



Briefing: Advice to support the Ministers discussion with the Parliamentary Commissioner for the Environment

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Security level: In-confidence

MfE priority: Urgent

Actions sought from Ministers		
Name and position	Action sought	Response by
To Hon Penny SIMMONDS Minister for the Environment	note that this briefing provides you with context and talking points to support your meeting with the Rt. Hon. Simon Upton on 21 December	21/12/2023

Actions for Minister's office staff
Return the signed briefing to the Ministry for the Environment (ministerials@mfe.govt.nz).

Appendices and attachments
Appendix 1: Potential talking points
Appendix 2: PCE letter to the Minister for the Environment
Appendix 3: PCE reports on environmental science and monitoring

Key contacts at Ministry for the Environment			
Position	Name	Cell phone	First contact
Principal Author	Marny Dickson	0272 000 487	
Responsible Manager	Aaron Napier	027 247 1893	
Deputy Secretary	Natasha Lewis	027 694 6278	✓

Minister's comments

Advice to support the Ministers discussion with the Parliamentary Commissioner

Key messages

1. The Parliamentary Commissioner for the Environment (PCE) is an independent Officer of Parliament, with broad powers to investigate environmental concerns. The current PCE is the Rt. Hon. Simon Upton, an experienced Parliamentarian, with considerable expertise on matters relating to the environment.
2. Many of his reports have focussed on recommendations to improve the environmental evidence-base, enable effective targeting of investment towards valued environmental outcomes, and increase accountability and transparency of progress towards environmental outcomes. They provide a valuable independent assessment, and we have a range of work programmes focused on responding to the PCE's recommendations.
3. You are meeting with the PCE on 21 December, 9:30 to 10am. We expect the PCE to focus his discussion with you on:
 - i the value of progressing work to repeal and replace the Environmental Reporting Act 2015 (ERA), as an initial step towards strengthening the environmental reporting system
 - ii improving accountability and transparency through mapping of government expenditure to environmental outcomes
4. This briefing provides you background context and information on other issues he may raise with you, or which you may like to ask about. He may also offer reflections on his time in Parliament.
 - i Talking points to support your discussion can be found in Appendix 1.
 - ii General background information on the outcomes and evidence component of your Environment Portfolio can be found in the accompanying *BRF-4045 Secondary Briefing Outcomes and Evidence*.
5. We plan to provide you a staged series of briefings from early 2024 on the specific areas of work discussed in this briefing, tailored to reflect your areas of interest. We propose to start with an introduction to the current requirements of the Environmental Reporting Act 2015 and opportunities for progressing valuable amendments.

Recommendations

We recommend that you:

- a. **note** that this briefing provides you with context and talking points to support your meeting with the Rt. Hon. Simon Upton on 21 December.



Natasha Lewis
Deputy Secretary
Strategy, Stewardship and Performance
19 December 2023 19/12/2023

Hon Penny SIMMONDS
Minister for the Environment

Date

Advice to support the Ministers discussion with the Parliamentary Commissioner

Purpose

1. You are meeting with the Parliamentary Commissioner for the Environment, the Rt. Hon. Simon Upton on 21 December, 9:30 to 10am. This briefing note provides:
 - background context and information on issues he may raise with you
 - talking points you may wish to use to support your discussion (**Appendix 1**).

Background

2. The Parliamentary Commissioner for the Environment (PCE) has written to congratulate you and suggest some areas for particular consideration. **Appendix 2** provides his letter to you, dated 28 November.
3. The PCE is an independent Officer of Parliament, with broad powers to investigate environmental concerns independently of the government of the day. Rather than reporting to a government minister, the PCE reports to Parliament as a whole through the Speaker of the House and the Officers of Parliament Committee.
4. The current PCE is Rt. Hon. Simon Upton, who was appointed in 2017. He is an experienced parliamentarian and past National Minister who held a range of portfolios between 1990 and 1999, including environment, research, biosecurity, health, and state services. After leaving parliament, Mr Upton chaired the Round Table on Sustainable Development at the Organisation for Economic Co-operation and Development (OECD), and later held the post of OECD Environment Director.
5. In recent years the PCE has produced advice on a range of topics including a series of four reports with recommendations to strengthen environmental science, investment, monitoring, and reporting. **Appendix 3** provides a summary of key messages from this report series.
6. As the accompanying *BRF-4045 Secondary Briefing Outcomes and Evidence* outlines, there are long-standing environmental data and evidence gaps that create uncertainty and result in decisions that can be costly in the long-term.

