

# Departmental Disclosure Statement

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Canterbury Property Boundaries and Related Matters Bill
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The departmental disclosure statement for a government Bill seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill.

It identifies:

- the general policy intent of the Bill and other background policy material;
- some of the key quality assurance products and processes used to develop and test the content of the Bill;
- the presence of certain significant powers or features in the Bill that might be of particular Parliamentary or public interest and warrant an explanation.

This disclosure statement was prepared by Land Information New Zealand.

Land Information New Zealand certifies that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

12 October 2015

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## Part One: General Policy Statement

The purpose of this Bill is to clarify the law relating to locating legal property boundaries on land affected by movement resulting from the 2010 and 2011 Canterbury earthquake sequences. The purpose is also to provide for guidelines to be issued about standards set under the Cadastral Survey Act 2002, to assist with boundary determinations in greater Christchurch after the earthquake sequences but also for more general use in future to maintain public confidence in the cadastre.

Properties in greater Christchurch were affected by land movement resulting from the 2010 and 2011 earthquake sequences. In the worst affected areas, it has been difficult for surveyors to locate legal property boundaries because the measurements between survey pegs and marks in the ground may no longer match those recorded on the official survey plans.

In these cases, it has been difficult for surveyors to identify and interpret physical evidence of boundaries, all of which moved with land movement, in light of the generally accepted principle that legal property boundaries are fixed except in the case of gradual and imperceptible water boundary movement.

This uncertainty has resulted in surveys taking longer to complete, reluctance by some surveyors to undertake surveys in the worst-affected areas, more cost to property owners, and delays to rebuilding work.

The Bill addresses this problem by providing that legal boundaries of land in greater Christchurch have moved with land movement caused by the 2010 and 2011 Canterbury earthquake sequences.

The Bill also provides for the Surveyor-General to issue guidance for surveyors, in order to achieve consistent interpretations of, and improved compliance with, rules and standards made under the Cadastral Survey Act 2002.

To enhance clarity and certainty the Bill also:

- confirms that a registered landowner under the Land Transfer Act 1952 continues to enjoy all the benefits of registration, including indefeasibility and the Crown guarantee;
- confirms that a survey approved by Land Information New Zealand in the interim period (after the earthquakes and before the commencement of this Bill) continues to determine the boundaries surveyed;
- confirms that licensed cadastral surveyors and the Crown will not be liable for surveys done and approved in the interim period merely because they were done on the basis that the boundaries did or did not move with the land; and
- provides that certain boundary corrections that arise from the Bill will not be a subdivision for the purposes of the Resource Management Act 1991 (and therefore will not require a subdivision consent).

## Part Two: Background Material and Policy Information

### Published reviews or evaluations

<b>2.1. Are there any publicly available inquiry, review or evaluation reports that have informed, or are relevant to, the policy to be given effect by this Bill?</b>	<b>YES</b>
Short summary of feedback on proposed guidance for surveyors locating boundaries in areas affected by shallow surface movement caused by the Canterbury earthquakes, LINZ, February 2015 (accessible at: <a href="http://www.linz.govt.nz/land/surveying/canterbury-earthquakes/information-for-canterbury-surveyors-post-earthquake-cadastr-0#sthash.i4OiTaCG.dpuf">http://www.linz.govt.nz/land/surveying/canterbury-earthquakes/information-for-canterbury-surveyors-post-earthquake-cadastr-0#sthash.i4OiTaCG.dpuf</a> )	

### Relevant international treaties

<b>2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?</b>	<b>NO</b>
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### Regulatory impact analysis

<b>2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?</b>	<b>YES</b>
Regulatory Impact Statement Canterbury Property Boundaries Project, LINZ, 13 August 2015 (accessible at <a href="http://www.linz.govt.nz/land/surveying/canterbury-earthquakes/information-for-canterbury-surveyors-post-earthquake-cadastral">http://www.linz.govt.nz/land/surveying/canterbury-earthquakes/information-for-canterbury-surveyors-post-earthquake-cadastral</a> and <a href="http://www.treasury.govt.nz/publications/informationreleases/ris">http://www.treasury.govt.nz/publications/informationreleases/ris</a> )	

<b>2.3.1. If so, did the RIA Team in the Treasury provide an independent opinion on the quality of any of these regulatory impact statements?</b>	<b>NO</b>
No independent opinion was given, because the RIS did not meet the threshold for RIA Team assessment.	

