



Submission on *Improving Aotearoa New Zealand's environmental reporting system* – consultation document on proposed amendments to the Environmental Reporting Act 2015

To the Ministry for the Environment

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Submitter details

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The Parliamentary Commissioner for the Environment

The Parliamentary Commissioner for the Environment was established under the Environment Act 1986. As an independent Officer of Parliament, the Commissioner has broad powers to investigate environmental concerns and make recommendations to improve environmental outcomes. The Commissioner is wholly independent of the government of the day. The current Parliamentary Commissioner for the Environment is Simon Upton.

Key Points

- I am pleased to see proposed amendments to the Environmental Reporting Act 2015 (ERA) which follow on from my 2019 review *Focusing Aotearoa New Zealand's environmental reporting system*. The consultation document contains ten proposals, generally reflecting my recommendations from the 2019 review.
- I do not have any concerns about four of the proposals: to clarify the purpose of environmental reporting (proposal 1), add drivers and outlooks to the reporting framework (proposal 3), adjust the roles and responsibilities for the Secretary for the Environment and the Government Statistician (proposal 4), and reduce the frequency of state of the environment reports to six-yearly (proposal 7). I support them, as they are almost exactly what I recommended in 2019.
- However, I wish to raise a few points regarding the other six proposals.
- While I support the proposal to mandate a response by the Government to the state of the environment report (proposal 2), I suggest amalgamating the proposed two steps in the interests of minimising procedural churn. Further, I am somewhat concerned that the proposal lacks details about what the Government response or action plan should cover. It is important that this is spelt out on the face of the statute to ensure Ministers adequately explain how they are addressing the issues identified in the independent reports or, and perhaps more importantly, why they have chosen *not* to address some of them. Further, the action plan needs to be reviewed three years after it is issued to ensure it remains relevant to the government of the day.



- The fifth proposal in the consultation document talks about the establishment of a generic standing advisory panel. I am concerned that a generic advisory panel risks being unable to provide meaningful scientific advice or to advise on mātauranga Māori. After further thinking, I believe that two panels should be established under the ERA. The first one – a standing *science* advisory panel – should provide scientific advice to ensure robust and comprehensive reporting on the state of Aotearoa’s environment. The second panel – a mātauranga Māori expert panel – should advise on the best way to embrace mātauranga Māori as part of the knowledge base underpinning state of the environment reporting. The reason for having two panels lies in the differences between science and mātauranga Māori. The roles of both panels should be made explicit in the Act itself. I further emphasise the need for the panels to be adequately resourced.
- While I support the proposal to replace environmental domains with cross-domain themes (proposal 6), the consultation document lacks clarity about whether the themes will be specified in the legislation. In my view, the five recommended overarching themes are broad enough and sufficiently timeless to be included on the face of the statute.
- While I support the move away from rigid domain reports to more flexible commentaries (proposal 8), after further consideration since the release of my 2019 review, I think that these commentaries should be produced by the Secretary for the Environment on advice from the advisory panels. The purpose of these commentaries should be to provide updated analysis on new, or significantly changed, environmental information (including, but not limited to, environmental indicators) released since the last state of the environment report and to identify, and comment on, emerging issues that are likely to be significant in the future.
- I support the development of a dedicated set of core environmental indicators for the purposes of consistently reporting on the health of Aotearoa’s environment (covering each theme and element of the expanded reporting framework) at arm’s length from political intervention (proposal 9). The set of core environmental indicators should be prescribed in regulations, subject to the standards set out in the ERA and advice of the Secretary for the Environment, subject to the duty of independence. The ongoing advice of the advisory panels would ensure that the suitability of core environmental indicators remains current. Further, to ensure that the failure of previous good intentions is not repeated, the legislation could require a review of the indicators three years after the first suite is formally promulgated.
- My main concern with the tenth proposal is that the proposed mechanism could be read to stop at *existing data* and not cover the collection of *new* data. This would mean that existing data gaps won’t be progressively filled in, thus leaving gaps in our reporting and our understanding of Aotearoa’s environment. At the very least, similar powers as those proposed in the Data and Statistics Bill should be given to the Secretary of Environment for the collection of environmental data to populate core environmental indicators. Without such powers it will be difficult to shift from passive to active information gathering as I recommended in 2019.