Likely focus of PCE: increasing accountability and improving our environmental reporting

7. We understand the PCE will want to discuss two areas of likely interest to the new Government that could be progressed relatively quickly: Environmental Reporting Act 2015 improvements and tagging of expenditure to environmental outcomes.

The potential repeal and replacement of the Environmental Reporting Act 2015

8. We expect the PCE to reinforce the value of progressing work to repeal and replace the Environmental Reporting Act (ERA) 2015. We agree with his ambition.
9. The ERA sets out the legislative framework for structured and regular reports on the state of New Zealand's environment that are prepared independently of Ministers of the Crown. The Ministry and Stats NZ have statutory responsibilities under this legislation. The PCE has made recommendations for repealing and replacing the ERA. These include minor changes to the format and timeliness of reporting as well as more substantive changes to:
- clarify the purpose of environmental reporting
 - establish, maintain and update a set of core indicators to provide a long-term view of how and why the natural environment is changing
 - specify enduring environmental outcomes in legislation
 - require a government response to state of the environment reporting.
10. The proposed changes provide a foundation for more robust, comprehensive, consistent, and authoritative reporting on the state of the environment, directing whole-of-government action towards the environmental outcomes that New Zealanders value, and increasing the accountability of government agencies and partners for delivering against these outcomes.
11. A draft Environmental Reporting Bill has been prepared which responds to these recommendations and, subject to your direction, could be refined and progressed early in this term of government. This draft Bill was unable to be progressed in time in the previous term of government due to competing priorities. We plan to provide you a briefing on this in due course in 2024, or at your request. This will include the opportunities it presents for you to define in legislation what enduring environmental outcomes should be achieved.
12. You can access the full range of environmental reports produced by Stats NZ and MfE under the current Environmental Reporting Act here: [Environmental reporting | Ministry for the Environment](#).

Tracking whether we are making a difference: mapping expenditure to environmental outcomes

13. Both the PCE and Auditor General have called for a finance system that enables the public and parliamentarians to see the links between government expenditure and outcomes. They note the current system is based on agency accountability, and that while reporting manages fiscal risks, this does not identify the quality of expenditure against outcomes.
14. MfE agrees that a public accountability system focused on individual agencies is not well-placed to address the scale and complexity of environmental challenges. This current information and evidence-base also makes it difficult to assess the effective targeting of government spending, or to apply social investment-style modelling to identify long-term costs and benefits of actions relating to the environment.
15. In 2023, the PCE began to publish a new annual series on environmental expenditure and has made several recommendations about how this type of information could be improved and used to inform future Budget decisions.
16. We have been working with Treasury to advance this work and are preparing to report back to you and the Minister of Finance on a targeted approach to expenditure mapping, including the selection of specific strategies, activities, and outcomes in February 2024, or at your request.

Other items which may be raised

Wider improvements to our environmental knowledge

17. The PCE has suggested that the new Government should prioritise strengthening the 'information eco-system' as a basis for improved environmental management. MfE supports the PCE's emphasis on improving the environmental evidence-base to support better informed decisions. This is consistent with the priority in the National Adaptation Plan to enable risk informed decisions.
18. There are significant opportunities to work with partners at local, regional, and national levels to address these challenges, and to pursue solutions that can generate benefits across a range of Ministerial portfolios. These include significant incremental improvements that could be realised in the short-to medium-term, as well as more fundamental changes in the longer-term.
19. We have initiated discussions with system partners, including central government agencies, local government, and Māori, to work collaboratively to address issues with the environmental information and evidence base. Initial work includes a focus on minimising duplication of effort and expenditure for maximum benefit.

