



Submission

Finance and Expenditure Committee
Regulatory Standards Bill
23 June 2025

1.0 Introduction

The McGuinness Institute (the Institute) welcomes the opportunity to submit on the *Regulatory Standards Bill* (the Bill). We would like to thank the Finance and Expenditure Committee for inviting feedback on the Bill.

The Institute would welcome the opportunity to make an oral submission in support of this submission.

We also note that the Institute made a submission to the Ministry for Regulation in January 2025 called *Have your say on the proposed Regulatory Standards Bill*. This piece of work is available on the Institute's website and provides relevant context for this submission.¹

1.1 About the Institute

The Institute was founded in 2004 as a non-partisan think tank working towards a sustainable future for Aotearoa New Zealand. Project 2058 is the Institute's flagship project focusing on Aotearoa New Zealand's long-term future. Because of our observation that foresight drives strategy, strategy requires reporting, and reporting shapes foresight, the Institute developed three interlinking policy projects: *ForesightNZ*, *StrategyNZ* and *ReportingNZ*. Each of these tools must align if we want Aotearoa New Zealand to develop durable, robust and forward-looking public policies. The policy projects frame and feed into our research projects, which address a range of significant issues facing Aotearoa New Zealand. The 11 research projects are: *CivicsNZ*, *ClimateChangeNZ*, *EcologicalCorridorsNZ*, *GlobalConflictNZ*, *OneOceanNZ*, *PandemicNZ*, *PublicScienceNZ*, *ScenariosNZ*, *TacklingPovertyNZ*, *TalentNZ* and *WaterFuturesNZ*.

1.2 Why this Bill is important

This Bill is of constitutional significance and, if passed, will have impacts on regulation for generations to come. This Bill is important for all New Zealanders, however both the process behind the Bill, and the content of the Bill itself, present a number of issues.

We are not confident that the statement in the Minister's original foreword to this Bill – that 'most of New Zealand's problems can be traced to poor productivity, and poor productivity can be traced to poor regulations' – is correct.² This sweeping statement disregards the numerous other problems New Zealand is facing, including climate change, social division, community wellbeing, issues with healthcare and education, and many more. Additionally, this statement does not explain what 'New Zealand's problems' are, nor what types of regulations are 'poor regulations'. It does not explain how the Bill will solve these problems nor give any reasoning around how this will benefit New Zealanders.

Regulation, in itself, is not necessarily bad. In fact, strong regulation has a positive impact on the public good – especially on New Zealanders' health and wellbeing. Regulation helps us go about our daily lives with safety and security, restricting harmful products being sold to children, preventing pollution ending up in waterways, and discouraging drunk drivers from getting behind the wheel. This Bill does not explain how it will support development of good regulation to make the lives of New Zealanders better.

The Institute, along with many others, acknowledges there are areas in which New Zealand needs to improve policy and regulation and remove 'red tape'. However, this is an ongoing issue that is not new to public policy. We are not confident that this Bill will solve any of these regulatory problems. Instead, it develops uncertainty and may create more problems than it solves.

It is concerning that this Bill has progressed so far without proper consultation or research into what its actual impacts will be for local and national government, businesses and citizens. This lack of clarity will increase interpretation issues, which will cost money to solve and will lead to a number of potential risks in the future.

This Bill also fails to use evidence to support its drafting, and fails to learn from our international counterparts. It does not explore alternative options for improving New Zealand's regulation (such as other legislative options, the preferred option put forward by both the Ministry for Regulation (MFR) and the Legislation Design and Advisory Committee (LDAC), further discussed in **section 3.8** below).

As well as issues with the Bill's process, its content has not been well-designed and will not have positive impacts on the future of New Zealand. Key issues include:

1. The Bill focuses solely on a narrow set of principles which do not reflect the shared values of New Zealanders.
2. The Bill disregards the numerous other problems New Zealand is facing, including climate change, social division, community wellbeing, issues with healthcare and education, and many more.

New legislation should be based on evidence, and we consider the consultation document lacks that evidence. The Bill takes a very narrow approach to a complex and far-reaching system, and does not consider important economic, social and environmental factors that may be at play or lessons learned from other initiatives to improve regulation. In reality, its current lack of specificity and scope may unintentionally add to the problems New Zealand faces by creating more red tape, not less.

The Institute recommends the Bill is not passed.

1.3 Summary

The Institute considers a great deal more research and stakeholder engagement is necessary before this Bill can be passed.

The Institute's submission has five parts and twelve recommendations:

1.0 Introduction

2.0 Critique of the proposed Bill's history and the submission process

3.0 Concerns on the content of the proposed Bill

4.0 Recommendations to improve the proposed Bill

- **Recommendation 1:** The MFR should be required to publish a strategy on how it plans to deliver on its purpose every three years
- **Recommendation 2:** The MFR should be responsible for the existing regulatory stewardship strategies operated by government departments
- **Recommendation 3:** Include a requirement for the MFR to maintain a central register of government department strategies (GDSs) and for GDSs to be described as instruments in the proposed Bill
- **Recommendation 4:** Incorporate consultation with Māori and include reference to te Tiriti/the Treaty
- **Recommendation 5:** Undertake more research on the history of regulation, and analyse alternative options to this Bill
- **Recommendation 6:** Clearly define roles and use consistent terminology

- **Recommendation 7:** Prepare a detailed timeline on the history of regulatory management system since 2008 on MFR's website
- **Recommendation 8:** Incorporate Treasury's principles into the Bill
- **Recommendation 9:** Integrate a map of the machinery of Government to show what Government documents are covered by this Bill
- **Recommendation 10:** Add a review clause every five years into the Act, along with the report tabled in the House
- **Recommendation 11:** Undertake and share international research
- **Recommendation 12:** Design legislation which incorporates futures-thinking, including AI

5.0 Conclusion

2.0 Critique of the proposed Bill's history and the submission process

This part of the Institute's submission is a critique of the proposed Bill, including the rushed and confusing public consultation process. As the Bill itself is intended to simplify regulation, it is concerning that the process to get it passed has been so confusing for the public.

It is also relevant to look at the long history of this Bill and to consider that it has been in the works over 20 years. Since 2006, this is the fourth time a similar law has been pushed by the ACT party and each version has failed to progress before Parliament.³ It would be useful for submitters to have a history and timeline of the Bill, so that we can see why previous versions were rejected and what changes have been made to the current Bill to alleviate previous concerns (as identified in **Recommendation 7** below).