Introduction

Thank you for the opportunity to submit on the *Improving Aotearoa New Zealand's environmental reporting system* consultation document on proposed amendments to the Environmental Reporting Act 2015 (ERA). I am pleased to see proposed amendments to the Act which follow on from my 2019 review *Focusing Aotearoa New Zealand's environmental reporting system*. I note that it is over two years since the release of my review. I also note that the consultation document is almost as long as my original report.

The consultation document contains ten proposals, so this submission steps through each of them in the order that they appear in the consultation document. It concludes by offering a few additional thoughts.

One suggestion I would like to make upfront is about terminology. The proposed move away from *domain* reports (proposal 8) makes the term *synthesis* report obsolete. I suggest the (proposed) six-yearly reports should be simply called *state of the environment reports*. This term is understood by many to mean reports that describe the health of the environment – how well it is doing now, how its health has changed over time and it is likely to change in the future, and why. The same cannot be said of the term *synthesis*, which does not immediately relate to the environment.

Proposal 1: Clarify the purpose of environmental reporting

The first proposal in the consultation document aims to clarify the purpose of environmental reporting. This proposal appears based on one of the recommendations of my 2019 review. I support separating the 'why' from the 'how' in the purpose clause as proposed, based on the assumption that both will still be in the same clause. It is common for the purpose clauses to have sub-clauses to state how the purpose of the Act will be achieved.¹

Proposal 2: Mandate a government response to state of the environment reports

The proposal to mandate a government response to the state of the environment reports is in line with one of the recommendations of my 2019 report.

While I recommended that a formal response on behalf of the Government to the findings of the state of the environment reports be provided within six months of the reports being released, the consultation document contains a proposal for an initial response and a formal acknowledgement within six months and an action plan in a further six months. In my view the proposed two-step process adds an extra procedural step without adding much value. I suggest that the two steps are amalgamated. It may be that six months was considered too

¹ For example, see purpose clauses of the Child Poverty reduction Act 2018 and the Intelligence and Security Act 2017.



short a time in which to undertake a proper analysis of the steps the Government might take to respond. If that is the case, I would be happy with the Government providing a formal response twelve months after the publication of the state of the environment reports.²

The six-yearly publication of state of the environment reports means that there may be a change in government in-between. A new government might propose a different action plan. To allow for this possibility, the government action plan should be addressed at least once every parliamentary term. I recommend introducing a requirement that the action plan should be reviewed and updated three years after it is issued to take account of any new information and any new government policies. This will ensure the action plan remains relevant to the government of the day.

I support the proposal that the Government response should be led by the Minister for the Environment coordinating responses from other relevant Ministers.

I am concerned, however, that the proposal lacks specificity about what minimum requirements the Government response and action plan should contain, beyond what the Government “has already done in response to the report, and what else it intends to do”.

In my 2019 review I proposed some areas that the Government response might include. In my 2021 *Wellbeing budgets and the environment* report I emphasised the need to connect reporting on the state of Aotearoa’s environment with the budget process to inform decision-making about spending public resources to achieve better environmental outcomes.

With that in mind, the response from the Government to each state of the environment report should include:

- what policies and initiatives currently exist in respect of environmental issues identified in the state of the environment reports, including, but not limited to, achieving relevant limits and targets (where they exist);
- how much expenditure is allocated to each of the environmental issues;
- what new policies and initiatives are proposed or planned to augment or replace current policies and initiatives, including how well they are going to address the environmental issues identified;
- what issues raised in the state of the environment reports the Government does not intend to address, and why.

The most recent state of the environment report, *Environment Aotearoa 2019*, provides an authoritative starting point outlining the priority environmental issues for New Zealand. The soon-to-be-published *Environment Aotearoa 2022* should provide an updated account.

