark is finding it difficult to change from a system of having water in local control.

There is cooperation between some smaller municipalities by, for example, sharing in a single wastewater treatment plant across a larger area, to save on costs.

Denmark has regulation in place to protect consumers as water services are delivered by a monopoly (in the relevant region/area). For example:

- The water services entity is not entitled to make a profit;
- There is a cap on the prices that may be charged (although there is an ability to increase the cap in certain limited circumstances);
- Water services entities have no cap on expenditure. This has meant more borrowing / debt has occurred than initially expected. However, an 80-year view is taken in the forecasting, so it will all come out in the wash.
- Water rates from metering ultimately results in full cost recovery for the water system. There are also restrictions on water usage.

Denmark and Ireland are both assisted by European Union mandates or directives that apply to economic regulation. While this provides a restrictive framework in which they can operate, it pushes them to move towards more sustainable, consumer-friendly options than they might have arrived at on their own.

As explained by Te Waihanga New Zealand Infrastructure Commission, evidence shows that water consumption goes down when water metering is put in place. This is because leaks can be detected and repaired, and users conserve more water, in a user pays system. Te Waihanga has given examples of where the introduction of metering has resulted in water usage going down by quite staggering amounts and capital projects being able to be significantly deferred, as demand drops. Metering of water for New Zealand seems like an easy-win to get our three waters investment back on track.

Wales

Welsh Water (Dŵr Cymru) could also provide a model for councils in New Zealand to consider as they grapple with the next phase of water reform, as Infrastructure New Zealand heard about on a recent delegation to the UK. Dŵr Cymru is heavily regulated by multiple bodies, including OfWat, Natural Resources Wales, the Environment Agency, the Drinking Water Inspectorate, the Consumer Council for Wales, the Welsh Government, Public Health Wales, and the Welsh Language Commissioner.

Dŵr Cymru is a private 'not-for-profit' business, but they generate financial surpluses that are then reinvested in its assets and services. This water service model means that water bills can be lower and more funding is available for investment (and re-investment) into water assets.

Insights from overseas should be considered

From our point of view, with respect to a single entity model, that ship has sailed for New Zealand. However, that does not necessarily preclude us from adopting various aspects of such a model. In designing their solutions, councils should consider focusing on economies of scale and eliminating additional layers of management/ bureaucracy/politics. And more broadly, the prescription is surely to invest strategically, effectively, and at scale, the same way all good infrastructure is built and maintained.

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Risk and its limits – the case for CFDs to unlock our offshore wind potential

A surge in electricity prices can deliver quite the jolt about the state of the nation's energy security. The most recent one saw factories shutting down production and the government turning its gaze to potential electricity market reform and gas as a once and future energy source of the nation.

In this context, offshore wind energy emerges as a potentially crucial component of New Zealand's future energy mix to achieve our renewable energy and generation requirements. The possibilities are substantial and real. A PwC impact study sets out a range of scenarios matching planned development and projected demand, that envisions as much as half of our energy needs could be met by offshore wind by 2050.[1]

1 National Impact Study: New Zealand Offshore Wind Industry, PWC, March 2024.

The Government has now announced the details of the offshore renewable energy regime,[2] largely confirming the two stage model that has been heavily foreshadowed through consultation to date, whereby developers would obtain first a feasibility permit (with a seven year duration and on a 'use it or lose it' basis), and then a commercial permit (of up to 40 years). As part of these announcements, the Minister for Energy has signalled that the current Government is not intending to offer revenue stabilising mechanisms such as a 'contract for difference' (or CFD) to support the development of the offshore wind industry. That is consistent with previous communications up until now.

This view was highlighted in a recent UK delegation, with their June 2024 report stating that (in reference to the lack of a revenue stabilisation mechanism like CFD) "a purely unsubsidised offshore wind framework is a key risk to its development in New Zealand".[3]

We have been thinking about this with our UK colleagues and we believe this deserves a closer look. We see serious potential for a CFD solution in New Zealand which enables critical infrastructure to enhance electricity generation (and need not be limited to offshore wind).

The problem: risk and its limits

An offshore wind farm requires a significant amount of capital to build due to its size (with a single turbine being not much smaller than the Auckland Sky Tower). Securing a "route to market" and confirmed "offtake" (i.e. confirmation that the project has long-term committed revenue) is a necessary prerequisite for a project to be "bankable". Lenders and other investors need that confirmation in order to provide funding.