20. We also have work underway to ensure environmental data and knowledge reaches more people, faster, and in more useful ways. One example is the All-of-Government Climate Data Initiative.
21. Led by MfE, the project aims to collate and integrate climate change-related data from a range of organisations. This includes data used in emissions reduction modelling, and data that informs adaptation such natural hazards, climate scenarios, and the natural and built environment. The initiative intends to deliver:
- a consolidated evidence base on climate and the environment
 - tailored data tools to support a range of users (central and local government, property owners, businesses and communities) to make informed and efficient decisions
 - an emissions reduction and adaptation monitoring and reporting system.
22. The All-of-Government Climate Data Initiative seeks to address recommendations by PCE to:
- standardise how climate (environmental) data is collected, managed and used through shared methods and standards
 - enable Government to provide national leadership in gathering climate data and information
 - ensure Government communicates climate data and information transparently to parliamentarians and the public alike.
23. We can brief you further in the New Year on scope and phasing.

Environment Committee freshwater inquiry

24. Informed by the work of the PCE and the Office of the Auditor-General, the last Environment Committee undertook a briefing on freshwater outcomes. They made eight recommendations, largely in line with those of the PCE. These focussed on the need for defined outcomes, better coordination, and various ways to improve accountability and transparency. While focussed on freshwater, these recommendations are relevant across all environment and climate domains.
25. We are awaiting confirmation as to the new Environment Committee's intention to continue this work. If they do, a Government response may be sought by the Committee in the first quarter of 2024. We have been working with relevant agencies to support this response and can provide you further advice in the New Year.
26. The Government response would require a paper to Cabinet and offer an opportunity to build your mandate for any of the wide suite of related work (including any changes to the Environmental Reporting Act 2015) you may wish to pursue.

PCE report on the environmental fate of chemicals

27. The PCE's March 2022 report *Regulating the environmental fate of chemicals*¹ highlights that we have a complex chemicals management system involving several agencies and several pieces of legislation. The report focuses on improvements that could be made to fill gaps in the system, mainly around improving access to good quality information.
28. *Blueprint for a Better Environment* includes a commitment to implement the PCE's recommendations. MfE has work underway with the Environmental Protection Authority to progress this.
29. Officials have prepared a separate briefing on our efforts to respond to the recommendations of this report, as well as related work in the hazardous substances space. This will be sent to your office in due course in 2024, or at your request.

National River Water Quality Network

30. The PCE may raise concerns regarding the National River Water Quality Network (NRWQN), a long-term water quality dataset funded through the MBIE Strategic Science Investment Fund (SSIF). In June of this year, NIWA sort to significantly downscale this commitment citing inadequate funding.
31. NIWA's short-notice proposal to cease the NRWQN highlighted the governance and investment risks facing many of our long-term environmental datasets necessary to ensure sound, evidence-based policy and decision making. This reflects many of the challenges highlighted by the PCE in his 2020 report *A review of the funding and prioritisation of environmental research in New Zealand*.²
32. The Ministry has been working with MBIE, NIWA and affected regional councils on a transition plan for the NRWQN. This would likely require a short- to medium-term funding package to support NIWA and affected regional councils but would not solve the long-term funding challenge.

Resource management issues, including air quality

33. In February 2023, the PCE produced a detailed submission on the Natural and Built Environment Bills and the Spatial Planning Bills.³ In this he argued there was a need for better accountability for clear, enforceable environmental

¹ [Regulating the environmental fate of chemicals | Parliamentary Commissioner of Environment \(pce.parliament.nz\)](https://pce.parliament.nz/Regulating-the-environmental-fate-of-chemicals)

² [Environmental research funding review | Parliamentary Commissioner of Environment \(pce.parliament.nz\)](https://pce.parliament.nz/Environmental-research-funding-review)

³ [Submission on resource management reform bills | Parliamentary Commissioner of Environment \(pce.parliament.nz\)](https://pce.parliament.nz/Submission-on-resource-management-reform-bills)

regulation, but raised questions about whether the regulatory authority and accountability for exercising it were well-aligned in the two Bills.