² This is the approach taken in Victoria, Australia: legislation requires that within 12 months of the state of the environment report being laid before each House of Parliament, the Minister must provide a statement of the Government’s response to any recommendations made in the state of the environment report. See section 17(5) of the Commissioner for Environmental Sustainability Act 2003 (Australia).



I believe these minimum requirements should be included in the primary legislation to guard against cursory responses to what are critical issues for New Zealand. Furthermore, the Government's response should be subject to parliamentary scrutiny, through the select committee process. I am still considering exactly what should be scrutinised and how frequently.

My 2021 *Wellbeing budgets and the environment* report highlighted the importance of connecting Aotearoa's environmental reporting system with the budget process. The report proposed that the Minister of Finance should, at the time of the presentation of the budget, publish a report that outlines how new fiscal initiatives, as well as any changes to baseline expenditure, respond to the environmental issues identified in the state of the environment reports. Implementing this idea may mean that amendments to two acts are needed: the ERA and the Public Finance Act 1989 (PFA). There is precedent for this approach with the way child poverty must be reported on in the context of annual budgets.³

In the second half of 2022 I will publish a report, which will emphasise that prioritisation of public expenditure on environmental protection and restoration should be informed by environmental research and insights gleaned from reporting on the state of New Zealand's environment. While I intend to provide further thoughts in that report, I would like to note here that there is a need to craft any changes to the ERA with potential changes to the PFA in mind.

Proposal 3: Add drivers and outlooks to the reporting framework

The third proposal in the consultation document aims to extend the pressure-state-impact reporting framework to include drivers and outlooks. It is in line with the recommendations of my 2019 review.

As I noted in 2019, drivers are overarching factors – such as population or economic growth – that, through changes in production and consumption, exert pressures on the environment at large. Leaving drivers out of the picture denies us important context for specific pressures.

State of the environment reports cannot provide a perspective on the seriousness of different environmental issues without looking forward. Further, in my view, outlooks will become an increasingly important part of the environmental management system. Outlooks, particularly those indicating a negative environmental change, should be a signal to decision-makers that more action is needed in a particular area and that those actions should be given some priority for funding. My 2019 review stated that future scenarios could be provided to facilitate informed decision-making about the New Zealand environment, and my 2021 *Wellbeing budgets and the environment* report specifically highlighted the importance of

³ See Public Finance Act 1989, Child Poverty Reduction Act 2018, and Children's Act 2014.



good environmental information including trends over time as a key component to better incorporating the environment in budget decisions.

Outlooks coupled with meaningful thresholds are also important early warning tools for when we might be nearing environmental tipping points and perhaps, more importantly, identifying areas for which we need to define new (or updated) limits. Saying that, while there are clear links to the limits and targets regime proposed in the resource management reform work, outlooks, and environmental reporting generally need to be much broader. By necessity, environmental reporting has to cover the breadth of the environment not just those elements covered by the resource management system.

I would also like to reiterate my support for the choice *not* to include *responses* in the state of the environment reports and commentaries produced under the ERA. As mentioned in my 2019 review, commentary on the effectiveness or adequacy of policy settings leaves the realm of data behind and enters the world of policy debate. Policy responses reflect political choices and that is the role of governments not data analysts. If the environmental reporting system is to be a trusted source of information, it is best kept at arm's length from political choices. So, not including *responses* in the environmental reports is appropriate, as it places the process beyond immediate political control and preserves independence. If parliamentarians and civil society are doing their jobs, they will be debating the adequacy of any responses – aided, for the first time, by good quality data and transparency about both what policies are being pursued and the resources allocated to implement them.

Proposal 4: Adjust roles and responsibilities

The fourth proposal in the consultation document aims to adjust the roles and responsibilities for the Secretary for the Environment and the Government Statistician, to reduce overlaps and play to the strengths of their organisations, with:

- the Secretary for the Environment acting as the steward for New Zealand's environment, and
- the Government Statistician acting as the leader of the official statistics system.

