



To: Hon Dr Nick Smith, Minister for the Environment
Hon Craig Foss, Minister of Statistics

Environmental Reporting Regulations consultation – Cabinet paper

Other Dept Tracking Number:	MM1527	MfE Tracking Number:	15-B-03239
Date Submitted:		MfE Priority:	Non-urgent
Security Level:	IN CONFIDENCE	Number of Attachments:	Two
Action Sought:	Approval/Agreement Sign attachment	Response Needed by:	26 October 2015

Ministry for the Environment Contacts

Position	Name	Telephone		1st Contact
		(cell)	(work)	
Principal author	■■■■■■■■■■	-	■■■■■■■■■■	
Responsible Manager	Brian Hallinan	022 066 8420	04 439 7784	✓
Director	Malcolm McKee	027 291 4216	04 439 7407	

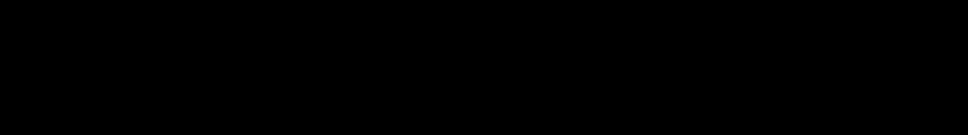
Statistics New Zealand Contacts

Position	Name	Telephone		1st Contact
		(cell)	(work)	
Responsible Manager	Stephen Oakley	-	04 931 4670	✓
Director	Michele Lloyd	021 701 174	04 931 4507	

Executive Summary

1. This briefing provides you with the Cabinet paper on consultation on the Environmental Reporting Regulations (the Regulations) for your review and submission to Cabinet Office.
2. We propose consulting on the Regulations from 11 November – 23 December 2015 because the Regulations need to be in place before reporting under the Environmental Reporting Act (the Act) can begin. The first report planned for release under the Act in mid-2016 is the Freshwater Domain Report. Consultation on the Regulations needs to take place this year to ensure sufficient time for the Regulations to be promulgated before mid-2016.
3. For consultation to occur on this timeframe, the Cabinet paper would need to be lodged by 29 October, for EGI to consider on 4 November, and for Cabinet to consider on 9 November.

Situation Analysis

5. Section 19 of the Act creates a joint regulation making power for the Minister for the Environment and the Minister of Statistics (the Ministers) to recommend topics to be set in regulations. Under section 19(3) of the Act, Ministers must consult with the Government Statistician, Parliamentary Commissioner for the Environment (PCE), iwi authorities, local authorities and the public prior to recommending regulations.
6.  The Act will commence nine months after enactment (under section 2 of the Act), or will be brought into force via Order in Council when the Regulations are recommended, whichever is earlier.
7. We seek to consult on the Regulations from 11 November – 23 December 2015. This is because before reporting under the Act can begin, the topics for reporting must be set in the Regulations. The first report planned for release under the Act (the Freshwater Domain Report) is scheduled for mid-2016. Consultation on the Regulations needs to take place by the end of this year to ensure sufficient time for the Regulations to be promulgated before mid-2016. Regulations must be in place 2-3 months prior to publication of the report so that the Government Statistician can sign off the statistics that will be included in the report, as required under section 14 of the Act.
8. For consultation to occur on this timeframe, the Cabinet paper would need to be lodged by 29 October, for EGI to consider on 4 November, and for Cabinet to consider on 9 November.
9. On 2 October we provided you with the briefing note 'Environmental Reporting Regulations consultation – draft discussion document and Cabinet paper' (15-B-03214) for your review and feedback. At the same time, we consulted other agencies on the draft Cabinet paper and consultation document.
10. This briefing provides a final draft of the Cabinet paper for your review and submission to Cabinet Office (Appendix 1). We propose that the Minister for the Environment's office lodge the Cabinet paper; the draft lodgement form for this process is attached (Appendix 2).

Advice

Cabinet paper for Cabinet sign-off of consultation

11. The paper seeking Cabinet's approval of the consultation on the Regulations is attached for your review and submission to Cabinet Office (Appendix 1).
12. The Cabinet paper sets out:
 - the proposal that Cabinet approve the consultation document and the public release of the consultation material for consultation on the Regulations on 11 November 2015
 - the legislative requirements for topics and the Regulations
 - what officials considered when developing the topics for consultation
 - the process and timeframes for consultation on the Regulations, including:
 - i. how we propose to meet legislative requirements for consultation
 - ii. the timeframes required to have the Regulations in place for the Freshwater Domain Report
 - an overview of the content in the consultation document

- a summary of Regulatory Impact Statement (RIS) requirements. Treasury has advised that a RIS is not required.