<b>2.3.2. Are there aspects of the policy to be given effect by this Bill that were not addressed by, or that now vary materially from, the policy options analysed in these regulatory impact statements?</b>	<b>NO</b>
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### Extent of impact analysis available

<b>2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?</b>	<b>NO</b>
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<b>2.5. For the policy to be given effect by this Bill, is there analysis available on:</b>	
<b>(a) the size of the potential costs and benefits?</b>	<b>YES</b>
<b>(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?</b>	<b>YES</b>
Regulatory Impact Statement Canterbury Property Boundaries Project, LINZ, 13 August 2015 (accessible at <a href="http://www.linz.govt.nz/land/surveying/canterbury-earthquakes/information-for-canterbury-surveyors-post-earthquake-cadastral">http://www.linz.govt.nz/land/surveying/canterbury-earthquakes/information-for-canterbury-surveyors-post-earthquake-cadastral</a> and <a href="http://www.treasury.govt.nz/publications/informationreleases/ris">http://www.treasury.govt.nz/publications/informationreleases/ris</a> ), pages 8 – 11.	

<b>2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be impacted by:</b>	
<b>(a) the level of effective compliance or non-compliance with applicable obligations or standards?</b>	<b>NO</b>
<b>(b) the nature and level of regulator effort put into encouraging or securing compliance?</b>	<b>NO</b>

## Part Three: Testing of Legislative Content

### Consistency with New Zealand's international obligations

**3.1. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations?**

No steps were taken in relation to determining consistency with New Zealand's international obligations because the provisions of the Bill do not affect New Zealand's international obligations, and are relevant only to domestic law.

### Consistency with the government's Treaty of Waitangi obligations

**3.2. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi?**

Ngāi Tahu was consulted. There are no inconsistencies with the principles of the Treaty of Waitangi

### Consistency with the New Zealand Bill of Rights Act 1990

**3.3. Has advice been provided to the Attorney-General on whether any provisions of this Bill appear to limit any of the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990?**

NO

### Offences, penalties and court jurisdictions

**3.4. Does this Bill create, amend, or remove:**

(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?

NO

(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?

NO

### Privacy issues

**3.5. Does this Bill create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information?**

NO

## External consultation

3.6. Has there been any external consultation on the policy to be given effect by this Bill, or on a draft of this Bill?	YES
<p>The following stakeholders were consulted in the development of the policy for the Bill:</p> <ul style="list-style-type: none"><li>• a 'sector leaders group' including representatives from the property division of the New Zealand Law Society, Insurance Council of New Zealand, Christchurch City Council, New Zealand Institute of Surveyors and EQC</li><li>• a working group of Canterbury surveyors</li><li>• planning, building control and other officers from Christchurch City Council</li><li>• Real Estate Institute of New Zealand</li><li>• representatives of Canterbury trading banks organised under the auspices of the New Zealand Bankers Association</li><li>• a subcommittee of the property law section of the New Zealand Law Society.</li></ul> <p>Briefings were provided for Christchurch MPs, mayors, and officers from Selwyn and Waimakariri district councils.</p> <p>CanCERN have been consulted and gave feedback on the information LINZ has developed to date for property owners.</p> <p>As the legislation will be technically complex, it was tested for workability with technical experts during the drafting process. LINZ consulted technical experts from the surveying and legal professions on an exposure draft of the Bill.</p>	

## Other testing of proposals

3.7. Have the policy details to be given effect by this Bill been otherwise tested or assessed in any way to ensure the Bill's provisions are workable and complete?	NO
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## Part Four: Significant Legislative Features

### Compulsory acquisition of private property

4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property?	NO
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### Charges in the nature of a tax

4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax?	NO
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### Retrospective effect

4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?	NO
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### Strict liability or reversal of the usual burden of proof for offences

4.4. Does this Bill:	
(a) create or amend a strict or absolute liability offence?	NO
(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?	NO

### Civil or criminal immunity

4.5. Does this Bill create or amend a civil or criminal immunity for any person?	NO
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### Significant decision-making powers

4.6. Does this Bill create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?	NO
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### Powers to make delegated legislation

4.7. Does this Bill create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?	NO
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4.8. Does this Bill create or amend any other powers to make delegated legislation?	NO
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### Any other unusual provisions or features

4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?	NO
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