Margins on electricity generation are also tight which means committed revenue is even more important. In this regard, offshore wind is not equivalent to ventures like offshore oil and gas drilling, where the lucrative margin on the product can justify a significant amount of product discovery risk.

New Zealand is a small market where the corporate customer base is largely small and mid-sized enterprises. Our wholesale electricity market can also be extremely volatile due to dry year risk (just look at recent headlines) adding to the pricing uncertainty. As such, New Zealand projects are likely to find it difficult to secure the necessary revenue commitments required to "bank" a project and obtain the necessary capital required for an offshore wind project.

New Zealand is competing for international capital and other countries are implementing similar initiatives which are then more attractive, such as Australia, where the Victorian Government announced plans to introduce a CFD solution.[4] Due to its geography, New Zealand already finds itself outside of the normal supply chain. Even when the supply chain is established in Australia, it needs another skip, hop and a jump to make it here. Without a CFD (or similar) solution, to put it on par with other destinations for capital investment, New Zealand may well find itself left behind at the bottom of the world.

A CFD solution

A Government backed CFD can provide the necessary price certainty to make the project "bankable". It smooths over, and supports, the market issues identified above.

This is consistent with other jurisdictions who are also asking the same questions as us (and are further along with an answer). For example, in a Northern Ireland government consultation (April 2024) on the design considerations for a renewable energy electricity support scheme (RESS):[5]

> a Contract for Difference (CfD) scheme was agreed by the majority of participants to be the preferred approach to supporting renewable generation as CfD schemes are

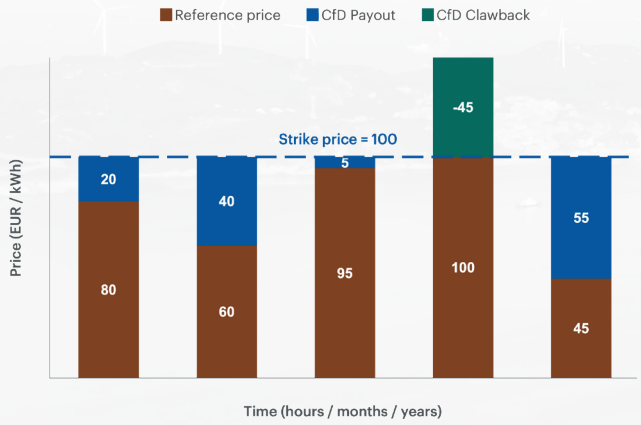
2 https://www.mbie.govt.nz/building-and-energy/energy-and-natural-resources/energy-generation-and-markets/offshore-renewable-energy/design-of-the-offshore-renewable-energy-regulatory-regime
3 Aotearoa / New Zealand Development of the Offshore Wind Supply Chain, Xodus Group, June 2024. Page 24.
4 Offshore Wind Energy Implementation Statement 3, Victoria State Government, December 2023.
5 Design Considerations for a Renewable Electricity Support Scheme for Northern Ireland, Department for the Economy, April 2024. Page 5.

> already employed internationally, have been historically successful in supporting large amounts of renewable generation, and are likely to be well understood by prospective market participants

A two-way CFD was confirmed as the most appropriate and effective mechanism to encourage investment in large scale projects in Northern Ireland. New Zealand has the advantage of leaning on the work done by others in comparable jurisdictions – this ability to leverage knowledge in itself is incredibly powerful (we are already seeing the benefits of that in MBIE's consultation documents to date[6] – we expect to see that approach continue and we hope it is taken further).

In terms of the features of a CFD solution:

- CFDs act as price stabilisers, guaranteeing a fixed "strike price" for the electricity generated, with developers receiving a top-up payment if market prices fall below the strike price, or paying back the difference if market prices exceed the strike price.



- It is typically a long-term arrangement of 10-15 years (or longer). Internationally, CFDs are a relatively common feature of the regulatory regimes for offshore wind (among other things).
- In the UK, the rapid decline in strike prices over successive CFD auctions has vindicated the model, demonstrating that while not cost-neutral initially, a CFD solution can drive cost reductions and make clean energy more competitive in the long run.
- As found in the Northern Ireland government consultation mentioned above, a CFD might soften market wholesale pricing – meaning that the cost to fund the CFD solution can be offset by the savings to consumers experienced through a lower wholesale market price for electricity. In a market like New Zealand where we are experiencing high levels of price volatility this could be a clear benefit.
- The CFD is not a silver bullet. As it only generates difference payments it is still up to the generator to capture the market price – i.e. the developer is still at risk of finding customer(s) / offtaker(s). In the UK the CFD scheme includes an "offtaker of last resort provision" which further mitigates this risk – albeit with added cost if activated.
- The CFD payments can be funded centrally or through a levy on electricity users.

