

In Confidence

Office of the Minister for the Environment

Chair

Cabinet Economic Growth and Infrastructure Committee

Environmental Reporting Bill

Proposal

1. I seek Cabinet agreement for drafting instructions to be issued for an Environmental Reporting Bill:
 - requiring a broad approach to environmental reporting across the air, atmosphere and climate, freshwater, marine, and land domains (and including biodiversity and ecosystems)
 - requiring the Secretary for the Environment and the Government Statistician to undertake regular environmental reporting, at arms' length from Ministers, on a three-yearly cycle
 - reinforcing the key role of the Parliamentary Commissioner for the Environment (PCE) in providing independent commentary across any element of the environment and the environmental management system.

Executive summary

2. New Zealanders need **robust, relevant** information about their environment and they need to be able to trust the information will be reported on a **regular** basis and is **independent** from political interference.
3. **Robust** environmental information requires investment in improving data quality at the local level. A number of initiatives to improve data quality are underway. Changes to section 360 of the Resource Management Act (RMA), currently before Parliament, will allow me to make regulations requiring local authorities to monitor the environment according to specific methodologies.
4. **Relevant** environmental information reflects the range of uses New Zealanders make of their environment. I propose that environmental reporting should take a broad 'green growth' perspective, and include such elements as:
 - the state of the following domains: air, atmosphere and climate, freshwater, marine, and land (and including biodiversity and ecosystems)
 - changes in state over time
 - pressures, both natural and anthropogenic, driving changes in state
5. To provide assurance that information will be reported on a **regular** basis, I propose to introduce legislation that requires a report on one domain of the environment (eg, air, freshwater) every six months with a synthesis report across all environmental domains once every three years.

6. There are various ways to ensure public trust that environmental information is **independent** of political interference. In 2011 the Government consulted on one solution to independence – a proposal to require the PCE to undertake regular environmental reporting.
7. On further analysis, there are some critical drawbacks with the proposal to give the full reporting function to the PCE:
 - The PCE is not well placed to cover a broad green growth perspective. During consultation with the Commissioner, she indicated that her reporting would be focused on biophysical state and trends only, consistent with her role as an independent environmental auditor
 - This would create significant duplication of effort and additional cost. The Ministry for the Environment (MfE) would still undertake supplementary reporting, both to support its policy role and to give the public a broader perspective, creating duplication and potential confusion in overlapping elements
 - Requiring the PCE to undertake what is traditionally (and internationally) an executive function could compromise her ability to undertake her statutory role – independent and unfettered commentary on any aspects of New Zealand's environmental performance.
8. I propose an alternative solution to achieve independence – a statutory requirement for joint reporting, at arm's length from government, by the Secretary for the Environment and the Government Statistician, with statutory reinforcement of the key role of the PCE in providing independent commentary. My proposed solution has a number of advantages:
 - The independence of the Government Statistician is established under the Statistics Act (1975) and is well respected and trusted
 - The co-production model is consistent with our current approach to economic reporting in New Zealand
 - The two reporting agencies have existing capability and expertise and are well placed to take a broad approach to reporting
 - The PCE's role as an independent environmental auditor is preserved and enhanced
 - Undertaking reporting within the executive ensures environmental reporting is part of the Official Statistics System.
9. I propose a fiscally neutral transfer of \$0.200 million from Vote Environment to the PCE to assist her to carry out her enhanced role.
10. I propose to introduce an Environmental Reporting Bill before the end of this calendar year.

Background

11. In April 2010, the PCE released *How clean is New Zealand? Measuring and reporting on the health of our environment*. This report recommended changes to improve the quality and usefulness of environmental reporting. It identified three properties critical to improve environmental reporting in New Zealand:

- Independence: To be trustworthy, reporting needs to be undertaken by organisation(s) with a degree of independence from the executive
 - Accountability: responsible organisation(s) must be required under law to report on the environment at a national level
 - Technical capacity: responsible organisation(s) must have technical capacity to undertake reporting.
12. In August 2011, Cabinet agreed to release a discussion document *Measuring Up: Environmental Reporting*, which outlined a range of options for providing greater credibility in national-level environmental reporting [CAB Min (11) 30/8 refers].
 13. The discussion document sought feedback on the Government's proposal to:
 - a. improve the quality and consistency of local-level environmental data by expanding regulation-making powers under section 360 of the RMA to enable the Minister for the Environment to direct local authorities to monitor the environment according to specific priorities and methodologies
 - b. require the Parliamentary Commissioner for the Environment to produce five-yearly reports on the state of the environment.
 14. On 17 September 2012, in line with the discussion document proposal, Cabinet agreed to amend section 360 of the RMA to allow regulations to be made requiring local authorities to monitor the environment according to specified priorities and methodologies [CAB Min (12) 33/11 refers].
 15. These legislative changes are currently before Parliament, as part of the Resource Management Reform Bill. Consistent with some of the feedback received, I do not plan to develop regulations immediately because I wish to support a number of local and central government initiatives currently underway to improve data quality. The new powers to regulate provide an incentive for these collaborative initiatives to succeed.
 16. To date no Cabinet decisions have been taken on the proposal to require the PCE to produce five-yearly reports on the state of the environment.
 17. On 4 July 2012, Cabinet made additional improvements to environmental reporting by agreeing to include a further ten environmental statistics in the Tier 1 list (the most important and enduring measures of New Zealand's performance across a range of domains). Tier 1 status carries high standards of rigour and independence [CAB Min (12) 23/7 refers].

