



Briefing: Further information on proposals for the Environmental Reporting Bill

Date submitted: 12 February 2024

Tracking number: BRF-4235

Security level: Policy and Privacy

MfE priority: Not Urgent

Actions sought from Ministers

<i>Name and position</i>	<i>Action sought</i>	<i>Response by</i>
To Hon Penny SIMMONDS Minister for the Environment	Agree to the recommendations in this briefing	19 February 2024

Actions for Minister's office staff

Return the signed briefing to the Ministry for the Environment (ministerials@mfe.govt.nz).

Appendices and attachments

Appendices

1. Overview of current environmental reporting, and proposed changes (to support potential discussions with Ministerial colleagues)
2. Feedback from local government
3. Other ministerial portfolios with key interests in the proposals for the Environmental Reporting Bill


Key contacts at Ministry for the Environment

<i>Position</i>	<i>Name</i>	<i>Cell phone</i>	<i>First contact</i>
Principal Author	Vivienne Holm		
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General Manager	Sarah Stevenson	027 475 2662	✓

Minister's comments

Further information on the implications of the Environmental Reporting Bill

Key messages

1. On Wednesday 31 January you sought further advice on the cost burden of proposed amendments to the Environmental Reporting Act 2015 on different councils. You directed officials to report back on this, prior to you discussing the proposed amendments with your Ministerial colleagues or deciding whether to progress with any legislative change.
2. The proposed amendments provide a legislative framework for focusing state of environmental reporting efforts on the data and information most needed to support environmental stewardship. Subject to future policy and operational decisions, critical data and evidence gaps will be addressed over time, through a mix of consolidation and refocusing of existing monitoring efforts, improved data access and sharing, and prioritised investment (if available).
3. Local government feedback from 2022¹ was largely supportive of the proposed changes, though there were detailed recommended changes and variability between councils. Councils strongly supported efforts to focus environmental reporting efforts on data and information that is useful for decision-making. Environmental Canterbury reinforced the potential to better integrate reporting functions and duties across central and local government, and opportunities to improve data access and sharing. West Coast Regional Council was unsupportive, concerned primarily with potential costs. The proposals were updated following the 2022 consultation.
4. During recent engagement Stefanie Rixecker, Chief Executive of Environment Canterbury told us that she would like to meet with you directly to discuss the proposals and the wider environmental information system. We recommend that you meet with a small group of chief executives to hear from them directly.
5. 9(2)(f)(iv) 

¹ Seven (of sixteen) regional and unitary authorities submitted, as well as Te Uru Kahika, Taituarā and National Environmental Monitoring Standards steering group (regional and unitary technical experts).

6. Reduced frequency of reporting, part of the proposals, should also decrease some of the existing burden on local authorities.
7. In addition to advice on costs, this briefing attaches information about:
 - a. The current framework, noting which aspects are proposed to change and which would stay the same
 - b. Feedback from local government
 - c. Other ministerial portfolios with key interests in the proposals for the Environmental Reporting Bill.

Recommendations

We recommend that you:

- a. **note** the advice on this briefing, including that the proposals can be changed to further reduce likely costs on local authorities

Yes | No

- b. **meet** with officials for further discussion

Yes | No

- c. **meet** with a small group of regional council chief executives to hear their perspectives directly.

Yes | No

Signatures



Sarah Stevenson
General Manager, Strategy
Strategy, Stewardship and Performance
12 February 2024

Hon Penny SIMMONDS
Minister for the Environment

Date

Further information on the proposals for the Environmental Reporting Bill

Purpose

1. This advice responds to your request for more information about the costs and effort that would be required of local authorities under the current proposals for the Environmental Reporting Bill (Bill).
2. It also sets out how the proposals could be changed to reduce those impacts.
3. In addition, we have provided information about:
 - the current framework, noting which aspects are proposed to change and which would stay the same (Appendix 1)
 - feedback from local government (Appendix 2)
 - other ministerial portfolios with key interests in the proposals for the Environmental Reporting Bill (Appendix 3).