The Institute has been in operation since 2004, and in this time we have engaged with a significant number of proposals. We submitted on this Bill in January 2025 and are submitting again just a few months later. We, like many others, have found this Bill particularly difficult to understand and, due to Bill's unclear nature and the lack of supporting documents, it is very hard to produce a detailed submission.

2.1 Inadequate consultation timing

The consultation period has been inadequate for a Bill of this complexity, length and significance. The deadline for the earlier submission – 13 January 2025 – was over the summer holiday period in New Zealand. It also coincided with the highly publicised Treaty Principles Bill, submissions for which were due on 7 January 2025. This timing meant many people missed the opportunity to respond to the first consultation.

This new consultation was only published on the Parliament website on 26 May 2025.⁴ This gives a very limited time for submitters to read and respond to the Bill (especially considering the other submissions due in June and July).

2.2 Unclear Bill and lack of supporting documentation

As well as the time constraints, writing a submission has been particularly difficult due to the unclear nature of the Bill and the lack of supporting evidence and documentation. Documents for public consultation should be designed with the public in mind, written in plain English, and provide a very clear Bill for people to respond to. This Bill is very long and is difficult to read and understand. As mentioned, this lack of clarity is ironic and does not bode well for a Bill that is intended to simplify the regulatory process. Some ideas on how to make the Bill clearer and to define key parties are included below in **Recommendation 6**.

2.3 Lack of consultation with stakeholders, particularly with Māori

It is concerning that a Bill with as far-reaching implications for New Zealand has been undertaken without any consultation or engagement with impacted parties.

The Institute does not purport to represent Māori perspectives on this Bill, however, we refer to the Waitangi Tribunal report, which provides context on the Bill's lack of consultation. The report expressed serious concern at the state of the Bill and the lack of meaningful engagement with Māori:

The Tribunal recommended that the Crown immediately halt the advancement of the Regulatory Standards Bill to allow for meaningful engagement with Māori and the dialogue envisioned by the Treaty partnership. In particular, the Crown should meaningfully engage

with Māori on whether the proposed legislation is necessary, what further exemptions in the Bill may be required to protect Māori rights and interests, and the potential impact of the proposed 'rule of law' principle on Government measures in place to pursue equitable outcomes for Māori.⁵

It is also relevant to refer to the evidence of Professor Andrew Geddis in the Regulatory Standards Bill Urgent Inquiry in 2025. Geddis noted:

Given the extreme and significant long-term effects that the RSB will have on Te Tiriti and the Crown / Māori relationship, I would have expected a number of hui and direct engagement opportunities with Māori to have been undertaken by the Crown as part of the RSB policy development phase. I also note in this respect the complaints by the Claimants that some of the Consultation Documents, in particular the Treaty Analysis are heavily redacted, which they say has prevented them from fully understanding the scope of the impacts of the RSB on Te Tiriti.⁶

It is critical to note that the Waitangi Tribunal has recommended the Crown immediately halt the advancement of this Bill to allow for meaningful consultation with Māori.⁷ This feedback should have been taken into consideration in the process of opening this Bill for public submissions.

2.4 Lack of public support for the Bill

Similar bills have been pushed for over 20 years and have received significant public opposition during this time (see a timeline of the Bill's history in **Table 2**). As well as the damning Waitangi Tribunal report mentioned above, this particular Bill has received critique from constitutional experts, government groups, environmental non-profits and others.

The departmental disclosure statement, published by the MFR on 16 May 2025, summarises this lack of public support well:

On 11 November 2024, Cabinet agreed to release the discussion document *Have your say on the proposed Regulatory Standards Bill* to consult on a proposed approach to the Bill (CAB-24-MIN-0437 refers). Public consultation on the proposal set out in a discussion document ran for just over eight weeks (19 November 2024 to 13 January 2025), with approximately 23,000 submissions received.

Analysis showed that 20,108 submissions (around 88 per cent) opposed the proposed Bill, 76 submissions (0.33 per cent) supported or partially supported it, and the remaining 2,637 submissions (almost 12 per cent) did not have a clear position.⁸ [bold added]

This raises questions about why the Bill is being pushed and whether it will deliver any benefit to New Zealanders.

2.5 Lack of consideration of past submissions on the proposed Bill

It is important for democracy that the submission process allows for the public to have a say on legislation in New Zealand. The submission process is to ensure law-makers are accountable to the public and must be transparent. It is therefore extremely concerning that reports state only about 4% of the total submissions for the 2024 consultation on this Bill were read:

The majority of the 22,821 submissions on last year's consultation on a potential Regulatory Standards Bill weren't even read by the Ministry for Regulation before proposals on next steps were taken to Cabinet.

In a summary of submissions released last week, the ministry said 939 submissions – 4 percent of the total – were “qualitatively assessed” to “summarise reasons for support and opposition to the proposed Bill and feedback on specific proposals”...

Regulation Minister David Seymour said he was comfortable with the process followed by officials because there were few worthwhile ideas in the nearly 23,000 submissions received by the ministry.⁹

It is concerning that a number of suggestions from the 2024 consultation have not been considered (or even read) in drafting this latest version. The author of the Bill, Hon David Seymour, has disregarded the lack of public support by saying that ‘many of the submissions were off-topic and did not offer any new ideas or constructive amendments.’ Soliciting submissions but not reading them (let alone responding to or incorporating them) erodes the democratic process. This represents a real lack of democratic integrity and suggests that the submission process is not being taken into consideration.

2.6 Concerns over the failure to document exactly what method had been applied to prepare the summary of submissions from the consultation process

The *Summary of Submissions: Consultation on the proposed Regulatory Standards Bill* was only made public on May 2025,¹⁰ and its preparation date (on bottom right of the cover) was 23 April 2025. Our concern is that the method to prepare the summary document is not clear. We would have expected any organisation promoting public trust and effective use of public funds would do the courtesy of explaining this. In particular, we have concerns about the lack of detail around the use of AI (see mentions of AI in an excerpt contained in **Appendix 1**).

For example, if there were 22,821 submissions, how many were removed and for what reason? How many were read by a human and how many were read by AI? What AI tool was used to make this review? (The name and date of the version is critical and should be publicly available for transparency). And it must be asked what the process was, and what questions were asked in preparation of the summary?

The Institute recently published, in May 2025, our *Think Piece 23: Unlocking Government documents with AI*.¹¹ We found a number of errors, including a reference to the Ministry of Finance (which of course does not exist). Our concern is that there should be full transparency over the method of AI being adopted.