Developments since the discussion document

18. Of the 76 submissions received on *Measuring Up: Environmental Reporting – a discussion document*, 75 indicated a high level of support for government action to improve monitoring and reporting on the environment at a national level. 42 of the 53 submitters that expressed a clear preference for roles and responsibilities supported the proposal to legislate a new role for the PCE. Concerns were voiced about the proposed PCE reporting role, including the sizable additional cost for the PCE, duplication with work undertaken by other agencies, and perceptions of poor credibility if the reports are produced outside the Official Statistics System.

19. I have been reflecting on the best way to ensure that environmental reporting is robust and trusted by the public. I agree with the statement by the PCE that quality reporting requires independence, accountability and technical capacity. My objective is to provide New Zealanders with information about their environment that is:
- Useful and relevant
 - Robust and accurate
 - Appropriately interpreted
 - Clear and accessible to all users
 - Independent from political interference and trusted by the public
 - Reported on a regular basis
 - Efficiently produced.
20. MfE has continued to release rolling indicator updates to ensure timely information is made available to the public. In the 2012-13 year, seven updates were published, including recreational water quality, greenhouse gas emissions, and air quality. Indicators of river condition and suitability for swimming were released in July 2013.
21. In December 2012 Government released the natural resources progress report of the *Business Growth Agenda* (BGA). This included an undertaking to investigate the development of indicators to measure progress toward greening economic growth.
22. In looking at improvements to data quality and consistency, scope of reporting and associated roles and responsibilities I have been informed by a BGA perspective, work by the Organisation of Economic Cooperation and Development (OECD), and international practice.

Data quality

23. Environmental data in New Zealand is generated by a range of agencies, including local government, central government agencies and Crown Research Institutes. Local and central government are working together to improve the quality and consistency of local-level environmental data and make it freely available on an ongoing basis to all users in an accessible web-based format. This is required regardless of who carries out the reporting role – good data forms the foundation on which a range of users rely, including for the purposes of national-level environmental reporting to the public.
24. Central government officials, and the PCE, may require existing information be made available for reporting purposes. However neither officials nor the PCE have powers to require that new information is generated. This paper does not propose any additional data production requirements for local government, individuals, businesses or central government agencies – national-level environmental reporting will draw on existing available data.
25. The process of developing and populating the framework for reporting is likely to signal areas that require further investment. Any data gaps will be addressed over time, either collaboratively, via procurement, through the Minister's power

to regulate under section 360 of the RMA, or through Statistics New Zealand's (Stats NZ) annual purchase advice to Ministers about priorities for investment in official statistics by central government agencies.

Scope of reporting

26. The environment is critical to the wellbeing of New Zealanders in a number of ways. Our natural resource base underpins most of our economic activity and supports our way of life. The environment creates social benefits – recreation, cultural practices, food gathering. The environment supports human health through clean air and water, and safe food. Reporting needs to reflect this range of ecosystem services.
27. I propose that environmental reporting should take a broad perspective, and include such elements as:
 - the state of the following domains: air, atmosphere and climate, freshwater, marine, and land (and including biodiversity and ecosystems)
 - changes in state over time
 - pressures, both natural and anthropogenic, driving changes in state
28. Where possible, environmental reporting should facilitate international comparability and benchmarking. This approach is consistent with a green growth perspective and aligns well with OECD developments.

Reporting products and frequency

29. Information needs to be timely and be made available in a form that is useful to a range of audiences – including the general public, policy makers, businesses, environmental managers and researchers. This means the reporting products need to include both high level narrative and detailed data.
30. Detailed data. MfE is working with data producers to make local-level environmental data freely available on an ongoing basis in an accessible web-based format. As such, there is no single 'product' – the data will be updated as it becomes available, for anyone to use and interpret.
31. High-level narrative. Sitting over the top of this, national-level reporting will interpret the data and give the public a timely integrated picture of key trends and relationships. This should occur both within environmental domains and across the whole. An overarching picture will help focus public debate around the key environmental issues and trade-offs.
32. I propose a rolling three-yearly reporting cycle with:
 - a domain report (for one of five domains – air, atmosphere and climate, land, freshwater, and marine – and including biodiversity and ecosystems) released every six months
 - a synthesis report summarising trends across all environmental domains once every three years
33. What this means is that each domain report will be updated three-yearly. For example:

- Year 1 – domains 1 and 2
 - Year 2 – domains 3 and 4
 - Year 3 – domain 5 and the synthesis report
34. I propose that the synthesis report be released within the first six months of the term of a new government, enabling the public and the government to focus on key environmental issues.

Roles and responsibilities for national-level environmental reporting

Practice in other jurisdictions and sectors

35. In reflecting on the best way to undertake environmental reporting in New Zealand I have investigated international practice. Three broad models are used:
- Reporting by an independent panel of experts appointed by the Minister and supported by a government environment agency secretariat (e.g., Australia);
 - Co-production between the environmental agency and the statistics department (e.g., Switzerland, Scotland);
 - Reporting by the government environmental agency and audit/assurance by the parliamentary commissioner for the environment (e.g., Canada).
36. All countries examined, other than New Zealand, have legislation in place to ensure that environmental reporting occurs at a given frequency. However, in all cases examined, executive government retains some role in the reporting process – none are as ‘arm’s length’ as the Government’s original proposal to give reporting to the PCE.
37. Economic reporting in New Zealand provides another case study of a successful model. *Economic Development Indicators* are reported periodically (every 2-3 years). The report provides a comprehensive picture of New Zealand’s medium-term economic performance. It is published jointly by the chief executive of the Ministry of Economic Development (now MBIE), the Secretary to the Treasury, and the Government Statistician. The inclusion of the Government Statistician provides independence from the government of the day. Section 15 of the Statistics Act stipulates the independence of the Government Statistician from the Executive, stating that the Government Statistician has responsibility for the procedure and methods employed in producing statistics and the extent, form and timing of the publication of those statistics. Ministers have no scope to influence the content of the *Economic Development Indicators*. However, the publication of the indicators is not required in legislation, and prior approval by Ministers has been required for it to proceed.
38. I have engaged with the PCE on what her approach would be if she were to be given the role. Appendix 1 sets out her view. She was clear that her focus would be on the biophysical environment, consistent with her role as an independent environmental auditor. She expressed that a broader green growth perspective would be out of scope.