Risks and Mitigations

13. If consultation does not take place in the proposed timeframe, there is a risk that the promulgation of Regulations will not take place in sufficient time to allow the Freshwater Domain Report to be released under the Act in mid-2016. This may require the Freshwater Domain Report to be delayed or produced outside the Act.

Legal issues

14. [REDACTED]

Consultation

15. We have consulted the following agencies on the Cabinet paper and consultation document: Ministry for the Environment, Statistics New Zealand, Department of Internal Affairs, Department of Conservation, Land Information New Zealand, Ministry for Primary Industries, Ministry for Business, Innovation and Employment, Ministry of Transport, Ministry of Health, Ministry of Culture and Heritage, Te Puni Kokiri, and Department of Prime Minister and Cabinet.
16. There were no substantive comments from agencies, and only minor changes have been made from the version we provided you on 2 October (see 15-B-03214). These changes clarify that:
- the Statistics New Zealand 'Principles and protocols for producers of Tier 1 statistics' will be used when determining whether topics can be measured by robust statistical methods; and
 - officials will notify other interest groups of the consultation, beyond those Ministers are required to consult with, including submitters on the Environmental Reporting Bill, and non-iwi-based Māori authorities.

Next steps

17. The table below sets out the proposed timeframes and next steps for approval of the consultation on the Regulations, and further development of the Regulations.

Date	Milestone
14 October 2015	Ministers receive updated consultation document and Cabinet paper for review and submission to Cabinet Office by 29 October.
21 October 2015	Ministry for the Environment /Statistics NZ release <i>Environment Aotearoa 2015</i> . This report will be published outside of the Act.
By 29 October 2015	Minister for the Environment's Office lodges Cabinet paper approval of the Regulation consultation with EGI Cabinet Committee on 4 November. The draft lodgement form is attached (Appendix 2).
4 November 2015	EGI Cabinet Committee considers Cabinet paper.
9 November 2015	Cabinet considers paper for approval.
11 November - 23 December 2015	Ministers release consultation on the Environmental Reporting Regulations (subject to Cabinet approval).
January – February 2016	Officials analyse submissions on consultation document and prepare a revised set of topics for Ministers' consideration.
March 2016	Ministers seek Cabinet approval of policy decisions on revised topic list to be set in regulations.

April 2016	Ministers seek Cabinet approval of regulations. Regulations in force (We propose to seek waiver of the 28 day rule. This is justifiable as these regulations will not impose any costs on parties outside of Government.)
Mid-2016	Freshwater domain report released based on the topics set in regulations. (First report under the Environmental Reporting Act.)

18. Before the consultation begins, we will provide you with:

- a joint media release from the Minister for the Environment and Minister of Statistics, and a speech for the Minister for the Environment, for the release of the consultation on the Regulations;
- a joint letter to the PCE inviting her submission, for your signature;
- a joint letter to the Government Statistician inviting her submission, for your signature; and
- emails from the Ministry for the Environment and Statistics New Zealand, on behalf of Ministers, to iwi authorities and local authorities inviting their submission, for your information.

We recommend that you:

a) **Either**

a. **sign** the Cabinet paper 'Consultation on the Environmental Reporting Regulations' (Appendix 1)

Yes / No

Or

b. **advise** officials of any feedback you have on the Cabinet paper 'Consultation on the Environmental Reporting Regulations' (Appendix 1).

Yes / No

b) **Agree** to the following timeframes for consultation on the regulations, which will enable the Freshwater domain report to be published under the Environmental Reporting Act in mid-2016:

- 4 November: Seek EGI approval to consult on the Environmental Reporting Regulations from 11 November.
- 9 November: Seek Cabinet approval to consult on the Environmental Reporting Regulations from 11 November.
- 11 November: release the consultation document on proposed regulations.

Yes / No

Brian Hallinan
**Manager, Environmental Reporting
 (Ministry for the Environment)**

Michele Lloyd
**Senior Manager – Customer, Policy,
 and Research (Statistics New
 Zealand)**

Date

Date

Hon Dr Nick Smith
Minister for the Environment

Date

Hon Craig Foss
Minister of Statistics

Date

Minister's feedback on quality of briefing note:	1	2	3	4	5
1 = Was not satisfactory	2 = Fell short of my expectations in some respects			3 = Met my expectations	
4 = Met and sometimes exceeded my expectations			5 = Greatly exceeded my expectations		

Appendix 1: Cabinet paper – Consultation on the Environmental Reporting Regulations

Appendix 2: Draft Cabinet and Cabinet Committee Lodgement Form, for the Minister for the Environment’s office to lodge the Cabinet paper