



Submission on the Review of Standing Orders 2026

26 September 2025

To Standing Orders Committee

Submitter details

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

I wish to appear before the committee to present my submission.

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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 Parliamentary Commissioner for the Environment I regularly interact with Parliament and its select committees in support of scrutiny of agencies and consideration of legislation. I do so both as a member of the 'public' through the submissions process and as a specialist advisor as an Officer of Parliament.

Financial scrutiny

The change to standing orders that has allowed more time for in-depth scrutiny of agencies during scrutiny week is a useful innovation and should continue.

However, scrutiny week has remained focused on individual agencies (and their Ministers). This reinforces a siloed approach to committees' consideration of expenditure that may mean they miss a fully rounded picture of what a government is seeking to achieve and, perhaps more importantly, what it may be overlooking in the pursuit of specific goals or outcomes.

One of the findings in my October 2022 report, *Environmental reporting, research and investment: Do we know if we're making a difference?*, was that, to achieve most high-level environmental outcomes, expenditure will need to occur across multiple agencies. For example, MPI, MBIE, MfE and EECA all fund activities or programmes with the aim of improving

the management of land and freshwater. Ten agencies contribute to the climate change outcome of reducing greenhouse gas emissions and adapting to climate change.

To support the financial scrutiny of agencies, I provide an annual estimate of environmental expenditure which aggregates agency expenditure by six primary overarching long-term environmental outcomes. The estimate illustrates the overall quantum intended to be spent on each outcome and which agencies contribute spending to each outcome. It provides a cross-agency view of government expenditure. The Environment Committee can then use that to drill down into specific outcomes when it scrutinises each agency separately. The estimate has traditionally been published in February, but I am now publishing it in late November so it can be used for the December scrutiny week. This year's edition will be the fifth.

As noted above, if select committees are scrutinising agencies separately, they are only getting part of the picture. An alternative approach, which can be used in conjunction with individual agency hearings, is to have cross agency hearings focused on a particular outcome. To that end, I supported the Environment Committee enquiry into the activities of multiple agencies contributing to the Government's objectives for freshwater. That included a hearing with eight departmental chief executives. I am continuing to encourage the Environment Committee to take a broader, more outcome-based view.

I note that the Finance and Expenditure Committee has identified similar issues with performance reporting and accountability. Amongst the key areas for improvement, on which FEC is consulting, is a greater focus on long-term outcomes. One of the suggestions in FEC's interim report is that there should be clear, meaningful statements for each of the Government's priority objectives for each parliamentary term, and the long-term outcomes that it seeks to advance through the various entities under its charge. Coupled with that there needs to be more focus on reporting about value for money, outcomes, distributional impacts, progress with long-term issues, and the stewardship of public sector agencies.

While system wide change will take time, there are things select committees can do now to scrutinise based on outcomes. The pilot examination of freshwater management referenced above is an example.

Standing orders should make outcome-based scrutiny a more attractive option for select committees. For example, standing orders could require that committees must, in addition to longer hearings with individual agencies, identify at least one outcome relevant to its area of scrutiny and hold a three-hour, cross agency hearing to examine what is being spent and what is being achieved in respect of that outcome.

Legislative scrutiny

As an Officer of Parliament my task is, inter alia, to ensure the House is well-informed about the environmental management consequences of legislative proposals. To that end, I regularly provide submissions on Bills as part of the normal public submission process. For some Bills, I have also been appointed as an expert advisor at the departmental report stage, to provide an independent perspective and test the advice being provided by officials.

Most legislation touching on the environment involves **publicly owned** resources. The Government of the day is, for the time being, the steward of resources that are 'owned' by all New Zealanders – air, water, conservation lands and coastal spaces. The quality of air and water and the use to which public lands are put are, by definition, matters of wide public

interest. Inadequate consultation on legislation that could significantly affect that interest risks undermining public trust and confidence in the parliamentary process.