Options

39. After considering the range of models used internationally I have narrowed my analysis down to two options for Cabinet consideration.

40. **Option 1: Reporting by the Parliamentary Commissioner for the Environment**

This option would involve a statutory requirement for the PCE to report at specified regular intervals. Her report would focus on biophysical state and trends only, as outlined by the PCE in appendix 1.

MfE would continue to produce rolling domain reports in order to provide the evidence needed for policy advice to Ministers and to provide the public with a broader green growth perspective.

41. **Option 2: Reporting undertaken jointly by MfE and Stat NZ; commentary provided by the PCE**

This option would involve a statutory requirement for co-production of reporting by the Secretary for the Environment and the Government Statistician, at arm's length from Ministers.

Under the Environment Act 1986 the PCE has a wide discretion to investigate and report on any matters of significance to the environment and environmental management in New Zealand. This option would also include strengthening the PCE's existing mandate by explicitly reinforcing the key role she will play in the new environmental reporting regime in terms of providing independent commentary. This might include, at her discretion, commenting on analysis of environmental data and reports, identification of trends and discussion of implications and responses.

42. In both proposed models, the reporting agency will reuse and interpret data produced by others, as discussed in paragraph 23 above.

The independence of the Government Statistician

The independence of the Government Statistician is outlined in the Statistics Act. Section 15 outlines the basis for this independence:

- (1) The Statistician shall have the sole responsibility for deciding the procedures and methods employed in the provision of any statistics produced or to be produced by the Statistician, and shall also have the sole responsibility for deciding the extent, form, and timing of publication of those statistics.
- (2) Notwithstanding the provisions of subsection (1), where at the direction of the Minister the Statistician is required to collect or cease collection of statistics of any kind provided for by this Act and the Statistician would not without such a requisition produce or cease production of those statistics, he shall carry out the direction of the Minister, but the Statistician in such circumstances may make public without comment the fact that the statistics have been collected and published, or that collection and publication has ceased, at the direction of the Minister.

In practice, the Government Statistician exercises this independence through the Principles and Protocols for producers of Tier 1 Statistics. Of particular relevance is Protocol 5: Release Practices, which among other factors highlights equal and open access to release official statistics. To achieve impartiality, access before release time is restricted to agency staff directly involved in the production and publication of the statistic, while official statistics is released on a wide basis that does not disadvantage individuals or groups, or privilege enable access to official statistics for individuals or groups. It also outlines that statistical information is presented clearly and impartially, without advocacy or substantial judgments, and supported by commentary and analysis to enable wide understanding.

Criteria and assessment

43. My objectives for environmental reporting suggest the following criteria for consideration of roles and responsibilities:

- **Independence:** Produced in a way that is free from political interference
- **Certainty:** Accountabilities, scope and frequency mandated in legislation
- **Efficiency:** Minimises duplication
- **Expertise:** Leverages existing expertise and roles
- **Relevance:** Adopts a green growth perspectives and integrates the range of uses that New Zealanders derive from our natural resource base
- **Coherence:** Consistent with the wider statistics system and the way we undertake other reporting in New Zealand.

Appendix 2 contains a summary of the two options against these criteria.

44. Independence: Both options ensure that environmental reporting is produced at arm's length from Government. As an Officer of Parliament the PCE is accountable to Parliament, not the government of the day. Similarly, the statutory independence and reputation of the Government Statistician is well established.
45. Certainty: A legislative mandate for environmental reporting, through an Environmental Reporting Bill, is proposed under both options. Note however, that there are limits to the level of prescription appropriate for an Officer of Parliament, so under option 1 the legislative mandate would need to be quite general.
46. Efficiency: Option 1 involves some duplication in reporting of environmental state and trends. The PCE would need a number of additional staff to carry out her new reporting function. However this could not be funded by savings within MfE as MfE will still need to collect and analyse the data required to produce domain reports – both to provide the public a wider picture and for evidence-based policy advice. Option 2 avoids duplication by providing for complementary roles, with executive government providing independent reporting and the PCE providing overarching commentary and assurance.
47. Expertise: Existing capability for environmental reporting currently sits with MfE, other agencies within the Natural Resource Sector (eg MPI and DOC) and Statistics NZ. Statistics NZ has expertise in data collection and management and statistical analysis and is well placed to provide integration across New Zealand's wider statistics system. MfE has expertise in analysis and interpretation of data and evidence and strong relationships with the range of data producers. The amendments to the State Sector Act currently before Parliament reinforce MfE's role in providing long-term stewardship across the central government Natural Resource Sector. Other NRS agencies bring analytical expertise along with specialist subject matter knowledge relevant to environmental reporting. The PCE's current role as an independent environmental auditor makes her well placed to provide broad commentary. Option 2 therefore plays to the strengths of the agencies. In terms of the Government's original proposal, the Office of the PCE has some expertise in data analysis and interpretation, however as a small office it would need new funding to build capacity and capability to undertake the role outlined in Option 1. Minimal additional capability would be required for the PCE to undertake the role outlined in Option 2.
48. Relevance: As discussed above, taking a broader green growth perspective is consistent with the Government's *Business Growth Agenda* and OECD developments. The PCE has indicated her focus would be on biophysical state and trends only. MfE and Statistics NZ are well placed to take a broader approach to environmental reporting.
49. Coherence: Option 1 is consistent with the Government's bluegreen vision statements and manifesto commitments. Option 2 is consistent with international practice and the way we undertake independent economic reporting in New Zealand. This is an important consideration - reporting by executive government places environmental reporting alongside economic and social reporting as part of the Official Statistics System. In addition, MfE's role includes monitoring and reporting on council performance under the RMA, so

option 2 facilitates the bringing together of a cohesive picture across all areas of environmental reporting (inputs, outputs and outcomes).