3.0 Concerns about the content of the proposed Bill

This part of the Institute’s submission focuses on concerns with the content of the Bill.

3.1 The Bill creates an imbalance of power, including a lack of accountability and transparency

This Bill gives one Ministry, the MFR, a significant amount of power without the checks and balances required to provide accountability and transparency.

Any new Bill needs to incorporate public accountability measures, especially a Bill as significant as this one. The role of Cabinet should be clearly defined as the central decision-making body of executive government, and the role of Parliament should be clearly defined as regulatory oversight. The Bill does not mention the role of the Auditor-General in this process, which should be clarified. See, in particular, the undertaking of performance audits and inquiries, as outlined in clauses 16 and 20 respectively of the Public Audit Act 2001. And most importantly, to what extent can the Auditor-General audit the work of the MFR? We recommend these roles are clearly defined, and the Bill contain clarity over what success looks like, in order that progress can be reviewed. See this summarized in more detail under **Recommendation 6** below.

3.2 Risk of significant unintended consequences and uncertain impacts of Bill

If the Bill is passed, it will create a significant amount of uncertainty, as well as potential risks of unintended consequences. This opinion has been shared by many experts, including Victoria University associate professor of law Dean Knight, who has said that it is hard to know exactly what the impacts of the Bill will be.¹² As mentioned above, it is very difficult to respond to a Bill when its potential impacts are unclear, and a number of parties have shared this concern in previous iterations of the Bill.

The Legislation Design and Advisory Committee (LDAC) are responsible for ensuring the government designs good legislation. This group of experts also expressed concern with this Bill very clearly in their January 2025 submission (which was publicly released under the Official Information Act). LDAC also noted that it is unclear what the impact of the Bill would be, making it unclear why it was being pushed:

22. Here, the Bill either:

- Has legal effect, in which case would amount to an attempt by the current parliament to pass legislative constraints on how future parliaments should legislate. On orthodox constitutional theory, that is not possible – the current majority cannot bind a future majority; or
- Does not have a legal effect. If the Bill is not intended to have a legal effect, it is unclear why legislation is necessary and preferable to strengthening existing regulatory oversight arrangements (see paragraphs 9 to 15 above).¹³

MFR’s 2025 departmental disclosure statement for the Bill also responded ‘no’ to the below question of whether the details of the Bill had been tested. This is obviously concerning and it emphasises that more work is required to understand the implications of the Bill before it is passed:

3.7. Have the policy details to be given effect by this Bill been otherwise tested or assessed in any way to ensure the Bill’s provisions are workable and complete? NO

While no specific tests have been conducted, departmental consultation was undertaken (primarily undertaken with government agencies within the core Crown) to test the details of the policy.¹⁴

3.3 Principles need defining and the ones selected are narrow and not representative of New Zealand

The Institute is not confident that the Bill demonstrates an understanding of the distinction between principles, criteria and standards (further discussed in **Recommendation 6**). This Bill also fails to identify what principles are, and has not made an effort to understand what principles are shared by New Zealanders.

The regulatory principles proposed to be included in this Bill do *not* reflect the shared values of New Zealanders and, instead, present a very narrow world view. Victoria University of Wellington law professor Dean Knight emphasised this when he said these principles are ‘strongly libertarian in character’.¹⁵ Hon David Seymour’s principles include:

- The rule of law
- Personal liberties
- Taking of property
- Taxes, fees and levies
- The role of courts.

As noted in a 12 June 2025 article by academics Jonathan Boston, Michael Baker, Andrew Geddis, Carwyn Jones and Geoffrey Palmer, titled *The Standards Bill threatens the public interest, public health and Māori rights*, these principles make the assumption that all New Zealanders place value in them, yet this assumption is ‘fatally flawed’. The article explains:

This is because there are multiple distinct ethical values (e.g., liberty, justice, allocative efficiency, privacy, security, peace, reconciliation, minimising harm, wise stewardship, ecological integrity). Many of these values, like justice or fairness, have numerous dimensions and are open to radically different interpretations.¹⁶

As explained **under sections 3.4 to 3.6** below, the principles included in the Bill also fail to include values which are commonly supported by New Zealanders, such as the importance of te Tiriti of Waitangi, public health and environmental stewardship.

3.4 Lack of te Tiriti o Waitangi/the Treaty of Waitangi principles

There is no mention of te Tiriti/the Treaty in the legislation, and the Treaty of Waitangi impact assessment notes the Bill is silent on how the Crown will meet its obligations under this Bill:

While this does not prohibit the Crown complying with the Bill in a manner consistent with the Treaty/te Tiriti, we anticipate that the absence of this explicit reference may be seen as politically significant for Māori and could be perceived as an attempt by the Crown to limit the established role of the Treaty/te Tiriti as part of lawmaking.

Because there is no explicit mention of Te Tiriti in the proposed law, there may be uncertainty for how lawmakers will be required to consider Māori cultural values and collective rights as tangata whenua (as opposed to individual rights) across the different principles and uphold tino rangatiratanga under Article Two of the Treaty.¹⁷

As mentioned above, these values should be considered and meaningful consultation with Māori should be undertaken. This is discussed further in **Recommendation 4** below.

3.5 Lack of environmental principles

It is of a significant concern that none of the principles referred to include environmental protection or any reference to protecting New Zealand’s biodiversity. According to a 30 March 2023 update from Stats NZ, a significant portion of New Zealand’s native species are classified

as threatened or at risk, including 94% of reptiles, 82% of birds, and 80% of bats.¹⁸ New Zealanders are passionate about our unique environment and it is very concerning that this Bill does not include any environmental protections, especially considering recent concerns about the state of our natural environment and pressures from climate change.

New Zealanders care about our environment and it is critical we have regulation that works to reflect these values. For instance, we need to ensure our regulation prevents pollution and safeguards marine protected areas, and this Bill does not provide for that.

The Ministry for the Environment's 2025 edition of New Zealand's report on the state of our environment, *Our Environment 2025*, paints a picture of the serious issues being faced. These conflict with New Zealand's 'clean and green' reputation:

"New Zealand's unique biodiversity has a high proportion of threatened or at-risk species – one of the highest amid the global biodiversity crisis", the report said, noting that land use, pollution, invasive species and climate change can all have an impact on biodiversity.