34. The PCE also indicated that changing the law alone will not necessarily improve the state of the environment, and that this will require aligning expertise and financial resources and placing regulatory powers in the hands of those best placed to exercise them. The PCE noted that social, economic and cultural objectives rely on the natural environment so must be pursued subject to the natural environment's limits and carrying capacity.
35. The PCE may raise specific concerns with the delay to bring ambient air quality regulations in line with international guidelines, particularly for ambient particulate matter and nitrous dioxide. The PCE has repeatedly written to previous Ministers for the Environment critiquing this delay. Air quality policy is an area that has not progressed due to competing priorities and resourcing constraints.
36. There are opportunities to bring air quality standards better in line with international best practice to address the adverse health and social effects of air pollution, and to better align air quality improvements and greenhouse gas emission reductions.

Upcoming PCE work

37. We understand the PCE has the following work underway, which may be raised:

- i landscape approach: exploring how an integrated approach to land use management can achieve multiple outcomes at the landscape or catchment scale
- ii urban soils: exploring the value of healthy soil in urban areas and impact of current practices on these
- iii use of environmental models, with a focus on catchment-scale water modelling
- iv alternative forestry: examining whether establishing a range of different forests, using native taonga species, exotics and alternative management approaches, could support more resilient forest systems and provide wider environmental co-benefits
- v a potential new investigation on remote sensing and use of emerging technologies, including AI for environmental monitoring.

Appendix 1: Potential talking points

Increasing accountability and improving our environmental reporting

In your meeting with the PCE, you may wish to:

- acknowledge the thought leadership the PCE has shown (four reports mentioned above) regarding environmental science, monitoring, investment and reporting, and proposed legislative and public accountability reforms
- note the alignment of the PCE's work with the Government's principle that decisions will be based on data and evidence and that programmes will be assessed to ensure they deliver results for New Zealanders.
- acknowledge the opportunity you have to align potential legislative changes to the Environmental Reporting Act with Government priorities and note that you are expecting further advice on options to progress the bill from officials in the new year.

You could also prompt the PCE to share:

- any updated information about his current work programme
- likely timing of the public release of upcoming reports
- progress on new investigations, such as use of emerging technologies and AI for environmental monitoring.



Hon Penny Simmonds
Minister for the Environment
Parliament Buildings
Wellington

28 November 2023

Dear Penny

Congratulations on your appointment as Minister for the Environment. I know from personal experience just how demanding a job it is.

This letter comes to you right at the beginning of your term for a reason: you will never have a better opportunity to take stock of what the Government's environmental management system (broadly defined) is tasked with achieving and then communicate (1) outcomes you would like that system to achieve and (2) how you think public resources should be deployed to achieve those outcomes. I urge you to seize that opportunity.

To do so, you will need to ask some different questions about how money is spent than those that may have been asked in the past, and you will need to think about ways that enable you to keep track of whether or not you are making a difference.

I do not know whether we are making a difference to New Zealand's environment for the better. I very much doubt whether your officials know whether we are either. You may be aware that earlier this year I published a report entitled *Environmental Reporting, Research and Investment – do we know if we're making a difference?*¹ It brought together five years' work on trying to understand whether we are gathering information, investing in research and spending taxpayers' money in a way that is yielding environmental benefits. I won't repeat its recommendations – they remain for you to consider. You should, however, be aware that I intend to continue to press for answers and will be extending my enquiries to ask how we can better audit the activities the Government undertakes to ask if they are making a difference.

I think the high-level outcomes New Zealanders seek for the environment they live in are relatively uncontentious.² I have not heard anyone seriously advocate for dirtier water, more chemical pollution, collapsing biodiversity or runaway greenhouse gas emissions. In this sense, the environment is a less normatively charged policy terrain than social policy.