Adding levers to the Government's Infrastructure tool kit

In addition to increasing bankability of projects, a CFD solution gives the Government a number of opportunities to add to its tool kit to fund and manage critical infrastructure outside of purely acting as a regulatory enforcer.

Other positive features of a CFD solution to enable infrastructure, based on examples overseas, include the following:

- The CFD contract itself can be a highly effective vehicle for Government to obtain contractually enforceable undertakings from developers. This can be used to support not only the offshore wind infrastructure but other large scale developments which are in the public interest. For example, the Government could negotiate with a developer that in return of x% change in the strike price, the developer would build infrastructure in the local community such as roads, ports, factories, and so on.

6 Enabling Investment in Offshore Renewable Energy Discussion Document, December 2022. Developing a Regulatory Framework for Offshore Renewable Energy, August 2023.

- In an environment where the Government is looking at activating PPP models, utilising CFDs as a way to enable the private sector to build much needed infrastructure seems to us to be a genuine opportunity.
- Infrastructure and public good projects can be undertaken by the private sector but with a high degree of oversight by government, and remedies for non-delivery under the CFD contract.
- The CFD contract can give the Government a commercial lever which it can utilise and enforce contractually against developers. This can be much more effective than resorting to regulatory enforcement action against permit holders (which can be costly and punitive rather than solutions-focused).
- By its nature, the CFD payments do not start until the generation is built and then are spread over the life of the contract. This enables upfront capital to be built with the cost to Government deferred, spread out over the term, and with the option to keep it off Government balance sheet (via a levy).

Conclusion

New Zealand's fantastic wind resource is there to be harnessed, and its contribution to our energy security could be extremely substantial. Offshore wind energy also has real potential to help us meet our climate obligations (and avoid or reduce our climate liabilities), by advancing the energy transition.

But this is no simple undertaking, and the risks are many. An intelligent approach to risk sharing through a CFD solution could be make or break for the endeavour. A CFD solution need not be offshore wind specific – the rising tide lifts all boats – and all large scale renewable infrastructure could benefit.

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No. 8 wireless? The potential for technology and data to help Aotearoa do more with infrastructure, for less

New Zealand has a proud history of resourcefulness and ingenuity, brought about by geographical remoteness and a 'pioneer spirit' that led early inhabitants to make the most of the scarce resources available to them. Faced with limited resources; at the bottom of the world; and often at the bottom of global supply chains, it remains crucial that New Zealand is able to do more with what resources are already available. But infrastructure held together by no. 8 wire will no longer cut it. Infrastructure needs to be resilient and reliable, while at the same time delivering value for money – notwithstanding the aforementioned challenges.

This is particularly true in the context of New Zealand's physical infrastructure. While it seems to be generally acknowledged that investment in infrastructure is long overdue, Aotearoa is faced with resource constraints which make decisions about when and how to invest in infrastructure fraught with difficulty, as projects to build new or refresh existing infrastructure compete for funding, raw materials, and political attention.

In this regard, technology has the potential to deliver ingenious solutions to facilitate:

- better decision-making about infrastructure projects; and
- better use of existing infrastructure.

This can enable New Zealand to do more, with less. This means that spending can be targeted at projects that will deliver the greatest benefit to the country, while ensuring that the benefits of existing infrastructure are captured to the fullest extent possible.

The potential of technology and data

Accurate data is crucial to decisions to spend big on infrastructure. Before committing to any big project – and soaking up significant financial (and political) capital when doing so – the Government needs confidence in the return on the country's investment. This confidence comes about from reliance on accurate data, which enables decisions to be made against the backdrop of how existing infrastructure networks are (or could be) performing, helping target investment to where it will deliver the biggest bang for buck.

Using technology that facilitates the accurate collection of data about the use of existing infrastructure is crucial. Examples of this sort of technology which has already been deployed in New Zealand include:

- using automatic number plate recognition technology to track vehicle usage, including for the purposes of automating tolling and implementing congestion charges;
- opening up data sets collected by central or local government, to enable the private sector to deliver additional services 'over the top', in situations where the Government is constrained by lack of resources to deliver such services itself;
- using 'smart' cameras to track vehicle and pedestrian flows, to enable planners to better understand the usage of Wellington city streets – not just in terms of volume, but in terms of 'how' users interact with the built environment;
- using 'digital twins', such as Wellington's underground asset management register, which captures key information about physical infrastructure in an easy accessible, decentralised form, thereby aiding investment and planning decisions.