In my 2019 review I recommended adjusting the roles of the Secretary for the Environment and the Government Statistician, so I support this proposal. Whatever the adjustments, the statutory independence of the Government Statistician *and* the Secretary for the Environment in overseeing state of the environment reporting needs to be preserved. Suggested changes to the roles in table 1 in the consultation document make sense, although the exact wording may need refinement. It is important to have clarity and enable each organisation to use its expertise, in line with its role in central government more generally. Finally, I'd like to emphasise that the roles of the Government Statistician and Stats NZ need to be aligned with (and certainly not contradict) their roles under the Data and Statistics Bill (which at the time of writing is being considered by a select committee).



Proposal 5: Mandate a standing advisory panel

The fifth proposal in the consultation document aims to require the establishment of a standing advisory panel under the ERA.

In 2019 I recommended that a standing *science* advisory panel should be set up. My recommendation followed incrementally from an innovation developed for the production of the most recent state of the environment report, *Environment Aotearoa 2019*, for which a senior science team was assembled to advise on report preparation. I'm pleased to hear that last year the Ministry for the Environment proactively established a science advisory panel in advance of amending the ERA, to provide independent advice and support to the Secretary for the Environment. This is a significant step in the right direction. Amendment to the ERA is essential to give this arrangement the permanence it needs, so the panel's existence is not dependent on the good will of the Secretary for the Environment with whatever resources happen to be available at any given time.

Expert panels of this type, formally established under the ERA, are one key element in safeguarding the independence of the environmental reporting system. As mentioned in my 2019 review, there are good precedents for the establishment of expert panels of this kind.⁴

The proposal in the consultation document talks about the establishment of a generic standing advisory panel. After further consideration, I believe that two panels should be established under the ERA. The first one – a standing *science* advisory panel – should provide scientific advice to ensure robust and comprehensive reporting on the state of Aotearoa's environment. The second panel – a mātauranga Māori expert panel – should advise on the best way to embrace mātauranga Māori as part of the knowledge base underpinning state of the environment reporting.

The reason for having two panels lies in the differences between science and mātauranga Māori – a generic advisory panel risks being unable to provide meaningful input on both. Given how much we do not know, we can ill afford to disregard traditionally curated knowledge – mātauranga Māori. However, mātauranga is rooted in whakapapa and tikanga, it is not collected by the public system, and it is for Māori to share it if they wish to. Setting up a mātauranga Māori expert panel provides a separate mechanism for the Ministry to work with Māori. It also provides a starting point to deepen the complementarity of the two knowledge systems for the future state of the environment reporting. A mātauranga Māori expert panel is best placed to find a way to connect environmental issues with place. A people that sees itself as being of the land – literally tangata whenua – is likely to be more interested in actual places and sites of importance than national averages. Deepening the use

⁴ For example, the Animal Welfare Act 1999 includes two different expert advisory committees that make recommendations and advise on a variety of matters, including areas requiring further research. In addition, the Psychoactive Substances Act 2013 has an expert advisory committee to evaluate various products, with regard to the results of trials. The Environmental Protection Authority Act 2011 has a Māori Advisory Committee, which provides advice and assistance to the Environmental Protection Authority.



of place-based case studies to illustrate national level issues could be a starting point for adding richness to future reporting on the state of Aotearoa's environment.

The consultation document lacks clarity on whether the role of the panel will be spelt out on the face of the statute. I have been advised that the ERA will contain the requirement to establish the panel, while its terms of reference will sit outside of the legislation. The flexibility of this arrangement is outweighed by the risk of a mandate creep, enabling re-direction of the expertise away from reporting on the state of Aotearoa's environment or conversely narrowing the role so much to avoid potentially contentious or politically problematic environmental issues.

The legislation needs to make the role of both panels explicit.

