

**Office of the Minister for the Environment
Office of the Minister of Statistics**

Chair

Cabinet Economic Growth and Infrastructure Committee

Consultation on the Environmental Reporting Regulations

Proposal

1. We propose that Cabinet:
 - a. approve the attached consultation document (Appendix 1) for the consultation on the topics, to be set in the Environmental Reporting Regulations, for future environmental reports produced under the Environmental Reporting Act 2015, and
 - b. approve the public release of the consultation material on 11 November 2015.

Executive summary

2. National committed to establishing a nationwide system of environmental reporting as part of our Bluegreen vision for New Zealand. In September 2015, Parliament passed the Environmental Reporting Act 2015 (the Act). The Act sets out a new environmental reporting framework requiring regular, national level reporting on New Zealand's environment, which is independent from Ministers. Before reporting under the Act can begin, topics for future environmental reports will be set in the Environmental Reporting Regulations (the Regulations). The Act requires that the Government Statistician, Parliamentary Commissioner for the Environment (PCE), iwi authorities, local authorities and the public are consulted on the Regulations to ensure New Zealanders can have their say on what topics will be covered in environmental reports.
3. The consultation document and topics for consultation on the Regulations are attached (Appendix 1). The topics for consultation have been developed to meet the criteria set out in the Act, using expert input from Technical Advisory Groups, the lessons learnt by officials from the development of the *Air Domain Report 2014* and *Environment Aotearoa 2015* (released 21 October), and considering the objectives of topics.
4. We propose a public consultation process from 11 November to 23 December 2015. Consultation needs to occur over this time to ensure sufficient time to develop the Regulations before the Freshwater Domain Report is released mid-2016, which we intend to release under the Act.

Background

5. The Act creates a regulation making power for the Minister for the Environment and the Minister of Statistics (the Ministers) to jointly recommend regulations to set topics for future environmental reports.
6. Recent environmental reports, *Environment Aotearoa 2015* and the *Air domain report 2014*, were produced in the spirit of the Act, following the framework for reporting, and the best practice principles and protocols for statistics, set out in the Statistics New Zealand 'Principles and protocols for producers of Tier 1 statistics'. This paper relates to topics for future environmental reports, which will begin with the Freshwater Domain Report in mid-2016.
7. Under the Act Ministers are required to consult with the Government Statistician, Parliamentary Commissioner for the Environment (PCE), iwi authorities, local authorities and the public prior to recommending regulations. This paper provides the consultation document and topic list for consultation, to be publicly released on 11 November 2015.

Advice

Legislative criteria for topics

8. The Act sets out the requirements topics need to meet. Topics will relate to:
 - a. the state of the environment, and changes in state
 - b. pressures on the state of the environment
 - c. impacts resulting from the state of the environment in the following areas:
 - i. ecological integrity; and
 - ii. public health; and
 - iii. the economy; and
 - iv. te ao Māori; and
 - v. culture and recreation.
9. Under the Act, Ministers must be satisfied of the following before recommending regulations:
 - a. that any pressure or impact topics affect significant areas, resources, or numbers of people;
 - b. that topics are able to be measured with robust statistical methods; and
 - c. that pressure and impact topics are closely related to any state topic they are asserted to affect or to give rise to that impact.
10. The Statistics New Zealand 'Principles and protocols for producers of Tier 1 statistics' are used when determining whether topics can be measured by robust statistical methods.
11. The framework in the Act does not include reporting on 'response', which is information on how to respond to the issues raised in environmental reports. This is because response is related to policy interventions. Excluding response from the framework helps maintain the independence of environmental reporting

from the government of the day. The OECD has reviewed our reporting framework, and is comfortable with our approach.

What was considered when developing topics?