Background

4. We have previously provided you with advice on the reasons for replacing the Environmental Reporting Act 2015 (Act) (BRF-4074 Progressing Amendments to the Environmental Reporting Act refers).
5. In summary, the proposals to repeal and replace the Environmental Reporting Act 2015 have two distinct goals:
 - to enable reporting, and the effort to support this, to focus on what matters most
 - to provide a more comprehensive picture of why and how our environment is changing and, over the long term, to fill data gaps.
6. You have correctly identified that the second goal could be burdensome for local government, and asked us to provide you with more information about that risk. In response, we have identified changes that could be made to the proposals to reduce the risk.

Analysis and advice

Local government perspectives on proposed changes

7. Our engagement with local government has highlighted different perspectives on the costs and benefits of the proposed changes. Overall councils have been broadly supportive of the objective of more purposeful environmental reporting, and the importance of focusing collective efforts on data and information to enable better, more timely environmental decision-making.
8. Te Uru Kahika has also reinforced that the status quo does not always deliver value for money and that clearer expectations about the most important issues to focus on would enable regional council environmental monitoring efforts to be more efficient and impactful.
9. Appendix 2 summarises the engagement we had with local government in 2022. There was some concern about the potential for increased costs, especially on the part of less well-resourced councils. Another key area of focus was the proposals for standardising the way monitoring is carried out, as some councils wanted to see provision for regional variation (allowing for bespoke approaches will also be important for Māori) while others wanted less flexibility than proposed. As explained below, and in Appendix 2, further refinements could be made to the proposals to address some of the issues raised.
10. During recent engagement Stefanie Rixecker, Chief Executive of Environment Canterbury told us that she would like to meet with you directly to discuss the proposals and the wider environmental information system. We recommend that you meet with a small group of chief executives to hear from them directly.

The costs of the current reporting framework for local government

11. The current reporting framework is set out in the Environmental Reporting Act 2015 (Act)².
12. The Act was designed not to be burdensome. In seeking Cabinet decisions on the current Act Minister Adams advised that³:

While officials may require existing information be made available for reporting purposes, they have no powers to require that new information be generated; and therefore the proposal does not impose any requirement on local government, individuals, businesses or central government agencies to produce data that does not already exist.

² Available at:

https://www.legislation.govt.nz/act/public/2015/0087/latest/DLM5941105.html?search=ad_act_enviro%25%40bn%40rn%40dn%40apub%40aloc%40apri%40apro%40aimp%40bgov%40blo%40bpri%40bmem%40rpub%40rimp%40ainf%40anif%40bcur%40rinf%40rnif%40aw%40se&p=1

³ [Rec 8 of CAB Min (13) 26/6 refers]

13. The Act relies mainly on information produced for other purposes, including the information local authorities collect under section 35 of the Resource Management Act 1991 (RMA)⁴. The Ministry and Statistics New Zealand gather information specifically for reporting⁵, but nobody else is required to.
14. The Act does not give the Secretary for Environment or the Government Statistician any 'stand-alone' powers to require other people to provide information. However, the Government Statistician's powers under the Data and Statistics Act 2022 (DSA)⁶ are available to collect information for any information that is official statistics. Key points to note about the powers are:
 - they are used to collect most (but not all⁷) the information used for environmental reporting.
 - they can only be used to gather information held by people who are not public sector agencies with an approval from the Minister of Statistics.
 - they can be used to gather information from public sector agencies, including local authorities, without an approval from the Minister of Statistics.
 - public sector agencies, including local authorities, cannot refuse to provide information simply because it would be expensive; they can only refuse if the information is sensitive⁸.

The costs of the proposals for local government

15. The proposals do not change the existing powers of the Secretary for the Environment or the Government Statistician to require local authorities to provide existing information for environmental reporting. There is no proposal to require local authorities to gather new information.