The standing *science* advisory panel should provide independent expert advice to the Secretary for the Environment (on request and on its own initiative) on:

- emerging environmental issues of concern and significant changes in the environmental indicators. (This advice should cover each of the five themes at least once in the period between the state of the environment reports); and
- the environmental issues that should be given priority in the state of the environment reports; and
- further research, monitoring and data needed to provide robust and comprehensive environmental reporting, including advice on environmental indicators.

The standing *science* advisory panel's advice on further research, monitoring and data should be a key contribution to an environmental research strategy along the lines that I recommended in my report, titled *A review of the funding and prioritisation of environmental research in New Zealand*, and on which I have expanded in my submission on the *Te Ara Paerangi Future Pathways Green Paper*. This would ensure a clear line of sight between the key environmental issues being identified by state of the environment reporting and the priorities that any environmental research strategy seeks to advance.

The mātauranga Māori expert panel should provide independent expert advice to the Secretary for the Environment (on request and on its own initiative) on:

- the best way to give te ao Māori a voice in reporting on the state of Aotearoa's environment,
- appropriate mātauranga Māori indicators that should be included as part of the core environmental indicators.

The Secretary for the Environment alone should be responsible for appointing the members of both panels, ensuring the breadth of members' expertise. This arrangement will ensure the independence of the panels.



The advice of both panels, including any reports and recommendations, needs to be made publicly available. This will ensure transparency and further strengthen the independence of New Zealand's environmental reporting system. Arrangements need to be made to enable support at governance level and open lines of communication between the two panels and Ministry for the Environment and Stats NZ staff. Most importantly, the panels need to be adequately resourced. Given the important role of the panels and the administrative support required, cost estimates in the consultation document are likely to be underestimates.

Proposal 6: Replace environmental domains with cross-domain themes

The sixth proposal in the consultation document aims to replace environmental domains with cross-domain themes that form the basis of synthesis reports and in-between commentaries. I support the shift towards cross-domain themes – which is in line with my 2019 recommendations.

In my 2019 review I proposed five themes around which reporting on the state of Aotearoa's environment should be organised. These themes are:

- climate change and variability,
- land,
- freshwater and marine environment,
- pollution and waste, and
- biodiversity and ecosystem functioning.

These themes, as opposed to the domains, should form the basis of New Zealand's environmental reporting system. They should guide the development of regular state of the environment reports, helping ensure that no aspect of the environment falls through the reporting gaps. These themes should also form the basis for commentaries (see my comments on proposal 8).

In my view, these themes are sufficiently broad, all-encompassing and relatively timeless to be stated on the face of the statute. This will provide certainty and continuity for reporting on the state of Aotearoa's environment, without constraining the scope of reporting or the structure of future state of the environment reports. The themes would allow for a more integrated understanding of Aotearoa's environment.

I note that the consultation document (question 31) asks whether te ao Māori should be a separate theme. It would be very strange if a government reporting mechanism was used to reduce te ao Māori to a 'theme'. In the first place, te ao Māori is all-embracing so seeing it as a 'theme' alongside climate or pollution represents a category error. But more importantly, it risks reinforcing a siloed approach. A better approach would be to ensure that Māori are involved in designing how each of the themes will be reported on including insights and



indicators based on mātauranga Māori to the extent they are recommended by a dedicated mātauranga Māori expert panel.

Finally, the consultation document is not clear on whether the themes will be specified in the legislation. They should be – thus providing continuity in critical environmental reporting despite changing government priorities and further securing the independence of the environmental reporting system.

Proposal 7: Reduce the frequency of state of the environment reports to six-yearly

The seventh proposal in the consultation document proposes to move from a three-yearly to a six-yearly cycle for the state of the environment reports. I fully support this proposal. Six years gets Ministry for the Environment and Stats NZ staff off a treadmill of endless reports and has the benefit of aligning with the cycle of general elections. The first state of the environment report under the amended ERA could be produced in 2025, with general elections taking place in 2023 and 2026.

Proposal 8: Replace domain reports with one commentary each year

The eighth proposal in the consultation document proposes replacing the six-monthly domain reports with one theme-based commentary each calendar year, to be produced between the six-yearly state of the environment reports.