The report also found the most widespread water quality issue affecting groundwaters was the presence of E coli – a bacteria found in the guts of animals and humans that can cause serious illness and has been linked to farming and cities in New Zealand.

Of more than 1,000 groundwater monitoring sites, nearly half failed to meet the drinking water standard for E coli on at least one occasion between 2019 and 2024, while nearly half of the monitored rivers shows worsening E coli trends.

Meanwhile, a significant proportion of groundwaters have accumulated excess nitrate due to activities such as intensive farming, logging and urbanisation, which also affects water quality and degrades surface water ecosystems.

Regulation is an essential tool for protecting our environment, especially for protecting our drinking water and ground water. The Institute, and many others, have undertaken a significant amount of work to ensure New Zealand's public policy safeguards the environment for future generations. As it is currently written, the Bill has the potential to threaten New Zealand's ecosystem protections. The Bill also has the potential to undermine public participation in environmental decision-making processes.

3.6 Lack of climate change principles

Like the rest of the world, New Zealand is experiencing a changing climate and is facing the impacts of rising temperatures, changing weather patterns, and increased occurrences of natural extreme weather events. These changes are serious and will continue to increase in the future, impacting the next generation and beyond. New Zealand needs to both reduce our greenhouse gases and prepare for future climate-related risks. The Ministry for the Environment has noted these climate impacts are increasing in frequency and severity across the country:

Aotearoa New Zealand experienced its second warmest year on record in 2023, just shy of the record set in 2022, with an average temperature of 13.6 °C. Climate change projections for Aotearoa show further warming is projected by 2090, with more hot days and fewer cold days across the country over the next decades.¹⁹

Climate change is one of the most serious risks facing New Zealand in the future and it should be part of the criteria for all future regulation. Both preventing our emissions and responding to the impacts of the changing climate should be included in this Bill, and it is a disservice to future generations not to include it.

3.7 Lack of community principles, especially regarding protecting public health and safety

It is of particular concern that this Bill does not reflect the importance New Zealanders place on regulation to protect the community, in particular on public health and safety. Regulation is critical for keeping the community safe (for instance, speed limits, health regulations on food, and restrictions on chemicals in agriculture).

This Bill has been designed with a lack of clarity, which means it has negative impacts on public health and safety. A concern that has been expressed by experts and environmental groups is that regulation designed to improve public health will be harder to implement under the new Bill, for instance, legislation restricting cancer-causing substances such as tobacco:

[T]he 'takings or impairment' principle would enable commercial interests to seek public compensation if legislation impairs their intellectual property or reduces their profits. Public health examples where compensation could potentially be claimed include: tobacco controls such as denicotinisation of cigarettes, alcohol restrictions such as sponsorship bans, controls on unhealthy food and drink such as limiting marketing to children, and clean air provisions such as mandating emissions reductions by industry.²⁰

3.8 Failure to consider alternatives, including developing current legislation

The Bill would benefit from accompanying documentation which outlines possible alternatives, so that public submissions could compare options. One possible alternative that was not explored is working on improving existing systems rather than implementing a new Bill. For instance, this could include strengthening the LDAC's Legislation Guidelines.

There is already a significant amount of legislation which outlines the best way to design regulation in New Zealand, and much of this is fit-for-purpose. It is unclear how the proposed Bill will benefit New Zealanders more than the status quo. As University of Otago law professor Andrew Geddis shared, these options already exist:

There already are a range of 'best practice' lawmaking guides and practices within government, such as the LDAC's 'Legislation Guidelines', Regulatory Impact Statements, and departmental disclosure statements under the Legislation Act.²¹

Furthermore, this Bill disregards the MFR's own preference, which is to develop current legislation to improve regulation in New Zealand. In a 2024 document, *Interim Regulatory Impact Statement: Legislating to improve transparency of the quality of regulation*, the MFR expressed its preferred approach was to 'build on the disclosure statement regime ... and create new legislative provisions'. It said it supported the overall objectives of the Bill but 'an enhanced disclosure statement regime with enhanced obligations, will achieve many of the same benefits' and also impose fewer costs.²²

The *Final Regulatory Impact Statement* notes that the quality assurance (QA) panel (including members from the MFR, Ministry of Justice, Ministry for Business, Innovation and Employment and Treasury) reviewed the *Regulatory Impact Statement (RIS): Proposed Regulatory Standards Bill* produced by the Ministry for Regulation. The QA panel found that the Bill only 'partially meets' the Quality Assurance criteria. The *Regulatory Impact Statement* notes that there are a number of issues with the Bill as proposed:

...the scope of the options has been limited by the Coalition agreement and Ministerial direction and as a result, alternative approaches to the proposal have not been explored in detail. However, the RIS clearly outlines the assumptions, limitations, and Ministerial objectives in a way that enables transparency and clarity about the differing views and considerations.

The information in the RIS suggests that the specific legislative changes sought in this Cabinet paper are unlikely to be the most efficient approach to pursuing the stated objectives. It highlights that, if the recommendations are agreed, regulating in the public interest may be more costly, with an uncertain impact on the underlying behavioural incentives and on the information problems that drive poor regulatory outcomes. The panel notes that the scope of consistency reviews was included after public consultation, and the RIS has limited analysis of impacts, including on local government. This additional requirement has significant estimated costs and potential for crowding out other regulatory maintenance and stewardship activity.

The Ministry for Regulation has expressed a preference for an alternative approach based on disclosure requirements coming into force through Part 4 of the Legislation Act 2019, supplemented by Ministerial commitments to good regulation and stewardship. The RIS indicates that this would encourage better information and sharpened incentives across regulatory regimes.

The QA panel's view is that, should this Bill proceed to enactment, more consideration will need to be given to implementation issues, funding, and addressing the risks identified in the RIS.²³ [bold added]

4.0 Recommendations on how to improve the proposed Bill

This part of the submission includes possible recommendations on how the Bill could be designed to improve efficiency and effectiveness of regulation in New Zealand.

Recommendation 1: The MFR should be required to publish a strategy on how it plans to deliver on its purpose every three years

In a search of the content of the proposed Bill, we did not find any results for ‘strategy’, which is very disappointing for a Bill aimed at improving regulation in New Zealand. To create clarity on what the MFR does and achieves, we recommend the MFR be required by legislation to develop their own strategy on how they will execute their purpose. This strategy should define their process and desired outcomes for delivering better regulatory stewardship.

The Bill should be amended to ensure MFR’s strategy is:

- clearly defined
- publicly available
- updated every three years, and
- progress is reviewed and reported upon every three years.

