



Submission on the Environment (Disestablishment of Ministry for the Environment) Amendment Bill

11 March 2026

To Environment Select Committee

Submitter details

This submission is from the Parliamentary Commissioner for the Environment, Simon Upton.

I wish to appear before the Environment Select Committee to present my submission.

My contact details are:

Phone: 04 495 8350

Email: pce@pce.parliament.nz

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 is wholly independent of the government of the day. The current Parliamentary Commissioner for the Environment is Simon Upton.

Introduction

As noted in the explanatory note, the Bill is needed to allow the Government to proceed with its proposed merger of several public service agencies. As it is the prerogative of the Executive to arrange the public service as it chooses, and it may create or change departments without legislating, it is unusual for Parliament to have any oversight of those activities. This Bill presents Parliament with an opportunity to consider the broader implications of the institutional arrangements that are intended, at a time when critical and significant environmental management legislation is also before the House.

Implications of the changes

Following a restructure, to separate operational roles from policy advice, the Ministry for the Environment was established to oversee major environmental issues and land-use planning. Since 1986, the Ministry has provided advice on environmental policy to the government, offering this stream of advice independent of other government departments.

The Ministry's existing functions are to remain unchanged, but are to be transferred to the statutory office of the Secretary for the Environment, being the chief executive of whatever ministry is given responsibility for the Environment Act. This is a simple and straightforward approach that helps ensure that whatever ministry is responsible for the environment is

required to consider all the same matters the current Ministry for the Environment must. From that perspective, I support the Bill.

There is no regulatory impact statement for this proposed legislation. With reference to the Departmental Disclosure Statement: “No exemption was sought at the time when policy decisions were made. However, the Ministry for Regulation has now determined that these proposals would have been eligible for an exemption from Cabinet’s regulatory impact analysis requirements on the basis that the proposal has no or only minor impacts on businesses, individuals, and not-for-profit entities.” That is likely true when looking only at the changes proposed by the Bill.

However, what this Bill will then enable the Government to do will present a very different face to “businesses, individuals and not-for-profit entities”. The current Government intends the ministry in charge of environmental management to be a new consolidated ministry that amalgamates the Ministry of Housing and Urban Development, the Ministry of Transport, together with the local government functions of the Department of Internal Affairs. That would mean that the chief executive in charge of managing the environment will also be responsible for cities, transport and regions.

What is missing from the focus of the agencies slated for merger is rural New Zealand, which arguably makes up most of New Zealand’s modified environment, and where some of our biggest environmental challenges are present. One could have equally (and perhaps more persuasively) argued that the Ministry for the Environment and the Ministry for Primary Industries could be combined – although that too would have its own challenges. There is a risk that the new ministry will be focused on urban issues at the expense of the rest of New Zealand.

There are also risks in how the combined Ministry will operate the proposed new resource management system. The Planning and Natural Environment Bills have been designed separately to manage the trade-offs between them. These involve some of the most difficult issues on which governments are asked to adjudicate. Having contestable advice will – in my view – be critical to ensuring the trade-offs are robustly considered. There is a real risk with a ‘mega-ministry’ that the trade-offs will be resolved within the organisation and that the differences will not be aired with Ministers, where accountability for those trade-offs should rightly sit.

It would make sense for each Bill to be managed by a separate agency so that the trade-offs are explicit and left for Ministers to decide, rather than risking them being resolved within an organisation. Keeping these trade-offs explicit will be all the more important because (based on the current drafting in the Bills) very important elements of the resource management system are proposed to be set at the national level with significant areas of discretion being exercised by Ministers. Maintaining separate agencies overseeing each Bill would be more in line with the purpose of the public service, to enable both the current Government and succeeding governments to develop and implement their policies. It would also assist public service chief executives to uphold the public service principle of free and frank advice.¹

For these reasons, the Ministry for the Environment should – in my view – be left out of this merger.

¹ Public Service Act 2020, ss 11 and 12(1)(b).

Conclusion

The Bill is an elegant solution to give governments flexibility to make machinery of government changes. I support its approach. However, given that the Committee is concurrently considering major changes to the environmental management system, I recommend that the Committee use its consideration of this Bill to explore what the implications for the Government's proposed changes might mean for the effective functioning of the system.



Rt Hon Simon Upton
Parliamentary Commissioner for the Environment
Te Kaitiaki Taiao a Te Whare Pāremata