⁴ Section 35 requires local authorities to gather the information they need to exercise their functions under the RMA. This includes monitoring the state of the whole or any part of the environment of its region or district, "to the extent that is appropriate to enable the local authority to effectively carry out its functions under [the RMA]".

⁵ Note also that sections 8(3) and 11(3) state that the Secretary and Government Statistician are not required to report on information, "that cannot be obtained by using reasonable efforts".

⁶ Available at:


https://www.legislation.govt.nz/act/public/2022/0039/latest/LMS418574.html?search=ad_act_data_25_ac%40bn%40rn%40dn%40apub%40aloc%40apri%40apro%40aimp%40bgov%40bloc%40bpri%40bmem%40rpub%40rimp_ac%40ainf%40anif%40bcur%40rinf%40rnif_a_aw_se_&p=1

⁷ There are additional sources of relevant information collected under other legislation such as the Waste Minimisation Act 2008, Hazardous Substances and New Organisms Act 1996, Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012, where descriptive, scientific, and legal information are not reducible to numbers and statistics and therefore fall outside the DSA.


⁸ The specific situations when a public sector agency can refuse to provide information are set out in section 29(3).

16. However, the new drive to fill data gaps could result in increased use of the Government Statistician's powers.


9(2)(f)(iv)



9(2)(f)(iv)



9(2)(f)(iv)



Te Tiriti analysis

24. The briefing is for information only and does not seek decisions which would have Treaty impacts. The nature and extent of the reporting framework will have a range of Treaty impacts, including in terms of the Crown's responsibility of active protection. We will provide you with advice on these impacts in future briefings if you decide to make changes to the proposals.