These requirements will ensure MFR is held accountable and delivers what it promises. They will also enable Office of Auditor-General, any other organisation, or the general public to review the quality of their approach and execution of that approach. This is particularly important given MFR’s potential influence over all government departments without checks and balances on their power.

Recommendation 2: The MFR should be responsible for the existing regulatory stewardship strategies operated by government departments

As part of improving the regulatory process in New Zealand, the Institute recommends the MFR incorporate all active, existing regulatory stewardship strategies held by government departments. These should be used to guide MFR’s own strategy and should be listed in an appendix in the consultation documentation. This will ensure transparency so that readers/users have a full picture of the context in which MFR would operate.

When Treasury was overseeing the management of the Regulatory Management System in 2017, seven key regulatory departments were required to publish ‘regulatory stewardship documents’ to meet the government’s expectation that departments ‘maintain and publish up-to-date information about their regulatory decision-making processes, including timelines and the information or principles that inform their regulatory decisions’.²⁴ These seven departments were:

1. Ministry for the Environment (MFE)
2. Ministry of Business, Innovation and Employment (MBIE)
3. Ministry of Transport (MOT)
4. Department of Internal Affairs (DIA)
5. Inland Revenue (IRD)
6. Ministry for Primary Industries (MPI)
7. Ministry of Justice (MoJ)

These departments, with the addition of LINZ, have published descriptions and assessments of regulatory systems.²⁵

Recommendation 3: Include a requirement for the MFR to maintain a central register of government department strategies (GDSs) and for GDSs to be described as instruments in the proposed Bill

Legislation is central to regulation. The Institute started a *GDS Index* research project in 2014 and it has been regularly updated ever since. The Institute's *GDS Index* aims to illustrate how New Zealand might strengthen GDSs to be more effective, responsive, measurable, comparable and durable through public consultation, engagement and ownership.²⁶ However, the 2024 *GDS Index* found only 16% of GDSs in operation (32 out of 195) are required or referred to in legislation.²⁷ Page 12 of the Institute's *2024 GDS Index Methodology* contains a comprehensive list of these 32 GDSs.²⁸

Requiring in law that a strategy be published is a useful mechanism for Parliament to ensure strategies are developed, consulted upon and made public. In 2023, the Institute raised the issue of whether such GDSs might come under the governance of MFR. MFR has advised that it does not have a stewardship role for all GDSs, but has an interest, as a consumer, in specific GDSs during its reviews of where regulatory failures might exist.

It is recommended more GDSs be mandated by law to ensure a higher level of due diligence, ownership, durability and accountability. The Institute believes this is a governance issue for the Minister for the Public Service and the Minister for Regulation.

Furthermore, as part of improving the regulatory process in New Zealand, the Institute recommends the MFR, as a regulatory body, should be responsible for collating and measuring GDSs.

Recommendation 4: Incorporate consultation with Māori and include reference to te Tiriti/the Treaty

As part of our research into this Bill, we (along with many other parties) noted the *Preliminary Treaty Impact Analysis* statement includes the below note that te Tiriti/the Treaty is not included in the principles considered under this Bill:

7. Of significance is that the proposals do not include a principle related to the Treaty/te Tiriti and its role as part of good law-making, meaning that the Bill is effectively silent about how the Crown will meet its duties under the Treaty/te Tiriti in this space. While this does not prohibit the Crown complying with the Bill in a manner consistent with the Treaty/te Tiriti, we anticipate that the absence of this explicit reference may be seen as politically significant for Māori and could be perceived as an attempt by the Crown to limit the established role of the Treaty/te Tiriti as part of law-making.²⁹

The Institute acknowledges Māori have a critical role as tangata whenua in Aotearoa and that we do not purport to represent or account for those perspectives in this work. However, we believe consultation is essential, especially for a Bill of this scale and complexity. The Bill's lack of consultation makes it inconsistent with New Zealand's other legislation and with the shared values of New Zealanders. It would also mean a number of important voices are not heard in legislation.

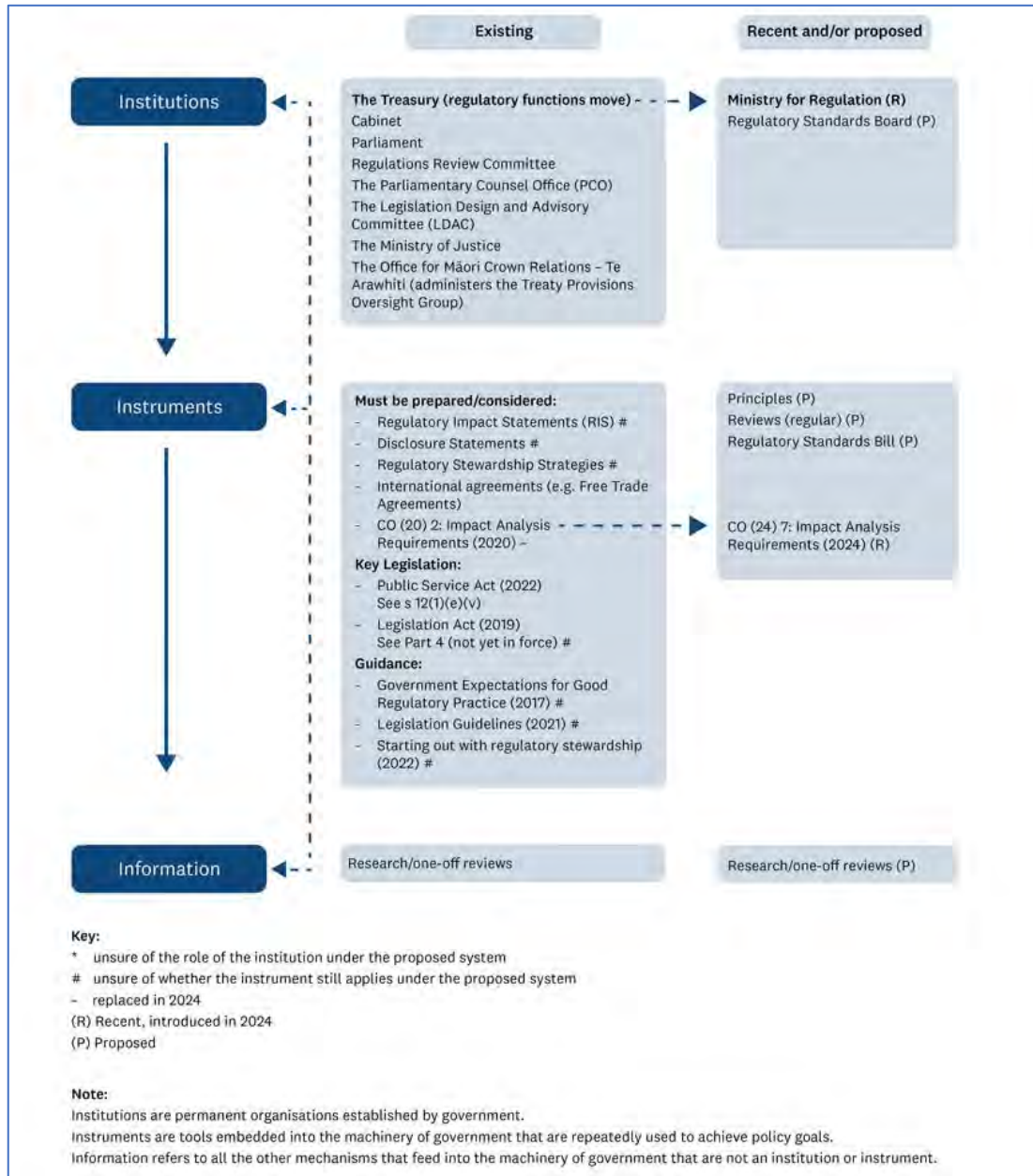
Recommendation 5: Undertake more research on the history of regulation, and analyse alternative options to this Bill