I support the move away from rigid domain reports to more flexible commentaries.

It is important that there is a clearly articulated purpose for producing the commentaries, so they do not become directionless clutter in the Ministry for the Environment's work programme. I propose the purpose of the commentaries should be:

to provide updated analysis on new, or significantly changed, environmental information (including, but not limited to, environmental indicators) released since the last state of the environment report and to identify, and comment on, emerging issues that are likely to be significant in the future.

The process for developing the commentaries should be:

- the standing science advisory panel and the mātauranga Māori expert panel should provide advice to the Secretary for the Environment at least annually on emerging environmental issues of concern and significant changes in the environmental indicators. This advice should cover each of the five themes at least once in the period between the state of the environment reports.



- the Secretary for the Environment should produce a commentary containing analysis and comment on the significance and policy implications of the issues raised by the panels. If the Secretary for the Environment decides not to produce a commentary in response to the panels' advice, they should be required to explain the reasons for that decision in writing.

The number of commentaries produced between the state of the environment reports will be influenced by new data and knowledge and the advice provided by the panels. At times it may make sense to have more than five commentaries in the intervening period between state of the environment reports.

Proposal 9: Establish a set of core environmental indicators

The ninth proposal in the consultation document proposes to establish a set of core environmental indicators.

I support the development of a dedicated set of core environmental indicators for the purposes of reporting on the health of New Zealand's environment. My 2019 review identified the development of such indicators as being critical. Chosen well, the indicators will provide foundational information on the health of Aotearoa's environment and help ensure a standardised, consistent, and enduring approach to reporting over time.⁵ Indicators can provide both an early warning system for problems before they get out of hand, and evidence on whether or not our policies and measures are leading to environmental improvements.

Collectively, the core environmental indicators need to cover the breadth of the environment (i.e. at least one group of indicators for each of the five themes). They also need to cover the environmental issues we are currently concerned about and act as 'canaries in a coal mine' for aspects we currently don't have reasons to be concerned about. While indicators will be important in the context of environmental limits and targets proposed in the Natural and Built Environments Bill, it would be a mistake to limit indicators to the resource management system. The environment is much, much broader.

Developing a set of core environmental indicators may seem like a daunting task. That is why building on the past efforts to assemble a set of environmental indicators and using expert advisory panels for advice is so important.⁶

⁵ Core environmental indicators won't be the only type of information that is used to report on the health of Aotearoa's environment. They will be complemented by the broader body of evidence, including insights from scientific papers, reports and other forms of knowledge, including mātauranga Māori. This is very similar to the approach taken to date.

⁶ Several efforts have been undertaken in the past, but none has made it to the stage of actual implementation. Examples of the past efforts include the Environmental Performance Indicators Programme, which ran from 1996 until 2002, and the Environment domain plan, which was published in 2013 and never implemented (PCE,

While the experts on advisory panels may be best placed to advise, a starting framework for developing a set of core environmental indicators could be the following matrix, combining the five broad themes with the five elements of the expanded reporting framework.

Environmental indicators would populate this matrix. (Table 1)

Developing meaningful thresholds and tipping points for these indicators is another important step, as reporting against these will enable an alarm bell to be rung if certain limits are about to be breached.⁷

Table 1: Possible matrix for developing a set of core environmental indicators.

		Reporting framework				
		Drivers	Pressures	States	Impacts	Outlooks
Themes	Climate change and variability	Indicators	Indicators	Indicators	Indicators	Projections
	Land	Indicators	Indicators	Indicators	Indicators	Projections
	Freshwater and marine environment	Indicators	Indicators	Indicators	Indicators	Projections
	Pollution and waste	Indicators	Indicators	Indicators	Indicators	Projections
	Biodiversity and ecosystem functioning	Indicators	Indicators	Indicators	Indicators	Projections

Importantly, the set of core environmental indicators should be developed subject to several principles. Environmental indicators should be:

- relevant and meaningful,
- scientifically based or grounded in mātauranga Māori,
- conceptually sound and coherent,
- enduring.