Painting an accurate picture about how existing infrastructure is used gives decision-makers options about how to better use that infrastructure in its current form. For example, rather than investing significant resources into building new roads, existing roading capacity can be better deployed through congestion charging, real-time traffic information, and other policies or information-sharing tools which result in a spread in demand for infrastructure.

Additional tools in the kit include the option for 'gamification'—such as allowing users greater control over their power bills with smart metering and linking user consumption to the user experience via apps. This allows users to 'game' the system and take control of when and how they use their power (and at what price) – leaving the user to feel in control of their own usage, and also rewarding those whose activities help spread the load across the existing network.

Data also provides insight into how infrastructure (even infrastructure that is yet to be built) may be used in the future. Models to predict infrastructure usage can be made much more accurate when based on the analysis of real-life data gathered from the use of similar infrastructure.

Interaction with privacy law

The collection of the vast quantities of data needed to build an accurate picture of infrastructure usage brings with it privacy concerns. The good news for New Zealand is that existing privacy laws enable the implementation of technology solutions to collect this 'big' data, without compromising individual rights: when the technology is implemented correctly. Since those privacy laws are principles-based, they are effectively 'technology-neutral', so by and large are capable of adapting to new technologies without the need for specific regulation.

Technology that is privacy-conscious and implements 'privacy by design' can be successfully configured and deployed to collect valuable information about individual usage, without collecting personal information about the individual themselves. However, this requires vendors and their customers alike to understand the key principles that underpin New Zealand privacy law, including the need for proportionality; the importance of using personal information for the right purpose; and the fundamental requirements to implement technological and organisational measures to minimise the potential for loss or misuse of personal information.

Vendors that understand this dynamic place themselves in the driving seat when it comes to marketing the solutions that they offer to data-hungry but privacy-conscious customers such as government agencies.

Case Study – Wellington Active Transport Monitoring Network

In late 2023, Wellington City Council rolled out traffic counting sensors which count different types of road users, paths of travel, and travel speeds. The technology enables the Council to make more accurate assessment of how people move through the city, and assists the Council to develop transport strategies and make key planning decisions, using accurate, high quality data.

The sensors, deployed by the vendor VivaCity, use an edge processing solution, which allows for the application of machine learning (AI) algorithms to anonymise the captured data on the device itself, without the need for the raw footage to leave the device.

VivaCity was selected due to its of 'privacy-by-design' solution, which it could easily demonstrate as being compliant with New Zealand privacy laws. This enabled the deployment of the solution with confidence that individual rights were being protected, while at the same time ensuring that Wellington City Council could extract the full benefit from the data collected.

The future is AI

Once data is collected, it needs to be analysed. Fortunately, help is here: the recent boom in the development of newer, faster, more accurate artificial intelligence (AI) means that larger data sets can be analysed quicker, better and more cost-effectively than ever before.

New Zealand is taking a 'wait and see' approach to the regulation of AI, with the Government relying (to date) on existing laws, such as privacy laws, which can be applied to the use of AI due to their principle-based, technology-neutral stance. This allows for the quick adoption of (and encourages the use of) new technology that is designed with privacy front-of-mind. There is high demand for technology which automatically anonymises and aggregates individual data to create data sets which focus on the 'big picture' use of infrastructure, and cannot be reverse-engineered to provide any insights into individualised use.

Where to from here?

The intersection of New Zealand's technology and physical infrastructure is – to excuse the pun – at a crossroads. The Government will need to make many important decisions regarding the way in which New Zealand will invest in its physical infrastructure, to secure the provision of basic services such as water, power, and transport. Those decisions should be underpinned by reliable, informative data, all of which can and should be collected by technology that can be deployed for a fraction of the cost of building the networks that such technology monitors.

But technology does not implement itself. Along with the roading, rail and other civil engineers who will design New Zealand's physical infrastructure, privacy specialists and AI prompt engineers will also bring valuable skills to the design of infrastructure networks across the country. These individuals will help New Zealand transform its physical infrastructure – from infrastructure that is currently held together by no. 8 wire, to infrastructure networks that are efficient; connected; sustainable and future-proofed for generations to come.

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Working on shifting ground

Health and safety challenges for the infrastructure sector

In New Zealand, prioritising health and safety in infrastructure projects can protect workers, ensure compliance and boost efficiency. It can prevent accidents, cut costs, maintain programme schedules, and enhance a company's reputation and stakeholder trust. Strong safety practices support sustainable, ethical project completion, benefiting both workers and the community.