Other considerations

Consultation and engagement

25. Appendix 2 summarises feedback we received from local government during our 2022 engagement process.

Risks and mitigations

26. No risks are associated with this briefing because it does not seek policy decisions.

Legal issues

27. No legal issues are associated with this briefing because it does not seek policy decisions.

Financial, regulatory and legislative implications

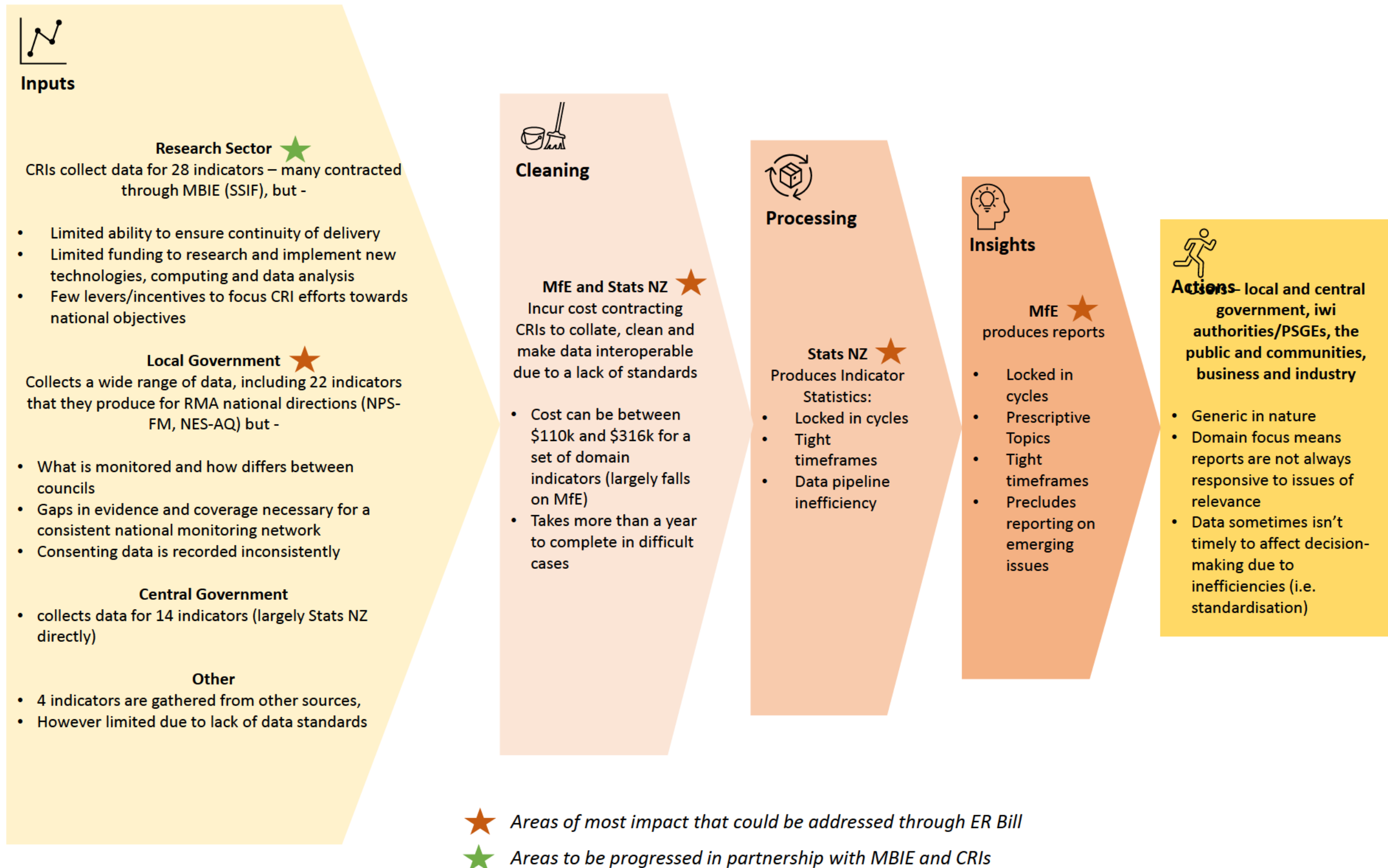
28. No financial, regulatory, or legislative implications are associated with this briefing because it does not seek policy decisions.

Next steps

29. We would be happy to meet with you to discuss this advice, or to provide more detailed options for reducing the costs for local government in proposed changes to environmental reporting.

Current National Monitoring and Reporting Pipeline

Defined by a lack of coherence, direction and standardisation.¹ An inefficient data system diminishes capacity to report on what matters most, when it matters most and consequently the value to different user groups. The effect is made more acute by prescriptive topics and a short tight, locked-in reporting cycle.



1. PCE, 2022 *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>

Appendix 2: Feedback received from local government in 2022¹

Standardisation of monitoring systems
<p>Some councils said that they want to continue collecting data in the same way and the same places, partly so that they do not lose the information they already have about the history of, and trends at, particular sites. Others want to have standardised monitoring across the country to enable comparisons between regions over time.</p> <p>There was also feedback that the environmental reporting team should be co-ordinating its data needs with the data being collected under other legislation such as the Resource Management Act 1991. For example, Waikato Regional Council said:</p> <p style="padding-left: 40px;">It would be very challenging for us and other local government authorities already sharing data through established data portals, to provide for additional monitoring or organising data outside these channels. This could be mitigated in part by making sure any requests for information align with NPS provisions in terms of attributes to be monitored, and location and frequency of monitoring.</p>
Costs and impacts
<p>Costs were a major issue for the small to medium councils with low rating bases. West Coast Regional Council expressed concerns about both costs and value for money in regions where there is less development pressure, stating:</p> <p style="padding-left: 40px;">Council is concerned that if we are assigned the unfunded task of increased monitoring and reporting, there may be a lot of frequent monitoring mandated where it may not be necessary because the environment is relatively pristine... Council understands that the purpose of some of these changes is to bring consistency and standardisation in order to improve reporting, and also to better identify if there is statistically significant change, which makes sense. However, there are risks in a one-size-fits-all/extreme standardisation approach to monitoring and reporting – one risk being that some areas may not justify the mandated level of environmental monitoring because of low population pressures. Those areas with low population pressures also have a low rating base and so will struggle to fund the work.</p> <p>Otago Regional Council made the point that councils need time to budget for costs, saying that, “Any new data collection requirements will need to have a realistic timeframe for implementation so that associated resourcing can be budgeted for”. Council also said that, “the data to be collected must be useful. It will not be acceptable to require councils (and ratepayers) to budget for activities that have no material value for subsequent decision-making.”</p>