Proposed approach

50. I therefore propose a statutory requirement for the Secretary for the Environment and the Government Statistician to undertake regular environmental reporting, at arm's length from Ministers, with the PCE providing independent commentary at her discretion across any elements of the environment and environmental management, consistent with her current role (Option 2).
51. This is a change in direction from the one this Government has previously announced. However:
 - The independence of the Government Statistician is established under the Statistics Act, given effect to through the Principles and Protocols for Tier 1 statistics, and well utilised in our approach to independent economic reporting
 - The approach achieves the objectives of independence, certainty and public trust while also delivering a more robust and relevant product in a more efficient way.
52. There are some critical drawbacks with the alternative option of giving the full reporting function to the PCE:
 - The PCE is not well placed to cover a green growth perspective. During consultation with the Commissioner, she indicated that her reporting would be focused on biophysical state and trends only, consistent with her role as an independent environmental auditor
 - This would create significant duplication of effort and additional cost. MfE would still undertake supplementary reporting, both to support its policy role and to give the public a broader perspective, creating duplication and potential confusion in overlapping elements
 - As an Officer of Parliament, it would not be appropriate to prescribe the PCE functions tightly in legislation – her current mandate is empowering
 - Requiring the PCE to undertake what is traditionally (and internationally) an executive function could compromise her ability to undertake her statutory role – independent and unfettered commentary on any aspects of New Zealand's environmental performance.

Development of the framework detail and implementation

53. I propose that Cabinet agree the broad scope of reporting including the domains to be reported, as outlined in paragraph 27 above, and reflect this in an Environmental Reporting Bill, and that the Minister for the Environment and the Minister of Statistics be given joint power to recommend that regulations be promulgated specifying further detail around what is to be reported.
54. MfE and the Department of Statistics, in conjunction with the relevant information producing agencies, can then develop the specific indicators and

measures to be reported. While many of the indicators will be able to be populated with data currently available, others will be developed over time.

55. Because of the broad focus of the reporting framework, MfE and Stats NZ will need input from a range of central government agencies to develop and populate specific indicators. Key agencies include MPI, DOC and MBIE. Others may be required to assist with data on a case-by-case basis. The input required from other agencies will vary and is likely to be greater initially as indicators are developed and populated for the first time. The initial effort should generate efficiencies over time as data and information across the natural resources sector becomes more integrated and easily shared.
56. The first domain report will be produced early in 2014. A synthesis report will be produced in early 2015.

Consultation

57. Statistics NZ, the Treasury, the Ministry for Business, Innovation and Employment, the Ministry for Primary Industries and the Department of Conservation, the Ministry of Health, the Ministry of Transport, the Ministry of Justice and Te Puni Kokiri have been consulted on the paper. The Department of Prime Minister and Cabinet has been informed.

Financial Implications

58. This initiative will require funding. This will be met from within the baselines of MfE and Statistics NZ.
59. In order to support the strengthened mandate of the Parliamentary Commissioner for the Environment, I propose a transfer of \$0.200 million from Vote Environment to assist her in carrying out her enhanced role.

Human rights, gender implications and disability perspective

60. There are no human rights, gender or disability implications arising from the proposals in this paper.

Legislative implications

61. *S. 9(2)(f)(iv)* My preference for a stand-alone Environmental Reporting Act reflects the importance of regular environmental reporting to New Zealanders.
62. The independence of the Government Statistician is set out in the Statistics Act 1975. The proposal to require the Government Statistician to report jointly on the environment should not limit or affect anything in the Statistics Act.

Regulatory impact analysis

63. The Regulatory Impact Analysis requirements do not apply to this proposal, as it will have no or only minor impacts on businesses, individuals or not-for-profit entities.

Communications

64. Following Cabinet decision I will meet with the PCE to convey the Government's decisions on environmental reporting. I intend to announce the changes at the Environmental Defence Society conference in Auckland on 8 August.

Recommendations

65. The Minister for the Environment recommends that the Committee:
1. **agree** that a robust environmental information system needs to be built on credible data and analysis, the public needs to trust the integrity and independence of the reporting, and there needs to be certainty that information will be made available on a regular basis
 2. **note** that there is currently no legislative requirement for national-level environmental reporting, but that the Ministry for the Environment releases rolling indicator updates to ensure timely information is made available to the public

Previous decisions

3. **note** that, in August 2011, the government released a discussion document which outlined a range of options for providing greater credibility in national-level environmental reporting [CAB Min (11) 30/8 refers], including proposals to:
 - improve the quality and consistency of local-level environmental data by expanding regulation-making powers under section 360 of the RMA to enable the Minister for the Environment to direct local authorities to monitor the environment according to specific priorities and methodologies
 - require the Parliamentary Commissioner for the Environment to produce five-yearly reports on the state of the environment
4. **note** that the Resource Management Reform Bill currently before Parliament includes changes to section 360 of the RMA to allow the Minister for the Environment to make regulations requiring local authorities to monitor the environment according to specific methodologies
5. **note** that, in July 2012, Cabinet agreed a number of environmental indicators will become Tier 1 statistics, and that Tier 1 status carries high standards of rigour and independence [CAB Min (12) 23/7 refers]