2010, p.12; Statistics New Zealand et al., 2013). Dymond and Ausseil (2019) undertook a gap analysis of the land-based environmental reporting indicators. In addition, several researchers from Manaaki Whenua Landcare Research (2016) undertook a literature review and organised hui to develop a framework and identify indicators to capture reporting on the state of the environment from a te ao Māori perspective.

⁷ This will also provide a link with the proposed limits and targets under the Natural and Built Environment Bill.



The development of the indicators should not be constrained by current data availability or data quality, as this approach risks being stuck with the status quo. While it is important to have consistency of indicators through time, it is equally important that we do not persist with sub-optimal indicators simply because they are based on existing datasets. It might be better to develop a set of desired environment indicators, some of which are currently without data and aim to collect the data over time.⁸ Further, when developing the core set of environmental indicators, efforts need to be taken to ensure consistency. This means improving consistency in collecting, managing and analysing data, to aid with constructing a full picture.

One of the key roles of both the science and mātauranga advisory panels would be to provide advice on how indicators can be improved and what new indicators might be needed. The ongoing advice of the panels would ensure that the suitability of core environmental indicators remains current. This is critical if we are to move from passive to active information gathering.

A dedicated online platform should provide a 'home' for these indicators to be displayed and regularly updated with new data. It will help ensure the public has up-to-date information in the various time periods between commentaries and state of the environment reports.

On the question of where the indicators should be prescribed, my 2019 review recommended that the set of core environmental indicators be prescribed in regulations to provide certainty. After further consideration, I still think that the set of core environmental indicators should be prescribed in regulations, provided they follow standards set out in the ERA and are developed on the advice of the Secretary for the Environment. To ensure that the failure of previous good intentions is not repeated, the legislation could require a review of the indicators three years after the first suite is formally promulgated.

Promulgating core environmental indicators in regulations would provide a balance between flexibility and certainty. On the one hand, regulations are easier to change and update than the primary legislation. On the other hand, the regulations cannot be changed too easily, thus providing certainty and continuity for reporting, including dedicated resourcing to support efforts to collect data and maintain indicators over time. The Government has some obligation to fund the collection of indicators required by regulation.

In proposing a dedicated set of core environmental indicators, the Minister for the Environment should be required to act on the advice of the Secretary for the Environment. In providing that advice, the Secretary for the Environment should be required to act subject to their duty of independence set out in the Act and draw on input from the standing science advisory panel, the mātauranga Māori expert panel and Stats NZ. In addition, the Secretary should tap suitable expertise in local government, central government agencies (such as the

⁸ The development of Indicators Aotearoa New Zealand (IANZ) by Stats NZ provides a precedent – many of the indicators currently do not have underlying data.



Department of Conservation and the Ministry for Primary Industries) and Crown Research Institutes.

Proposal 10: Strengthen the mechanisms for collecting data

The tenth – and last – proposal in the consultation document aims to strengthen the mechanisms for collecting data. This is a very important proposal, as the entire system needs to shift from passive to active information gathering.

My main concern with the proposal is that the proposed mechanism appears to focus on *existing* data rather than the collection of *new* data. The focus on information that can only be obtained using “reasonable efforts” is a known constraint of the current Act.⁹ The narrow ability to only use existing data is a major shortcoming. We know there are data gaps that are hampering our ability to manage the environment.

While the preferred option could be read as not precluding new data, it is at best ambiguous. The ability to fill data gaps should not be left to interpretation. I would like the amended ERA to be explicit that it can use both existing data and seek to collect new data. Otherwise, there is a risk that existing data gaps won’t be progressively filled in, leaving gaps in our reporting and our understanding of Aotearoa’s environment.