We consider more research is required to understand the history of regulation (e.g. what has worked and what has not), what other countries are doing, what options exist, and most importantly, what the costs, risks and benefits of this proposal are in comparison with other options.

It is important to understand the system in which this Bill is anticipated to operate so that we can analyse how it will add value and if it will deliver what it proposes. The Institute has summarised our understanding of New Zealand’s current regulatory review ecosystem in **Figure 1** below.

Figure 1: New Zealand’s Regulatory Ecosystem

Source: McGuinness Institute



Recommendation 6: Clearly define roles and use consistent terminology

Government departments should be accountable to MFR, and MFR should be accountable to Cabinet and Parliament, but without a common language, any potential efficiencies are unlikely to materialise. MFR should make clear the process and timeline by which regulatory changes are made and when regulatory systems will be reviewed.

Table 1: Pinpointing where the proposed Regulatory Management System (previously the Regulatory System) is unclear

Sources: See endnotes in Table.

Three key phases	Phase 1: Regulatory System (2008–2024)	Phase 2: Regulatory Management System (MFR) System (2024–2025)	Phase 3: Proposed new MFR System (2025–20XX)
Managed by	In 2008, the Treasury became responsible for the strategic co-ordination of the Government’s regulatory management system. ³⁰	MFR was established on 1 March 2024. ³¹ MFR is one of the five central public service agencies, alongside DPMC, Public Service Commission, the Treasury and Social Investment Agency. ³²	MFR
Accountable to	Cabinet	Cabinet	Cabinet
What is the overarching purpose?	It was composed of three main components: rules, organisations and their practices. The regulatory management system is overseen and administered by the Treasury, and is one of the portfolio responsibilities of the Minister of Finance. ³³	It is a set of policies, institutions, processes and tools used by central government to pursue and maintain good quality regulation. ³⁴	Section 3 of the Regulatory Standards Bill states “The purposes of this Act are to— (a) promote the accountability of the Executive to Parliament for— (i) the development of high-quality legislation; and (ii) the exercise of stewardship over regulatory systems; and (b) support Parliament’s ability to scrutinise Bills; and (c) support Parliament in overseeing and controlling the use of delegated powers to make legislation.” ³⁵ Q1: What does the bold text mean in practice? Q2: Does the Minister of Finance have a role at all?
What was/is the key guidance document?	<i>Government Expectations for Good Regulatory Practice</i> (2017) ³⁶ This includes the expectation that departments ‘maintain and publish up-to-date information about their regulatory decision-making processes, including timelines and the information or	Treasury’s <i>Government Expectations for Good Regulatory Practice</i> (2017) ³⁸	Q3: Is the 2017 guidance document still relevant under the proposed Act?

	principles that inform their regulatory decisions'. ³⁷		
What are the key institutions involved and what are their roles?	Treasury and selected Government departments	Most current RMS requirements are set by Cabinet, not in legislation. 'The exceptions are: (i) the Public Service Act, which specifies that chief executives have responsibility for stewarding the legislation that their agencies administer (ii) the Legislation Act, which provides for the role and responsibilities of the Parliamentary Counsel Office (PCO) (iii) a growing range of international agreements, or treaties, that include obligations for good regulatory practices or regulatory transparency.' ³⁹	Q4: What are the other key institutions, in addition to the MFR?
What is the strategy?	The strategy was set out in <i>Building Effective Regulatory Institutions and Practices: The government's regulatory management strategy</i> (2018). ⁴⁰ It requires 'Regulatory Stewardship Strategies' from seven departments (see Table 2 below).	It requires Regulatory Impact Statements' (RISs) by all departments wanting to undertake change in legislation: These are required by agencies wanting to take a regulatory proposal to Cabinet. A RIS is based on the findings of the agency's regulatory impact analysis, an agency's best advice on a regulatory proposal to both its Minister and Cabinet. They are published on the department's website. ⁴¹ Government departments: Departments are expected to: (i) monitor, review and report on existing regulatory systems, (ii) undertake robust analysis and implementation support for changes to regulatory systems, and (iii) follow good regulatory practice. ⁴²	Q5: Is the 2018 strategy document still relevant? Q6: Is the strategy required in legislation? Q7: Are departments' strategies mentioned or implied in legislation covered under the proposed Act? Q8: Does a review clause exist? In other words, how does the proposed work of MFR know it has been successful? A compulsory independent review would seem the most effective mechanism. This should be included in the legislation to ensure this review takes place, with a requirement the review report is tabled in the House.

Recommendation 7: Prepare a detailed timeline on the history of regulatory management system since 2008 on MFR’s website

Treasury has a timeline on their website that should be updated and added to this consultation document and ideally uploaded to the MFR website. See Table 2 below. By reflecting and learning from previous public policy, the New Zealand public service is likely to make better public policy decisions going forward. Because the proposal does not appear to reflect and build on New Zealand’s previous regulatory system, the chance of creating a better system in the future is at best missed, and at worst, risks repeating the past.