Acceptance of Parliament's laws relies in part on the way legislation reaches the statute book. If people feel they have not had a chance to have their concerns heard – and tested – their confidence in our fundamental democratic contract is undermined. Bypassing or truncating select committee processes with urgency risks undermining that confidence. Similarly, public access to select committee processes should not be restricted because a committee is overloaded with proposed legislation.

Managing submissions

There has been a heavy charge of environmentally related legislation over the last two parliamentary terms. Given the volume of legislation, I am concerned about the ability of select committees to make proper enquiries about the legislation before them. Several recent Bills have appeared challenging for committees to manage due to the large number of bills referred to them in swift succession and, in some cases, the volume of submissions they have attracted. The Committee should consider whether Standing Orders are aligned with the demands that can be made on committees.

Committees have tried to manage large numbers of submissions within limited time frames by being selective about who is invited to be heard and limiting the time available to those invitees to address the committee. As a consequence, committees are then limited in their ability to question submitters who often have substantial knowledge and expertise relevant to the committee's deliberations. This not only excludes public participation, undervaluing the contribution of submitters, but denies a committee access to information.

Select committees need to be provided with adequate time to report back to the House, but they must also make arrangements to hear from as many submitters who wish to be heard as possible, allocating sufficient time for the committee to engage with each submitter. There are examples, such as the Environment Committee's consideration of the Fast-Track Approvals Bill, where this seems to have worked reasonably well.

Currently, Standing Orders require that instructions to select committees on the time available for consideration of bills are only debateable if the time for reporting back to the House is required to be less than four months. In the absence of a direction from the House or the Business Committee, six months is the default time for reporting back.¹

Assuming that six months remains a reasonable standard default period, the Committee should consider limiting any recourse to shorter time periods. The Committee should also consider how Standing Orders might prescribe an extension for Bills that attract large numbers of submissions. The Committee might also consider how the Standing Orders or other mechanisms might provide guidance to committees on best practice in managing large numbers of submissions.

Amendment papers

I am also concerned about significant amendments being introduced at Committee of the Whole House stage, thus bypassing select committee scrutiny. The Committee stage is useful to correct errors or omissions identified after the select committee process. However, it risks being used increasingly to remedy undercooked policy processes caused by rushing complex

¹ SO 298(2) and 303(1).

legislation, or to make changes that would have attracted controversy at the select committee stage. Recent Bills where this has occurred include the Fast-Track Approvals Act, the Resource Management (Freshwater and Other Matters) Amendment Act and the Resource Management (Consenting and Other System Changes) Amendment Act. Significant changes made in those Bills included making some provisions retroactive and permitting additional polluting activities in already degraded waterways. Making major changes that would have attracted public comment after the opportunity for public input has closed undermines public trust and confidence in Parliament.

The Standing Orders Committee should consider what criteria might be specified to reasonably limit Amendment Paper content.

Urgency

I would also like to note that the use of urgency is undermining confidence in the House's role as a place in which legislation is subjected to scrutiny and debate. This is not a problem of recent origin, although there has been a marked increase in its use this Parliament compared to most previous ones. To put it baldly, governments can avoid scrutiny by taking urgency to pass bills through some or all their stages without proper debate and in some cases bypassing any examination by select committees. A recent example of some significance for environmental management is the Land Transport (Clean Vehicle Standard) Amendment Bill (passed in June 2024). The changes in that Bill had significant negative implications for New Zealand's climate emissions, the costs of which in my view outweigh the administrative efficiencies gained.

In my view, recourse to urgency should be rare and driven by events affecting national life that require rapid legislative intervention. The political expediency of the moment should not qualify as a ground for urgency. The Committee should consider a procedural check on the use of urgency that requires more than just the votes of a simple majority of Members. The Committee might also consider a requirement for *ex-post* examination of Bills passed under urgency, by way of select committee inquiry. An inquiry would provide the opportunity for public consultation, the transparency of a committee's report back to the House, and improve accountability with the Government's response to the report.



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Te Kaitiaki Taiao a Te Whare Pāremata