It is difficult for legislation to compel the creation of new data and knowledge, especially when we do not yet know what we might need. What the legislation can do is give someone the role to provide explicit advice on what new data and knowledge is needed. That way it can be factored into research plans and work programmes and funded accordingly – so long as it is deemed a high enough priority by decision-makers at the time.

The provisions in the Data and Statistics Bill (which at the time of writing is being considered by a select committee) would, if passed, give the Government Statistician the power to request data from individuals and organisations and enter into agreements with one or more public sector agencies for the joint collection of data.¹⁰ Further, the Government Statistician would be required to establish a multi-year data and statistical programme, the purpose of which would be to identify and prioritise ... the collection and holding of particular data by public sector agencies (including Stats NZ) and the production of particular statistics by the Government Statistician or public sector agencies.¹¹ These functions of the Government Statistician are in line with their role as Chief Data Steward and leader of the official statistics system.

⁹ Sections 8(3) and 11(3) of the current Environmental Reporting Act 2015 state that the Secretary for the Environment and the Government Statistician are not required to include in domain and synthesis reports “information that cannot be obtained by using reasonable efforts”.

¹⁰ Sections 23 and 24 of the Data and Statistics Bill.

¹¹ Section 18 of the Data and Statistics Bill.



While some of the information needed for environmental reporting will be ‘official statistics’, some will not. At the very least, similar powers to those proposed in the Data and Statistics Bill should be given to the Secretary of Environment to ensure consistent collection of environmental data to populate core environmental indicators, perhaps in consultation with the Government Statistician. Any additional powers need to align with the proposed adjustments to the roles and responsibilities for the Secretary for the Environment and the Government Statistician (proposal 4). The Secretary for the Environment will also be able to draw on the standing science advisory panel’s advice on further research, monitoring and data needed to provide robust and comprehensive environmental reporting.

Without such powers it will be difficult to shift from passive to active information gathering as I recommended in 2019.

Additional comments

The role of the local government

The environment by its very nature is place-based. Those closest to a place have both an interest and a responsibility to be involved in management and monitoring of the local environment. This suggests that local government, local researchers and local iwi and hapū have an important role to play in the environmental reporting system, and the data gathering and monitoring that underpins it.

Information on the state of the environment is currently gathered by a wide range of organisations, including the local government sector. Many of these organisations have a legislative responsibility to monitor different aspects of New Zealand’s environment, but they do so for a variety of different reasons.¹² For example, monitoring of the environment supports a range of activities, including:

- reporting on the state of the environment
- policy development and implementation
- monitoring the effectiveness of plans and policies
- informing resource consent processes
- assessing regulatory compliance
- supporting operational decision making.

When data is collected by different providers for different reasons, the resulting datasets are difficult to collate or compare due to multiple layers of inconsistencies. Councils differ in

¹² Section 35(2)(a) of the RMA 1991 requires local authorities to monitor “the state of the whole or any part of the environment of their region or district—

- (i) to the extent that is appropriate to enable the local authority to effectively carry out its functions under this Act; and
- (ii) in addition, by reference to any indicators or other matters prescribed by regulations made under this Act, and in accordance with the regulations”.



what, where, when and how they monitor, and how they analyse and report the information. This creates challenges when trying to construct a national-level picture.

Since environmental data has both regional (local) and national benefits, one suggestion could be that both central and local government should contribute to the cost of information-gathering initiatives and the cost of standardising data collection practices to ensure consistency of environmental data across all organisations. Further work should be undertaken by the Ministry for the Environment and local government about how such a collaborative approach might be implemented and funded.

It is not clear from the consultation document what role is envisaged for local government in the environmental reporting system and how that might be enabled by legislation (and resourced appropriately from local and national funding). A clear role for local government is something that should be included when the amendment Bill is introduced to Parliament.

I recognise that the entire environmental management sector and local government sector are under review at the moment and local government's roles and responsibilities are likely to change. That should not prevent the role of local government being clear in the statute, even if it needs to be changed later as a result of current reforms. The positive role local government needs to play in the environmental reporting system is too important for it to risk being forgotten in the wider reform processes underway.