Data quality

6. **note** that environmental data is generated by a range of agencies, including local government, central government and Crown Research Institutes
7. **note** that local and central government are working together to improve the quality and consistency of local-level environmental data and make it freely available on an ongoing basis to all users in an accessible web-based format
8. **note** that, while officials may require existing information be made available for reporting purposes, they have no powers to require that new

information is 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

9. **agree** that national-level environmental reporting will draw on existing available data and that any data gaps will be addressed over time, either collaboratively, via procurement, through the Minister's power to regulate under section 360 of the RMA, or through Ministerial decisions about priorities for investment in official statistics by central government agencies

Scope of reporting

10. **note** that officials have been working to review the environmental reporting framework, including aligning with OECD developments and taking a wider green growth perspective, consistent with the Government's *Business Growth Agenda*
11. **agree** that environmental reporting will, wherever possible, facilitate international comparability and benchmarking by aligning with best practice international frameworks unless there is a compelling reason to depart from them
12. **agree** that environmental reporting will include:
 - 12.1. the state of the following domains: air, atmosphere and climate, freshwater, marine, and land (and include biodiversity and ecosystems)
 - 12.2. changes in state over time
 - 12.3. pressures, both natural and anthropogenic, driving changes in state

Reporting products and frequency

13. **agree** to a rolling three-yearly reporting cycle with:
 - 13.1. a domain report (for one of five domains – air, atmosphere and climate, land, freshwater, and marine) being released every six months (i.e. – each domain will be reported once every three years)
 - 13.2. a synthesis report summarising trends across all environmental domains once every three years, released within the first six months of the term of a new government
14. **agree** that the first domain report will be produced in early 2014 and that a synthesis report will be produced in 2015 within six months of a new government

Responsibility for regular reporting and environmental commentary

15. **note** that New Zealand is the only OECD country that does not have legislation to require regular environmental reporting, but that no other country places responsibility for environmental reporting outside of executive government with an officer of Parliament
16. **note** that there are a range of models used internationally to assure integrity and independence of reporting and that, in the economic sector in New Zealand, the Government Statistician plays a key role in guaranteeing the independence of the Economic Development Indicators

17. **agree** that the Secretary for the Environment and the Government Statistician be required to report on the environment to the public of New Zealand, including joint release of six-monthly domain reports and a three yearly synthesis report
18. **agree** that, in working together to produce the reports, the Ministry for the Environment and Statistics New Zealand will build off their relative strengths, with MFE contributing most of the interpretation and analysis and Statistics New Zealand providing data support and assurance that the interpretation is robust and appropriate
19. **authorise** the Minister for the Environment and the Minister of Statistics to determine the appropriate roles and functions for both the Ministry for the Environment and Statistics New Zealand, in relation to the requirement to report on the environment, to be provided for in the legislation
20. **agree** 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 and assist with interpretation in order to produce environmental reports
21. **agree** that reporting be undertaken at arm's length from Ministers, according to the Principles and Protocols for Producers of Tier One Statistics, in order to provide the public with assurance in the integrity and independence of the data and analysis
22. **note** that this means that Ministers will be given a briefing on the key messages in the days prior to release, but will not see information on the data released in the reports before they are publicly released and will not be able to influence the content
23. **note** that, under the Environment Act 1986 the Parliamentary Commissioner for the Environment has a wide discretion to investigate and report on any matters of significance to the environment and environmental management in New Zealand
24. **agree** to strengthen the Parliamentary Commissioner for the Environment's existing mandate by explicitly reinforcing the key role the Parliamentary Commissioner for the Environment will play in the new environmental reporting regime in terms of providing independent commentary, at her discretion, on matters including but not limited to:
 - 24.1. analysis of environmental data and reports
 - 24.2. identification of trends
 - 24.3. discussion of implications and responses.

Decisions on detail of the environmental reporting framework

25. **agree** that the Minister for the Environment and the Minister of Statistics may authorise any other minor and technical matters to be included in the legislation that are not inconsistent with these decisions
26. **agree** that the Minister for the Environment and the Minister of Statistics will have the joint power to recommend that regulations be promulgated

specifying further detail around the framework for environmental reporting and what will be reported on for each domain

27. **agree** that, to ensure arms length reporting, the Secretary for the Environment and the Government Statistician will be responsible for developing the specific indicators included in the framework for each domain

Financial Implications

28. **approve** the following changes to provide for independent commentary on environmental reporting, with no impact on the operating balance:

	\$m – increase/(decrease)				
	2013/14	2014/15	2015/16	2016/17	2017/18 & Outyears
Vote Environment Minister for the Environment					
Departmental Multi-Class	(0.200)	(0.200)	(0.200)	(0.200)	(0.200)
Output Expense: Environmental Management Obligations and Programmes MCOA					
Domestic Obligations and Institutions Policy Advice (funded by revenue Crown)					

29. **agree** that the proposed changes to appropriations for 2013/14 above be included in the 2013/14 Supplementary Estimates
30. **invite** the Minister for the Environment to write to the Speaker of the House of Representatives requesting that the Offices of Parliament Committee consider an addition of \$0.200 million to Vote Parliamentary Commissioner for the Environment.