¹ <https://pce.parliament.nz/publications/environmental-reporting-research-and-investment/>

² 1. Improving Aotearoa's biodiversity and ecosystem functioning and resilience; 2. Improving Aotearoa's land and freshwater, including sustainable management of resources; 3. Reducing greenhouse gas emissions; 4. Reducing pollution and waste; 5. Improving Aotearoa's coastal and marine environment, including sustainable management of resources 6. Improving the efficiency and effectiveness of institutions designed to manage human interventions in the environment.

But, unlike the social and economic domains, the availability of environmental information and an understanding of the processes at work is much leaner.

While lobby groups will provide you with laundry lists of priorities requiring your intervention, I would suggest that your key priority is improving the quality of the information ecosystem on which environmental management in New Zealand relies. This will require some investment, but it is the only way you and your colleagues will be able to ensure that the outlays you make are likely to deliver real improvements in environmental quality.

This will not be an insignificant task. Tying spending to high-level outcomes is the first step. I have already made a preliminary estimate of this.³ The next phase will be to work out the main activities that are being funded to achieve all of those outcomes. This will provide valuable data on the activities that are actually being funded in the name of these outcomes. If you can do that, you can then evaluate whether or not those activities are having the hoped-for impact.

This won't be possible overnight. Environmental processes and our ability to influence them often play out over quite long timeframes. That simply underlines the importance of investment in environmental monitoring and making the most of the data that already exists within the system.

There has been a comprehensive failure to focus scarce resources on activities that can be justified on the basis of evidence. That represents a failure, in part, by political leaders to be explicit about their objectives. But it is also a reflection of the fact that the Minister for the Environment is dealing with a domain in respect of which ministerial portfolios and public appropriations are fragmented. In other words, you will not be able to do this alone. The environment is a broad beast. While you are the Minister for the Environment, environmental issues are also central to the responsibilities of your colleagues responsible for climate change, conservation, and primary industries to name just three portfolios. Several others also intersect with the environment.

I would urge you to take stock of the entire environmental domain and work with relevant colleagues to construct a knowledge ecosystem that will enable you to make intelligent budgetary decisions that can then be the subject of ex-post review. No government can hope to do everything. It is all about choices and priorities, and then the design of policy instruments and investment in systems that can transparently deliver results that parliamentarians can scrutinise.

³ <https://pce.parliament.nz/publications/estimate-of-environmental-expenditure-2022-23/>

My role is that of an external and independent auditor. The initiatives I have spent the last five years working on would, if implemented, undoubtedly assist my work. But I have no doubt that they would greatly assist your work as well. I would be more than happy to discuss these matters with you when you've had a chance to reflect. But let me repeat: you will *never* be in a better position than you are today to ask some of these questions and provide clear guidance about the outcomes that you are seeking.

Kind regards

A handwritten signature in grey ink, consisting of a long, sweeping horizontal stroke followed by a vertical line that curves slightly to the right at the top.

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

Cc James Palmer, Secretary for the Environment

Appendix 3: The Parliamentary Commissioner for the Environment's series of reports on environmental science, monitoring, investment and reporting

The current PCE, Rt. Hon. Simon Upton, has released a series of four reports focussed on environmental science, investment, monitoring and reporting. This appendix provides a summary, excerpt of his final synthesis report, and links to the full reports.

Key messages

The PCE has concluded that we have:

- an opportunistic environmental reporting system that relies on fragmented and patchy environmental monitoring and, as a result, is unable to provide a reliable picture of the state of our environment.
- funding of environmental research that is largely detached from the endless strategies and roadmaps we invent and from the output of environmental monitoring and reporting systems.
- a budget process that lacks the capability to consistently raise and address the long-term environmental challenges that we face.

Based on those conclusions, in his 2022 report, the PCE called for:

- foundational investments in environmental information
- clarity about why we are prioritising certain environmental issues (and not others)
- transparency about what environmental outcomes the Government is aiming for, what the Government plans to do to achieve them and how much it spends as part of that response
- accountability for the results of that spending.