12. Topics will communicate the scope for robust environmental reporting, so that the public know what to expect in reports. For the purpose of environmental reporting, the Act organises the environment into five environmental domains: air, atmosphere and climate, freshwater, land, and marine. Topics will bridge the gap between an environmental domain (set in legislation) and a statistic (set by the Government Statistician). For the topics to do this successfully, collectively they must:
 - a. fulfil the legislative requirements under the Act (summarised above, paragraphs 8-9). To fully implement the framework in the Act, the topic list goes beyond the biophysical state of the environment, and includes topics that discuss the pressures on each domain, and impacts that result from the state of the environment on ecological integrity, public health, the economy, te ao Māori (the Māori worldview), and culture and recreation.
 - b. be informed by expert opinion. Officials considered expert scientific advice from Technical Advisory Groups (TAGs) for each environmental domain (air, atmosphere and climate, freshwater, land and marine). TAG members are a range of experts from various sectors, including central government agencies, local government, Crown Research Institutes and universities. Officials also considered in-house scientific advice at the Ministry for the Environment, as well as lessons from the development of the *Air Domain Report* (released in May 2014) and *Environment Aotearoa 2015* (released 21 October 2015).
 - c. provide guidance to the Government Statistician to decide the statistics that will be used to measure topics, without being so specific that they restrict the autonomy of the Government Statistician. Officials have considered lessons learnt from the development of the *Air Domain Report* and *Environment Aotearoa 2015*, and found that topics are most useful when phrased broadly. When topics are too specific, this constrains the Government Statistician's ability to choose the statistics used to measure the topic, required under the Act. The Government Statistician's role of deciding the statistics and the methods and procedures to be used to report on the topics is at the core of her duty to act independently, required under the Act.
 - d. cover the significant parts of each domain, and be adaptable and durable as the topics are likely to stay the same for the next 5 or more years. This means environmental reporting topics have a broad focus, and extend beyond the Environment portfolio. Cabinet agreed that the Ministry for Primary Industries, the Department of Conservation, the Ministry for Business, Innovation and Employment, and other central government departments as required will provide data to measure topics and assist with interpretation to produce environmental reports [CAB Min (13) 26/6]. This will have the benefit of implementing the

framework effectively, as well as generating efficiencies over time as data and information across the natural resources sector becomes more integrated and easily shared.

- e. signal the future direction of environmental reporting, over the next 5 or more years, to indicate potential data improvements. Topics must meet the legislative requirement that they *can be measured* using robust statistical methods, even if there is not a data set available yet.

Are the topics relevant to New Zealanders?

13. The *Environmental Domain Plan 2013* was produced by Statistics New Zealand, Ministry for the Environment and the Department of Conservation. This included 'enduring questions' to identify the 'big picture' questions about domains and identify what information the sector needs to answer those questions. The *Environmental Domain Plan 2013* was widely consulted across central and local government, Crown research institutes, Māori and other key experts from business and non-government organisations.
14. To ensure that the recommended topic list for consultation covered issues relevant to New Zealanders, officials compared the list to the 'enduring questions' in the *Environmental Domain Plan 2013*. This analysis showed that the areas covered by the topic list are comparable to those covered by the 'enduring questions', and are therefore likely to cover the subject areas that are relevant to New Zealanders. Consultation on the topics will further inform us on whether topics are relevant to New Zealanders.

How do these topics compare internationally?

15. To ensure the topic list is comparable to what is reported on internationally, officials compared it to the content of national environmental reports of other countries, focusing on Norway, Scotland and Australia as case studies. The information that could be reported using the list of topics for consultation is similar to the content included in environmental reports internationally. The case studies report on areas similar to our impact categories, such as culture and recreation, and public health.
16. In many countries, the scope of reporting is wider than in New Zealand, as most countries report on response. New Zealand's reporting framework excludes response to help maintain the independence of reporting from political decision making.

Consultation on the topic list

Why is consultation taking place?