Table 2: Summary of the Treasury’s Regulatory System Reporting Timeline 2008–2018

Source: Adapted from the New Zealand Treasury⁴³

Year	Description
2008	Treasury becomes responsible for the strategic co-ordination of the Government’s regulatory management system. ⁴⁴
2016	The first ‘regulatory stewardship strategies’ were published by six key regulatory government departments.
2017	This became seven departments: <ol style="list-style-type: none"> 1. Ministry for the Environment (MFE) 2. Ministry of Business, Innovation and Employment (MBIE) 3. Ministry of Transport (MOT) 4. Department of Internal Affairs (DIA) 5. Inland Revenue (IRD) 6. Ministry for Primary Industries (MPI) 7. Ministry of Justice (MoJ)
2018	There was a move away from these strategy documents towards a more collaborative and adaptable approach. Regulatory stewardship information is now more often contained on a department’s website. ‘Moving the information out of a strategy document makes it easier for departments to update the system information. Departments are encouraged to update the information periodically and as new information is available.’ ⁴⁵
2024	Responsibility for the Regulatory Management System moved from Treasury to MFR on 1 May 2024. ⁴⁶

Recommendation 8: Incorporate Treasury’s principles into the Bill

In 2020, Treasury identified four common dimensions to assess regulatory systems:

The departments have started to assess the fitness-for-purpose of their regulatory systems using common dimensions of effectiveness; efficiency; durability and resilience; and fairness and accountability.⁴⁷

The need for principles may have derived from the 2014 Productivity Commission paper, mentioned in the consultation document. It made the following recommendation:

R14.2 The Treasury should:

- **articulate a set of principles to encourage departments to focus effort on reviews that have the largest anticipated benefits;**
- set up an ongoing preliminary assessment process to identify areas requiring attention (these assessments could be undertaken by the responsible departments, or by a central department or even by a new agency); and
- specify targets such as overall yearly expenditure, or a target number of reviews, to force identification of the reviews with the largest potential benefits.⁴⁸ [bold added]

We consider the four dimensions above, identified by Treasury, could be treated as principles and should be front and centre of MFR’s approach. Given Treasury’s previous role, it would be good to understand more about how these four were used and if they were effective.

Recommendation 9: Integrate a map of the machinery of Government to show what Government documents are covered by this Bill

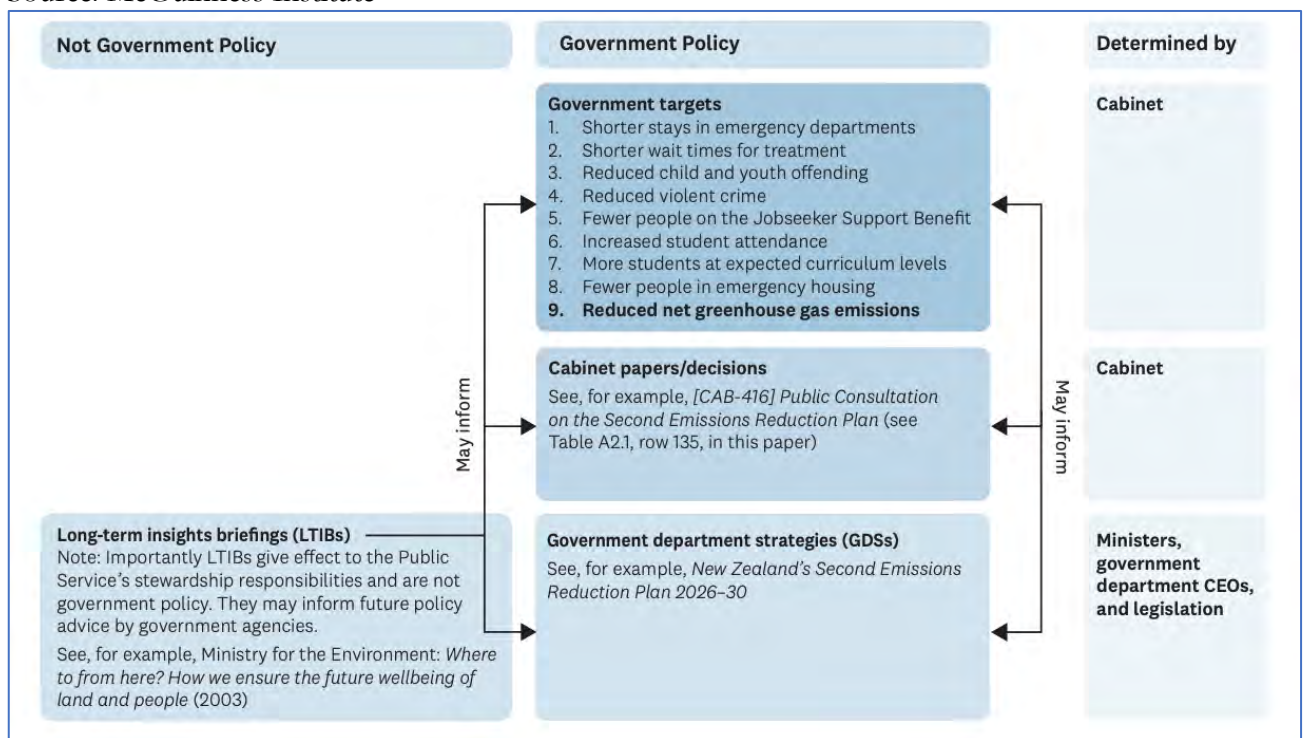
It is unclear if the proposed Bill is intended to cover things that are not Government policy, for instance, whether documents such as *Long-term Insights Briefings* are covered by the Bill. This lack of clarity makes the Bill difficult for the public to respond to. We recommend the Bill improve accountability and transparency by including a list of exactly what documents the Bill applies to.

We also suggest the Bill should map the machinery of government, so the public can identify what the primary documents and pathways of regulation in New Zealand are.

The map should clearly identify the machinery of government and how each piece of regulation impacts others. This would help develop transparency and accountability between government and the public, which is an essential part of good regulation. The example below is taken from the Institute’s *Working Paper 2025/03 List of Climate-related Cabinet Papers Dated Between 2001 and 2024*.⁴⁹

Figure 2: Example of a machinery map titled *How Cabinet papers co-exist in the machinery of Government, using emissions as an example*

Source: McGuinness Institute⁵⁰



Recommendation 10: Add a review clause every five years into the Act, along with the report tabled in the House

A compulsory independent review report should be tabled in the House within five years of the Act coming into force, and every five years forthwith. This requirement should be included in the proposed Act. It would not only be an effective check and balance on the system, but by being tabled into the House it would enable Parliament to discuss how effective the system has been and how it could be improved.