Legislative implications

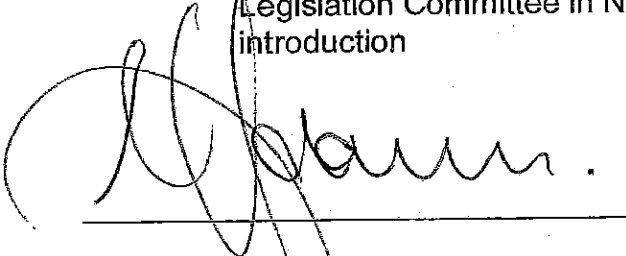
31. **agree** that the legislation should apply to the Crown
32. **agree** if necessary the Environment Act 1986 be amended to take into account the proposed legislation
33. **agree** that the proposal to require the Government Statistician to report jointly on the environment will not limit or affect anything in the Statistics Act

Next steps

34. *\$ 9(2)(f)(iv)*
35. **invite** the Minister for the Environment to issue drafting instructions for primary legislation to the Parliamentary Counsel Office to implement the

proposals set out in recommendations 11, 12, 13, 17, 19, 24, 26, 27 and 33

36. invite the Minister for the Environment to report back to the Cabinet Legislation Committee in November 2013 with a draft Bill for approval for introduction

A handwritten signature in black ink, appearing to read 'Amy Adams', written over a horizontal line.

Hon Amy Adams
Minister for the Environment

31 / 7 / 13

Appendix 1. Statement from the Parliamentary Commissioner for the Environment on the approach she would take to environmental reporting. May 2013.

State of the Environment Reporting: Update from the Commissioner

Background

In April 2010 the Commissioner produced a report which examined how state of the environment reporting should be done at a national level, drawing on both New Zealand and overseas examples. The report concluded that credible state of the environment reporting needs independence, accountability (through legislation), and technical capacity.

In August 2011 the Government “released a public discussion paper called ‘Measuring Up’ on proposals to expand the role of the PCE, requiring the Commissioner to publish a comprehensive State of the Environment Report every five years, covering such issues as water quality, air quality, coast and oceans management...”. And in March 2012 the National Party released an environment policy paper which referred to “... a new role for the PCE in producing statutory national environment reports”.

In March 2013 the Minister for the Environment stated that “...the Government is committed to introducing independent environmental reporting, based on high-quality, reliable data. Credible state-of-the-environment monitoring and reporting is critical to good decision-making. ... before a Bill is progressed, substantial work is needed to determine how this will take place.”

What is State of the Environment reporting?

To be effective and useful, reporting on the state of the environment should be:

- done on a regular basis under a legislative mandate
- developed with its purpose clearly in mind
- incorporate data that is directly relevant to its purpose
- be technically robust but written with its audience clearly in mind
- done with sufficient independence to underpin public trust

It is useful to distinguish between reporting on the state of the environment and other kinds of environmental reporting. In terms of this advice a ‘State of the Environment report’ at the national level refers to one document which spans different environmental domains.

Other environmental reports can serve a variety of purposes such as policy development, but do not provide an overview of the biophysical environment or enable comparison across domains.

A State of the Environment Report produced by the PCE

The Commissioner’s view is that the primary purpose of a State of the Environment produced by this office would be to independently inform Parliament and the public about the current state of the different aspects of New Zealand’s environment.

Its value would be:

- to provide relevant, credible and useful information on the biophysical environment to decision-makers and the public
- to foster an evidence-based approach to understanding of environmental issues
- to encourage people to make more rational judgements about the relative importance of different environmental issues
- to support New Zealand's international reputation by comparing some key indicators with their equivalent in some other countries
- to provide independent assurance that MfE (and other public agencies) are identifying and interpreting environmental indicators appropriately, and thus lead to greater public trust in how the environment is being managed.

One question is whether the report would deal only with the state of the environment or use a wider approach. Wider approaches are generally used in other countries. A pressure-state-response framework is reasonably common, and even more elaborate frameworks are sometimes used.¹

An example of a complex framework is that used by the European Environment Agency - it comprises 'Driving forces, Pressures, States, Impacts and Responses'. The Commissioner envisages a much simpler framework, focusing on state and trends in state. Commentary on central and local government responses to environmental issues would not be included.

The value of independence

In most OECD countries, State of the Environment reports are prepared by organisations with some degree of independence from government (usually an EPA). A report that is seen to be outside the influence of the government of the day and distanced from any particular government agency will be more trusted.

The last two State of the Environment reports were produced by MfE. The Ministry continues to collate and disseminate information on environmental indicators to support its role as the Government's primary environmental agency and this should continue. However, unlike most other jurisdictions New Zealand has the option of assigning the role of preparing a State of the Environment report to its independent environmental auditor - the PCE.

Sources of data

A State of the Environment report prepared by the PCE would draw on existing data in two ways.

¹ The 2011 Australian report, for example, "*presents a comprehensive review of the state and trends of the environment; the pressures on it and the drivers of those pressures; management initiatives in place to address environmental concerns and the impacts of those initiatives; its resilience and the unmitigated risks that threaten it; and provide an overall outlook for the Australian environment.*"

The environmental data and indicators developed by MfE would be a major, if not the major, source of data. But PCE would be able to audit or “verify” this information, thus providing independent confirmation that the data used by MfE is reliable, the best available, and is interpreted accurately. In addition, it may identify areas where relevant information is missing or resources are being spent on irrelevant information.

Other information would come from a variety of agencies at both central and local government level. For example, Regional Councils have centrally collated data on river water quality with an on-line portal allowing ready access. Non-government agencies such as the CRIs, universities, industry sector groups, and the QEII Trust would also be sources of data.

It is not anticipated that the office would be generating data. If Parliament decides to give the PCE the role of environment reporting, the Commissioner would be likely to use her power under the Environment Act to access environmental information from departments, councils, and other organisations.