17. Under the Act, there is a requirement for Ministers to consult with the Government Statistician, PCE, iwi authorities, local authorities and the public prior to Ministers recommending regulations. The consultation on Regulations will give key stakeholders and the public the opportunity to provide input on the topic list. This will ensure that Ministers are fully informed on stakeholders and constituents' views before recommending the topics to be set in Regulations.

What will the consultation process be?

18. Consultation requirements (see paragraph 17) will be fulfilled by prompting stakeholders to go online and provide a submission using the following methods:
 - a. by a letter from Ministers, with a link to the online consultation, to the:
 - i. PCE
 - ii. Government Statistician
 - b. by email to contacts, with a link to the online consultation, for:
 - i. iwi authorities
 - ii. local authorities.
 - c. public notices, with information on how to provide a submission online, for the public.
19. Officials from the Ministry for the Environment and Statistics New Zealand will also email other interest groups with a link to the online consultation, including submitters on the Environmental Reporting Bill, and non-iwi-based Māori authorities.
20. We propose the consultation take place from 11 November 2015 to 23 December 2015. The consultation needs to take place over this time to ensure sufficient time to subsequently develop the regulations and have them in place for the first report under the Act (the Freshwater Domain Report) in mid-2016. Regulations must be in place prior to any environmental report being published under the Act, as the topics are needed to meet the legislative requirements of the framework set out in the Act.

What is covered in the consultation document?

21. The consultation document for consultation on the regulations is attached (Appendix 2). The consultation document includes:
 - a. a summary of the purpose of topics, and how the topic list was developed
 - b. the topic list for comments
 - c. guidance on providing a submission, including clearly stating measures for topics are out of scope of the consultation (as measures are decided by the Government Statistician, not through Regulations).

Next steps

22. Following consultation on the Regulations, officials will analyse submissions and return to Cabinet in early 2016 seeking policy decisions on the list of topics for Regulations.

Consultation

23. The following departments have been consulted and their comments are included in the paper: 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. Department of Prime Minister and Cabinet was informed.

24. As noted above (paragraph 17) the Act requires Ministers to consult with the Government Statistician, PCE, iwi authorities, local authorities and the public prior to Ministers recommending regulations.

Financial implications

25. The costs associated with consultation on the regulations will be funded from within *Vote Environment* baselines.

Human rights

26. There are no inconsistencies between this proposal and the Human Rights Act 1993.

Legislative implications

27. There are no legislative implications to bring to your attention with this proposal.

Regulatory impact analysis

28. Although the results of the consultation process will lead to proposals with regulatory implications, a Regulatory Impact Statement (RIS) has not been prepared because the proposals will have no or only minor impacts on businesses, individuals or not-for-profit entities. Under the Act there is no mechanism to require the collection of data (and therefore impose costs) to inform the topics.

Publicity

29. We will jointly release the public consultation process.
30. Public notices will be used to promote the consultation and encourage submissions from the public. The costs associated with the public notices will be funded from within *Vote Environment* baselines.

Recommendations

31. The Minister for the Environment and the Minister of Statistics recommend the Committee:
 1. **note** that under the Environmental Reporting Act 2015, topics for environmental reporting must be set in regulation before environmental reports can be produced under the Act
 2. **approve** the attached consultation document and list of topics for consultation on the Regulations
 3. **approve** the public consultation process from 11 November to 23 December 2015 to ensure there is sufficient time to develop Regulations for the first environmental report that will be produced under the Act (the Freshwater Domain Report) in mid-2016

4. **authorise** the Minister for the Environment and the Minister of Statistics to amend the consultation material and process where necessary for editorial, procedural or clarity reasons
5. **invite** the Minister for the Environment and the Minister of Statistics to report back to the Economic Growth and Infrastructure Committee by 30 April 2016 with proposed Environmental Reporting Regulations.

Hon Dr Nick Smith
Minister for the Environment
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Hon Craig Foss
Minister of Statistics
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Appendix 1

Consultation Document on the Environmental Reporting Regulations Consultation