However, Infrastructure projects, by their nature, involve complex operations and inherent risks. A sound Health and Safety regime , guided by (ideally) well-defined safety laws is a necessity. It helps no one for those laws to be opaque, but for now that is somewhat the case.

While the legal system is grappling with defining the boundaries of corporate responsibility, policymakers are exploring ways to simplify the rules and regulations. The legal risks continue to evolve with decisions both nationally and globally and the resulting uncertainty is continuing to create challenges for businesses striving to comply with their duties.

In *Maritime New Zealand v Port of Auckland Limited,* Port of Auckland pleaded guilty to two charges under section 36(1)(a), and sections 48(1) and 2(c) of the Health and Safety at Work Act. This followed a fatal accident in which a container fell from a crane at the Fergusson Container Wharf and killed the victim who was working as a stevedore lasher. Amongst other failures, Port of Auckland were found to have lacked an appropriate health and safety regime for lashers. The serious departure from their duty of care was found to have caused the death. This resulted in a very substantial fine and the Court making an adverse publicity order under section 153(1) of the HSW Act, which requires the offender

to publicise the offences, its consequences, the penalty imposed and any other related matter.

The related trial of the Port's former CEO, Tony Gibson, has now concluded and judgment is awaited. It promises to be a landmark case, being the first prosecution of a corporate officer in New Zealand (as opposed to officers of very small enterprises).

The Whakaari prosecutions have dominated the health and safety space over the last 18 months, being the most high-profile health and safety prosecutions since the Pike River Mine disaster.

Some of the Whakaari decisions in the District Court (including the *WorkSafe New Zealand v National Emergency Management Agency (or NEMA)* have effectively limited the scope of the duty that a PCBU owes to 'other persons' from risks that do not arise directly from the work undertaken by that PCBU. These decisions mean that PCBUs do not owe an ongoing duty to the general public or even their clients or customers in relation to outcomes that are separated from their own work activities. While these decisions were only at District Court level, and may, in time be overturned by a higher court, for now they are the only pronouncements from the courts on these specific issues. That said, we are already seeing other District Court Judges diverging from the reasoning in the Whakaari cases. This area is crying out for clarification from the High Court.

Further to this, a change in government has brought a change in perspective on what might be considered acceptable degrees of precaution in health and safety measures.

The Minister of Workplace Relations and Safety, Brooke van Velden, is canvassing opinion around the country about reforms intended to simplify health and safety. When she announced the review, the Minister complained about the 'sea of orange road cones that have taken over the country'. A suggested focus area is to increase the liability and responsibility of employees for their own health and safety in the workplace (noting that existing legislation already imposes a duty on workers). This shift may result in employers having lighter or more restricted obligations. Considering our relatively poor safety record in comparison to countries like Australia and the UK, any proposal that appears to reduce business responsibility for health and health is likely to spark controversy. This is especially so, given the evidence from overseas does not suggest that looser health and safety laws are likely to produce better safety outcomes.

All of this adds a degree of uncertainty to an area that is generally dealing with more than enough of that. The challenge of balancing efficient project delivery with robust safety measures will continue. While we wait for more clarity from the Government as to any proposed reforms, we are relying on the courts to provide further clarity. This will help ensure that infrastructure projects in New Zealand can be completed more efficiently, sustainably, and ethically, benefiting workers, companies, and the broader community.

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ESG in Infrastructure

The current state of things

Introduction

Environment, Social and Governance (ESG) is without question assuming greater significance across the business world, and infrastructure is no exception.

Investors, including the New Zealand Superannuation Fund, are increasingly demanding that ESG risks are managed as a condition of their involvement. Regulatory pressures are also mounting, with new legislation and policy frameworks being put in place at lightning speed requiring greater attention to environmental, social and governance impacts.

But more compellingly, there's a growing recognition that strong ESG performance often correlates with better long-term project outcomes and reduced risks across the board.

In this context, rather than viewing ESG as a set of constraints, it can be much more fruitful to consider the opportunities it presents.

Infrastructure projects are uniquely positioned to address significant global challenges raised by climate change, urbanisation, and social inequality. By considering and addressing ESG risks for projects, infrastructure professionals can:

- Access funding from more sources, such as responsible or green investing
- Enhance the longevity and resilience of projects in a world feeling the effects of droughts, floods and other climate related events
- Foster improved relationships with local communities, by maintaining their social license
- Drive innovation in materials, design, construction methods and operation
- Anticipate evolving regulations, so as to adapt more easily to them

In essence, ESG encourages a shift from merely constructing assets to developing sustainable solutions that benefit society, the environment and the bottom line. This approach not only contributes to the greater good but also promises improved outcomes and a competitive edge in an increasingly conscientious market. It can even be downright exciting.