Accountability – a legislative mandate

Accountability for a State of the Environment report should be established in legislation which makes clear who is responsible for what. New Zealand is an outlier in this regard.

The Commissioner is supportive of a legislative mandate to report on the state of the environment. In her analysis of environment reporting she recommended five yearly reporting in line with other OECD countries. However, there are clear benefits to tie reporting into the middle of New Zealand’s election cycle so reports are never published in election years. That would mean three or six yearly state of the environment reports. A number of countries report on a three or four year cycle.

A more frequent reporting cycle would allow smoothing of resources within the PCE office and provide more regular oversight of whether environmental statistics are being used in a reliable and credible manner. It would also allow public sector agencies to respond to any issues raised in a more timely manner (such as deficiencies in the use of data).

Technical capacity – being able to do the job

The organisation that produces a State of the Environment report must have access to sufficient technical capability.

A lack of technical capacity in the office of the PCE was recognised in her report *How clean is New Zealand?* However, the office has developed greater internal capability since then and gained a reputation for scientific rigour and clear communication. In addition, more recent thinking within the office about what a State of the Environment report produced by the Commissioner would look like has also alleviated those concerns.

The office would still need to ensure sufficient expertise in each domain to analyse the information, as well as having an adequate publishing budget.

Appendix 2. Summary of assessment of the Government's original proposal and my proposed option against the criteria

Criteria	PCE	Reporting by MfE/Stats NZ; commentary by PCE
<p>Independence Produced at arm's length</p>	<p style="text-align: center;">✓</p> <p>The PCE is an Officer of Parliament.</p>	<p style="text-align: center;">✓</p> <p>The Government Statistician has independence under the Statistics Act.</p>
<p>Certainty Mandated in legislation</p>	<p style="text-align: center;">✓</p> <p>Proposed Environmental Reporting Bill. A general mandate only – there are limits to the level of prescription possible for an Officer of Parliament.</p>	<p style="text-align: center;">✓</p> <p>Proposed Environmental Reporting Bill (to be introduced in 2013).</p>
<p>Efficiency Minimises duplication</p>	<p style="text-align: center;">x</p> <p>Some duplication in reporting of state and trends (MFE would still need to produce Domain reports) – a number of additional staff for PCE would be required.</p>	<p style="text-align: center;">✓</p> <p>No duplication and plays to PCE strengths in providing overarching assessment and commentary.</p>
<p>Expertise Leverages existing expertise and roles</p>	<p style="text-align: center;">x</p> <p>PCE currently has 16 FTEs – would need additional capacity and capability.</p>	<p style="text-align: center;">✓</p> <p>Technical expertise in Stats NZ complements existing environmental reporting capability in MFE. Consistent with current PCE role.</p>
<p>Relevance Includes a broader green growth perspective</p>	<p style="text-align: center;">x</p> <p>PCE has indicated she would focus on biophysical state and trends only.</p>	<p style="text-align: center;">✓</p> <p>Reporting framework will take a broad perspective, consistent with OECD practice and the BGA focus on green growth.</p>
<p>Coherence Consistent with economic and social reporting in NZ</p>	<p style="text-align: center;">x</p> <p>Outside the NZ Official Statistics System</p>	<p style="text-align: center;">✓</p> <p>Mirrors the approach used successfully for economic reporting. Recommended by the Advisory Committee on Official Statistics (ACOS)</p>

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Environmental Reporting Bill

Portfolio: Environment

On 5 August 2013, following reference from the Cabinet Economic Growth and Infrastructure Committee (EGI), Cabinet:

Background

- 1 **agreed** that a robust environmental information system needs to be built on credible data and analysis, the public needs to trust the integrity and independence of the reporting, and there needs to be certainty that information will be made available on a regular basis;
- 2 **noted** that:
 - 2.1 there is currently no legislative requirement for national-level environmental reporting, but the Ministry for the Environment releases rolling indicator updates to ensure timely information is made available to the public;
 - 2.2 in August 2011, EGI agreed to the release of a discussion document which outlined a range of options for providing greater credibility in national-level environmental reporting, and invited the Minister for the Environment to report back on the outcome of the consultation and with recommendations for a proposed Environmental Reporting Bill [EGI Min (11) 17/5];
- 3 **noted** that the discussion document referred to above included proposals to:
 - 3.1 improve the quality and consistency of local-level environmental data by expanding regulation-making powers under section 360 of the Resource Management Act 1991 (RMA) to enable the Minister for the Environment to direct local authorities to monitor the environment according to specific priorities and methodologies;
 - 3.2 require the Parliamentary Commissioner for the Environment to produce five-yearly reports on the state of the environment;
- 4 **noted** that the Resource Management Reform Bill, which is currently before Parliament, includes changes to section 360 of the RMA to allow the Minister for the Environment to make regulations requiring local authorities to monitor the environment according to specific methodologies;

- 5 **noted** that in June 2012, EGI agreed that the revised list of Tier 1 statistics would include a number of environmental indicators, and noted that Tier 1 status carries high standards of rigour and independence [EGI Min (12) 13/15];

Data quality

- 6 **noted** that environmental data is generated by a range of agencies, including local government, central government agencies, and Crown Research Institutes;
- 7 **noted** that local and central government are working together to improve the quality and consistency of local-level environmental data and to make that data freely available on an ongoing basis to all users in an accessible web-based format;
- 8 **noted** that:
- 8.1 while officials may require existing information to be made available for reporting purposes, they have no powers to require new information to be generated;
- 8.2 therefore, the proposals in the paper under CAB (13) 425 would not impose any requirement on local government, individuals, businesses or central government agencies to produce data that does not already exist;
- 9 **agreed** that national-level environmental reporting will draw on existing available data, and that any data gaps will be addressed over time, either collaboratively, via procurement, through the Minister's power to regulate under section 360 of the RMA, or through Ministerial decisions about priorities for investment in official statistics by central government agencies;