¹ Seven (of 16) regional councils and unitary authorities submitted, as well as Te Uru Kahika, Taituarā and National Environmental Monitoring Standards steering group (regional and unitary technical experts). The written submissions are available at: https://consult.environment.govt.nz/environment/proposed-amendments-environmental-reporting-act/consultation/published_select_respondent

Core indicators
<p>There was mixed support for core indicators, mainly due to concerns that they could result in increased costs for councils. West Coast Regional Council was opposed to core indicators if they would result in a ‘one size fits all’ approach across the country. It said, “The WCRC strongly opposes Proposal 9. One suite of measures does not necessarily fit all councils”.</p> <p>Another issue raised was the need to align the core indicators (like the monitoring requirements) with other statutory frameworks. Otago Regional Council said:</p> <p>ORC staff note that there is much activity within central government that is relevant to the requirements of this Act. ORC is pleased to note that the consultation document commits that central government align the ERA requirements with such activities, including national policies and frameworks (e.g. NPSFM, NPSIB, National Climate Change Adaptation Plan, Treasury Living Standards Framework). The core environmental indicators also need to consider these requirements, to ensure efficiency and effectiveness of the application of resources by all governments. A key concern for ORC is that duplication is avoided, and data collected can be used to satisfy multiple requirements wherever possible.</p>
Information gathering powers
<p>Otago Regional Council told us:</p> <p>... promoting a collaborative, as opposed to compulsive, approach on collecting data/indicators under the ERA will allow regional authorities to advocate that the data collection needs to serve not only the national need for reporting, but also regional decision making. The outcome should be that the ERA directs monitoring activities which are of demonstrable national and regional benefit, so our Councillors and ratepayers can understand and support any associated resourcing costs when considering ORC’s proposed activity programmes through our annual and long-term planning.</p>

Appendix 3: Other ministerial portfolios with key interests in the proposals for the Environmental Reporting Bill