Given MFR is one of the five central public service agencies (alongside DPMC, Public Service Commission, the Treasury and Social Investment Agency) and that it scrutinises and holds considerable power over other agencies – its work should come under a higher level of scrutiny than other agencies.

Recommendation 11: Undertake and share international research

There is a lack of any international example to show where similar legislation has worked, what hasn't worked, and how New Zealand can incorporate these lessons. It is prudent to see what our trading partners are doing in this space, and this information should be publicly available. Good research is sorely needed, including understanding what is working (or not working) in other similar countries (e.g. UK, Australia and Canada).

We recommend that international analysis is undertaken so our Bill can be consistent with international standards, and so that we can learn from our international partners.

Recommendation 12: Design legislation which incorporates futures-thinking, including AI

Legislation can also be designed in ways that anticipate, and prepare for, how it can be implemented in digital systems. For example, digital implementation assets (such as data structures, reporting templates, or decision trees) can be published alongside legislation to illustrate its intended effect. Any legislative system that requires reporting digital data presents particularly significant opportunities.

In terms of regulation, this may mean that government documents need to be verified through AI processes. In May 2025, the Institute explored how AI will impact government document documents in *Think Piece 43: Unlocking Government documents with AI*.⁵¹ This think piece explores what AI could look like when applied to Government documents, and in particular how AI might provide taxpayers more value in terms of delivering quality products and services. Improvements are possible not just in terms of the delivery of goods and services to citizens, but also in terms of delivering a more interconnected and aligned policy ecosystem, and any new legislation should consider this.

Legislation which is designed for the future needs to consider how technology, especially AI, will develop. It is recommended any government parties using AI are required to:

- declare their intention to use AI in advance, and
- clarify how AI will be used (this is to let submitters prepare submissions in ways that are accessible to AI systems, to choose not to submit if they do not want to, or choose alternative submission methods).

Further, we emphasise there are serious concerns with the lack of information on the way AI was used in the submission process. An extract of the May 2025 *Summary of Submissions: Consultation on the proposed Regulatory Standards Bill* is in **Appendix 1**. If Parliament wishes to assure citizens that democratic processes are in place to deal with complex issues, the public service should release an outline of how the summary was prepared. The lack of specific numbers, and the name and version date of AI tools used, further highlights concerns that we have with this Bill.

Some further recommendations on the use of AI in designing policy include:

1. AI should not be used to identify duplicate submissions without rigorous assurance mechanisms in place. The summary should clarify whether duplicate submissions were identified using AI (based on statistical similarity) or programmatic methods (exact

duplication of files). The risk of false positives using AI to identify duplicate submissions is unacceptably high.

2. Where AI systems are used (for example to classify whether a submission is from an individual or organisation, or whether it is a duplicate) standard transparency procedures should require that the exact model used and the date of the analysis is recorded and published. This is because AI systems can change and develop over time, particularly where they are hosted remotely, and it may be necessary to revisit analyses later.
3. Data quality and formats are particularly important when it comes to the use of AI systems. For example, submitting a PDF that requires OCR (optical character recognition) will result in transformation and interpretation of the source document into other formats. This presents a risk of error that must be controlled for. By contrast, submissions received as text files or emails (or as structured datasets) are directly accessible to AI systems, and risks associated with OCR and PDF interpretation are mitigated. The summary of how submissions were processed should include a breakdown of the formats used and whether these included the use of OCR before they were submitted to the relevant AI system.

Parliament and officials need to work a lot harder in this space to maintain the public's trust in democracy.

5.0 Conclusion

This Bill is unclear on how it will solve any regulatory problems in New Zealand and, in fact, has the potential to cause problems, through a lack of clarity and potential unintended consequences.

The problem the Bill is trying to solve must be more clearly defined, otherwise success cannot be measured. Without a clear issue identified, the Bill does not show how it will benefit the public or why it should be passed. There is a real risk this Bill will cause unnecessary confusion, waste time and money, and deliver poor outcomes for government, individuals and businesses.

There are issues with both the consultation process and with the content of the Bill. What is intended by the term 'principles' requires much further investigation.

The McGuinness Institute recommends this Bill should not be passed. It requires much more detailed research and analysis before the policy framework can be designed to deliver benefits to New Zealanders.

Appendix 1: Summary of Submissions: Consultation on the proposed Regulatory Standards Bill, May 2025 (p. 43)

Summary of Submissions: Consultation on the proposed Regulatory Standards Bill

was granted. Re-submissions were accepted up to 17 January 2025 where the original submission was received in an inaccessible format.

Triaging submissions

6. Duplicate submissions were removed. Where a person submitted as an individual via both Citizen Space and email, these were combined into a single submission. Where one email contained multiple separate submissions, each was treated as a separate submission. Where one submission was on behalf of multiple people/contained multiple signatures, we treated it as a single submission.
7. Some emails were received that were submissions on other policy proposals under consultation. These senders were notified and redirected towards the appropriate contact point for the intended policy proposal.
8. AI and other tools were used to identify potential instances of duplicate and multiple submissions, submissions made in te reo Māori, submissions containing Official Information Act requests, and submissions that did not relate to the proposed Regulatory Standards Bill. This was then confirmed manually. Where multiple emails were received from the same email address this was also confirmed manually whether they were separate or duplicate submissions.
9. Submissions made in te reo Māori were translated.

Classifying types of submitters

10. Submissions were classified as being from an individual, on behalf of an organisation, or on behalf of iwi or hapū. For Citizen Space this was a collected field. For emails, AI was used to assign a type of submitter, which was manually confirmed in each case where a submitter was classified as not an individual.

Quantitative analysis

11. The Ministry worked with Public Voice to classify support and opposition to the proposed Bill for all submissions.
12. All emails and Citizen Space submissions were assigned a preliminary classification by Public Voice using a LLM that followed a logic model created by the Ministry.
13. Submissions were classified as either:
 - **Support:** Clear indication of support for the Bill
 - **Partial Support:** Support with significant reservations or suggested modifications
 - **Oppose:** Clear indication of opposition to the Bill
 - **Unclear:** No definitive stance or mixed messaging preventing clear classification

Endnotes

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