The state of things

ESG considerations have been rising in profile in the infrastructure sector, reflecting a growing recognition that these factors are particularly crucial in large-scale public works given their long-term nature and widespread impact.

Environmental considerations, such as climate resilience, have become a key focus, with projects needing to account for potential sea-level rise, increased flood or drought risks, and more frequent extreme weather events. Additionally, there's a growing emphasis on reducing the carbon footprint of construction processes and materials, as well as of the operation of infrastructure across its lifecycle, all while preserving the natural environment as much as possible.

Social considerations have also come to the fore, with a renewed focus on health and safety standards in the workplace, and ensuring workplace standards are met by those working on projects and throughout the supply chain. Another aspect of importance is equitable access of communities to infrastructure, so as to increase community wellbeing and cohesion.

Governance aspects of infrastructure projects have seen increased scrutiny as well. There's a growing demand for transparency in decision-making processes, from project selection to procurement and execution. In addition, the choice of providers is driven by their ability to show that they meet governance requirements, such as by having good track record of compliance on their projects.

This focus on ESG presents a range of opportunities in the market. It allows for innovation, attracts sustainable financing, and can lead to more resilient projects and communities. It is not just a compliance exercise.

As environmental concerns, such as climate change impacts or the need to take care of nature at the same time as addressing climate change, become more pronounced and social and governance expectations evolve, infrastructure players who can effectively navigate these considerations will likely find themselves at a significant advantage.

Infrastructure projects that effectively manage ESG risks are finding themselves better positioned to attract investment, secure approvals quickly and deliver long-term value. For instance, renewable energy or public transport projects can tap into growing pools of green finance. As other finance pools are being considered, the governance structure and construction contract type to be used for projects becomes more important so as to enable private finance to build infrastructure. Infrastructure projects that gain the support of the community and broader stakeholders, stand to gain faster approval. Moreover, companies that exhibit strong governance practices can expect to find it easier to manage project risks effectively.

In recent years in New Zealand, public sector principals have driven this ESG focus, particularly in the realm of environmental considerations. In alignment with the first Emissions Reduction Plan, these entities have reshaped the contractor selection process, prioritising those who can demonstrate an ability to limit the carbon footprint of infrastructure projects. We expect the ESG priorities of public sector principals to change, as the Government's focus becomes clearer and the new priorities are incorporated into infrastructure contracts.

Private sector entities in infrastructure have also focused on the ESG concerns of their stakeholders. For infrastructure, the focus is likely to shift strongly in favour of adaptation, with projects expected to ensure resilience of the service provided in the face of climate-related events. Adaptation strategies will influence projects throughout their lifecycle, from planning, to the construction and operational phases, requiring a holistic approach to designing and developing the project.

Greenwashing has emerged as a significant concern for the private sector infrastructure operators. Air New Zealand's recent decision illustrates the challenges companies face when balancing competing ESG concerns. The airline announced it was abandoning its 2030 carbon reduction goals, a move that garnered global attention. This decision was likely influenced by an increased risk of accusations and potential legal action related to greenwashing. Such practices have become more common both globally and in New Zealand, leading to heightened scrutiny of company claims of green credentials.

Regulatory compliance remains a constant focus for all participants in the infrastructure sector. As some projects may be approved through streamlined planning processes, decision-makers are placing greater emphasis on the track record of consent

holders. Project proponents must demonstrate a history of adherence to legal requirements. This focus on compliance also influences principals' choice of contractors. Contractors, in turn, are keen to maintain a strong record of compliance with environmental regulations. This shift in emphasis creates a ripple effect throughout the project chain. It encourages a culture of compliance and environmental responsibility from the top down, shaping the future of infrastructure development in New Zealand.

Conclusion

An ESG approach to infrastructure is not without its challenges. It requires some consideration of a broader set of risks. For those ESG risks that will be managed, it can mean increased upfront investment.

However, assessing these challenges so you can choose which risks to address opens up more options, creating more sustainable, resilient, and valuable infrastructure for the long term. ESG offers some genuinely exciting possibilities for that.

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CSBrand-150897-Infrastructure publication - Brochure-02 — 29/08/2024