Minister of Finance, Hon Nicola Willis
<p>Proposals have strong synergies with a social investment approach. Minister Willis has stated the Government needs to focus on intervening as effectively as possible, ‘building fences at the top of cliffs rather than funding ever more ambulances to pick up the pieces at the bottom’. In the environmental context, there are several recent examples of very serious harm caused by information gaps. These include the damage caused to residential development in liquefaction prone parts of Christchurch following the earthquakes, and to development affected by the landslides during Cyclone Gabrielle. The New Zealand Insurance Council has said¹:</p> <p>...the quality of information and accessibility to information about natural hazards varies considerably around the country ... This means people and property are at greater risk than they need to be.</p> <p>The Government’s 2022 Data Investment Plan (Plan)² also highlighted that of all the data gaps identified, our environmental data gaps are especially serious:</p> <p>All categories and associated data products under the environmental pillar require some or major development. There are major data gaps in understanding Aotearoa New Zealand’s water quality and availability; ecosystems and the benefits Aotearoa New Zealand as a country derives from these systems; the generation and life cycle of waste; land use; natural disasters and the impacts of climate change.</p> <p>One example given was the measurement of land use over time at the parcel level. According to the Plan, “the Land Cover Database (LCDB), does not have ongoing funding for updates and by itself does not provide a measure of land use to link local activities to local change. There are insufficient monitoring sites to provide reliable measurement of soil erosion, good data on soil health, and detailed elevation mapping across Aotearoa New Zealand and outlying islands”.</p> <p>It is also important to note that data gaps about our environment are likely to have a chilling effect on investment confidence (there is strong anecdotal evidence of this in the resource management context).</p> <p>The fiscal implications for the Crown are presented in our cost benefit analysis which showed that costs and benefits would vary significantly depending on the way the proposals are operationalised. If a more ‘gold plated’ approach is taken, then over 30 years the estimated costs would be \$560.5m; this could be incurred gradually by the Crown when affordable, unless agreement is reached with other agencies to share specific costs. The related benefits have been quantified at \$1,064.3m over 30 years, including knock on effects of improvements in environmental wellbeing with the biggest gains coming from improvements in slower ecosystem degradation and less harm from pollution.</p>
Minister of Resource Management Reform and Minister of Infrastructure – Hon Chris Bishop
<p>Cost benefit analysis suggested the proposals would reduce the regulatory burden of the resource management system, which are high by international standards. For example, strengthening the environmental reporting framework and filling information gaps would help reduce the burden on applicants for resource consent and requiring authorities who are often required to fund investigations into the current state of the environment, since more information on receiving environments would already exist. Improved reporting will improve the quality of local authority plans and of national direction.</p> <p>Improving the nation-wide picture of our environment could also enable us to locate activities in the places with the best carrying capacity, so that we can deliver New Zealand’s development needs at a lower environmental cost. Being able to demonstrate that development is going where it will do the least possible harm would help diffuse public opposition to development.</p>
Minister of Agriculture – Hon Todd McLay
<p>Improved environmental reporting will support primary industries by providing more information on how the environment is changing and what activities will be viable in what locations going forward. It will promote consumer confidence in the primary industries, by providing reliable data about the adverse – and positive - impacts of activities and better evidence of the ways the sector is improving its environmental performance.</p> <p>Federated Farmers New Zealand (FFNZ) is broadly supportive of the proposals. In 2019³ FFNZ released a press release stating:</p> <p>Big policy swings are underway – most recently on freshwater – yet the Commissioner’s report makes it clear they are not founded on robust, consistent and reliable national data... the inconsistent and incomplete data that the Commissioner likened to ‘flying blind’, and warned could be ‘costing us dearly in terms of poorly designed policy’, is not a sound footing for some of the policy swings underway that farmers are so concerned about.”</p> <p>During the 2022 consultation process FFNZ told us it was generally supportive of the proposals, including those to reduce the frequency of reports to annually, establish core indicators and the requirement for a government response to synthesis reports. Concerns include giving MfE powers for mandatory acquisition of data and the potential for inadequate funding of data collection (these are not part of the current proposals).</p>
Minister of Fisheries – Hon Shane Jones
<p>As with the Minister of Primary industries, we expect the Minister to be interested in how the proposal could provide a more accurate and complete evidence base for decisions, and also evidence of the ways the sector is improving its environmental reporting. There is a significant gap in environmental information for the coastal marine area. We don’t know what is happening to patterns and quantities of sea life that contribute to productive fisheries. Research conducted on the Blue Economy for Sustainable Seas and University of Auckland⁴ found:</p> <p>In order for the government to make informed decisions about potential controls, there needs to be fundamental research to understand the scale, nature, and location of the types of uses that occur currently and historically in the maritime area.</p> <p>A 2021 report by the Prime Minister’s Chief Science Adviser on ‘The Future of Commercial Fishing in Aotearoa New Zealand’⁵ found that the lack of comprehensive and trusted data not only undermining good decision-making but also fuelling an ill-informed debate. The report also noted that much of the data we do have is not being collated and reported by a trusted source:</p> <p>We do have a lot of data about the ocean but in many ways, we also know frighteningly little. What we do know is often uncertain, creating error bars in measurements which foster the differences in interpretations that fuel dissent. The data we do have is poorly integrated across different</p>