Full reports can be found at:

- October 2022 synthesis report *Environmental reporting, research and investment: Do we know if we're making a difference?*:
<https://pce.parliament.nz/media/0qger2rr/environmental-reporting-research-and-investment-do-we-know-if-were-making-a-difference.pdf>

- December 2021 Wellbeing budgets and the environment A promised land?: [wellbeing-budgets-and-the-environment-report-pdf-225mb.pdf](https://pce.parliament.nz/publications/wellbeing-budgets-and-the-environment-report-pdf-225mb.pdf) (pce.parliament.nz)
- December 2020 *A review of the funding and prioritisation of environmental research in New Zealand*: <https://pce.parliament.nz/publications/environmental-reporting-research-and-investment/>
- November 2019 Focusing Aotearoa New Zealand's environmental reporting system: [focusing-aotearoa-new-zealand-s-environmental-reporting-system.pdf](https://pce.parliament.nz/publications/focusing-aotearoa-new-zealand-s-environmental-reporting-system.pdf) (pce.parliament.nz)

Excerpt from final synthesis report (p12-13): *Environmental reporting, research and investment: Do we know if we're making a difference?*

What do we know about the state of our environment?

Environmental data – that is, any facts, records or measures related to the environment – are fundamental to initiate any environmental research, validate models, estimate trends and monitor environmental evolution. They are needed to support the development of policies and regulation. And they need to be gathered in a way that is consistent over time.

My review of environmental reporting in New Zealand found that the broader environmental system suffers from numerous gaps in data; that it is fragmented, relying on data acquired by different organisations for different purposes using different methodologies; and that even where data do exist, they are often inaccessible to decision makers. Furthermore, Aotearoa's environmental reporting is opportunistic. It passively harvests existing data from many organisations that happen to have collected them, as opposed to setting about systematically generating the data that are needed to address the key environmental issues of concern to New Zealanders.

An additional issue is a lack of depth in the way that mātauranga Māori is integrated into environmental reporting. There have been attempts to better represent mātauranga to address this problem but there needs to be discussion with Māori on how and when to use mātauranga, and how to incorporate locally specific mātauranga into national reporting.

I described our efforts to report on the state of New Zealand's environment as "cobbling together what we have to hand, trying to solicit the willing engagement of a wide range of stakeholders and putting the hat around to try to plug some of the many gaps". For a country that is so heavily reliant on the biophysical world to make a living, it is remarkable what we do not know.

For instance, we do not have reliable estimates of the quantity of water taken from rivers, lakes and aquifers, or up-to-date, nationally consistent measures of land use. By comparison, reporting of economic data is more comprehensive. This is reflected in differences in the length and consistency of time-series datasets – for example, many economic indicators, including gross domestic product, have historical data dating back to the 1950s or earlier, whereas the coverage of many environmental indicators is limited to much more recent time frames.

The problems with environmental information were known long before the appearance of my 2019 review. For some reason there has been little determination to take them in hand. To address them, I called for:

- a comprehensive, nationally coordinated environmental monitoring system, including the development of a dedicated set of core environmental indicators and the design and
- maintenance of the necessary monitoring networks
- a standardised and consistent approach to collecting, managing and analysing data
- a nationally mandated strategy to ensure that known environmental data gaps are progressively filled
- the development and maintenance of a fit-for-purpose national online reporting platform
- the establishment of a standing science advisory panel to provide scientific advice to ensure robust and comprehensive reporting on the state of Aotearoa's environment and identify emerging priorities for data gathering, monitoring and research.

I have also called for amending the Environmental Reporting Act 2015 to improve Aotearoa's reporting on the state of its environment to help focus our stewardship of the environment in the right places.

See also: [Environmental reporting, research and investment summary \(pce.parliament.nz\)](#), a more detailed summary of this series of reports, prepared by the PCE for parliamentarians.