Scope of reporting

- 10 **noted** that officials have been working to review the environmental reporting framework, including aligning with OECD developments and taking a wider green growth perspective, consistent with the government's Business Growth Agenda;
- 11 **agreed** that environmental reporting will, wherever possible, facilitate international comparability and benchmarking by aligning with best practice international frameworks, unless there is a compelling reason to depart from them;
- 12 **agreed** that environmental reporting will include:
- 12.1 the state of the following domains: air, atmosphere and climate, freshwater, marine, and land (and include biodiversity and ecosystems);
- 12.2 changes in state over time;
- 12.3 pressures, both natural and anthropogenic, driving changes in state;

Reporting products and frequency

- 13 **agreed** to a rolling three-yearly reporting cycle with:
- 13.1 a domain report (for one of five domains – air, atmosphere and climate, land, freshwater, and marine) being released every six months (ie each domain will be reported once every three years);

13.2 a synthesis report summarising trends across all environmental domains once every three years, being released within the first six months of the term of a new government;

14 **agreed** that the first domain report be produced in early 2014, and that a synthesis report will be produced in 2015 within six months of a new government;

Responsibility for regular reporting and environmental commentary

15 **noted** that New Zealand is the only OECD country that does not have legislation to require regular environmental reporting, but that no other country places responsibility for environmental reporting outside of executive government with an officer of Parliament;

16 **noted** that there are a range of models used internationally to assure integrity and independence of reporting and that, in the economic sector in New Zealand, the Government Statistician plays a key role in guaranteeing the independence of the Economic Development Indicators;

17 **agreed** that the Secretary for the Environment and the Government Statistician be required to report on the environment to the public of New Zealand, including joint release of the six-monthly domain reports and a three-yearly synthesis report;

18 **agreed** that, in working together to produce the reports, the Ministry for the Environment and Statistics New Zealand will build off their relative strengths, with the Ministry contributing most of the interpretation and analysis and Statistics New Zealand providing data support and assurance that the interpretation is robust and appropriate;

19 **authorised** the Minister for the Environment and the Minister of Statistics to determine the appropriate roles and functions for both the Ministry for the Environment and Statistics New Zealand, in relation to the requirement to report on the environment, to be provided for in the legislation;

20 **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 and assist with interpretation in order to produce environmental reports;

21 **agreed** that reporting be undertaken at arm's length from Ministers, according to the *Principles and Protocols for Producers of Tier One Statistics*, in order to provide the public with assurance in the integrity and independence of the data and analysis;

22 **noted** that this means that Ministers will be given a briefing on the key messages in the days prior to release, but will not see information on the data released in the environmental reports before they are publicly released and will not be able to influence the content of those reports;

23 **noted** that under the Environment Act 1986, the Parliamentary Commissioner for the Environment has a wide discretion to investigate and report on any matters of significance to the environment and environmental management in New Zealand;

24 **agreed** to strengthen the Parliamentary Commissioner for the Environment's existing mandate by explicitly reinforcing the key role the Parliamentary Commissioner for the Environment will play in the new environmental reporting regime in terms of providing independent commentary, at the Commissioner's discretion, on matters including but not limited to:

24.1 analysis of environmental data and reports;

24.2 identification of trends;

24.3 discussion of implications and responses;

Discussion on detail of the environmental reporting framework

25 **agreed** that the Minister for the Environment and the Minister of Statistics may authorise any other minor and technical matters to be included in the legislation that are not inconsistent with the above proposals;

26 **agreed** that the Minister for the Environment and the Minister of Statistics will have the joint power to recommend that regulations be promulgated specifying further detail around the framework for environmental reporting and what will be reported on for each domain;

27 **agreed** that, to ensure arms length reporting, the Secretary for the Environment and the Government Statistician will be responsible for developing the specific indicators included in the framework for each domain;

Financial implications

28 **approved** the following changes to provide for independent commentary on environmental reporting, with no impact on the operating balance:

	\$m – increase/(decrease)				
	2013/14	2014/15	2015/16	2016/17	2017/18 & Outyears
Vote: Environment					
Minister for the Environment					
Departmental Multi-Class					
Output Expense: Environmental Management Obligations and Programmes MCOA					
Domestic Obligations and Institutions Policy Advice (funded by revenue Crown)	(0.200)	(0.200)	(0.200)	(0.200)	(0.200)

29 **agreed** that the changes to appropriations for 2013/14 above be included in the 2013/14 Supplementary Estimates;

30 **invited** the Minister for the Environment to write to the Speaker of the House of Representatives requesting that the Offices of Parliament Committee consider an addition of \$0.200 million to Vote Parliamentary Commissioner for the Environment;

Legislative implications

31

9(2)(f)(iv)

32 **agreed** that the legislation should apply to the Crown;33 **agreed** to amend the Environment Act 1986, if necessary, to take into account the above proposals;34 **agreed** that the proposal to require the Government Statistician to report jointly on the environment will not limit or affect anything in the Statistics Act 1975;35 **invited** the Minister for the Environment to issue drafting instructions to the Parliamentary Counsel Office to implement the proposals set out in paragraphs 11-13, 17, 19, 24, 26-27 and 33 above;36 **invited** the Minister for the Environment to report back to the Cabinet Legislation Committee in November 2013 with a draft Bill for approval for introduction.