¹ [https:// www.icnz.org.nz/wp-content/uploads/2023/01/icnz-protecting-nz-from-natural-hazards-2014.pdf](https://www.icnz.org.nz/wp-content/uploads/2023/01/icnz-protecting-nz-from-natural-hazards-2014.pdf)

² [https:// www.data.govt.nz/assets/Leadership/Government-Data-Investment-Plan-2022.pdf](https://www.data.govt.nz/assets/Leadership/Government-Data-Investment-Plan-2022.pdf)

³ [https:// fedfarm.org.nz/FFPublic/FFPublic/Media-Releases/2019/Environmental_data_gaps_no_basis_for_current_policy_swings__Feds_says.aspx](https://fedfarm.org.nz/FFPublic/FFPublic/Media-Releases/2019/Environmental_data_gaps_no_basis_for_current_policy_swings__Feds_says.aspx)

⁴ [https:// www.sustainableseaschallenge.co.nz/assets/dms/Measuring-New-Zealands-blue-economy/Measuring20New20Zelands20Blue20Economy202019_Final.pdf](https://www.sustainableseaschallenge.co.nz/assets/dms/Measuring-New-Zealands-blue-economy/Measuring20New20Zelands20Blue20Economy202019_Final.pdf)

⁵ [https:// www.mpi.govt.nz/fishing-aquaculture/fisheries-management/how-we-manage-new-zealands-fisheries/a-report-into-the-future-of-commercial-fishing-in-nz-by-the-prime-ministers-chief-science-advisor/](https://www.mpi.govt.nz/fishing-aquaculture/fisheries-management/how-we-manage-new-zealands-fisheries/a-report-into-the-future-of-commercial-fishing-in-nz-by-the-prime-ministers-chief-science-advisor/)

stakeholders. The mountain of electronic and other data collected for compliance purposes could be better mined for environmental, commercial and social outcomes. New tools can support this if the data is shared. Aggregation of non-sensitive data from industry sources and integration with data from a wider range of scientists from different disciplines and regulators could radically change the amount of information available on which to base decisions, and the decision-making processes must be open to incorporate this data in a transparent way. Deep local knowledge and mātauranga Māori are also under-used and we could listen more to on-the-ground expertise.

Minister of Climate Change – Hon Simon Watts

New Zealand has a relatively strong framework for reporting on our emissions, partly due to our international obligations. For that reason, we expect that the Minister may be more interested in the way the proposals could support decisions on adaptation. Unsurprisingly, the proposals are part of the current National Adaptation Plan, because they would help provide the information needed to make smart decisions about how and when we adapt. Among other things, better reporting will help us locate new development and infrastructure in the right places. As noted above, the damage caused by liquefaction following the Christchurch earthquakes (while not climate related) is an example of the cost of locating development in the wrong places based on information gaps. In addition, the proposals would support a more cost-effective transition for existing climate-sensitive activities such as pastoral farming, arable cropping and horticulture. A 2019 report by Manaaki Whenua-Landcare Research, NIWA and Lincoln University on ‘Adaptation knowledge for New Zealand’s primary industries: Known, not known and needed’⁶ showed that:

...research to date has focused almost exclusively on understanding the impact of climate variability and extremes on land management. There are significant empirical (e.g. location and sector) and methodological (e.g. integrated assessments, scenarios, and vulnerability assessment) gaps, for at risk regions and sectors, and limited understanding of the decisions and actions necessary to enable successful adaptation. To inform future adaptation planning, additional work is required to better understand the implications, decision-making processes and obstacles to action. More detailed understanding of location-, season-, time- and sector-specific responses to climate change is also necessary.

⁶ [https:// www.sciencedirect.com/science/article/pii/S2212096319300427](https://www.sciencedirect.com/science/article/pii/S2212096319300427)