

Chair

Cabinet Economic Growth and Infrastructure Committee

Release of discussion document: proposed Environmental Reporting Bill

Proposal

1. This paper seeks approval to initiate public consultation by releasing a discussion document on a proposed Environmental Reporting Bill aimed at improving national-level state of the environment reporting and the quality of some of the environmental statistics that underpin it.

Executive summary

2. Environmental information enables good decision-making and builds a reliable picture of how we are managing our natural capital. Quality environmental information is as important to New Zealand's success as financial or economic information.
3. This paper seeks Cabinet agreement to initiate public consultation by releasing a discussion document outlining the proposed Environmental Reporting Bill for New Zealand.
4. The attached discussion document sets out the:
 - current environmental monitoring and reporting system in New Zealand
 - issues with the current system and the objectives proposed to address these issues
 - available options for achieving the objectives
 - preferred option, an Environmental Reporting Bill for New Zealand
 - a summary of a preliminary cost-benefit assessment of the proposed Bill
 - the process for written feedback and symposium.
5. It is likely that the release of the discussion document for public consultation will generate some media attention. This will be collectively managed by departments through a communications plan developed by the Ministry for the Environment.
6. Releasing a discussion document on a proposed Environmental Reporting Bill aligns with my view that the Environment Ministry needs to be the strong and competent policy advisor, the Environmental Protection Authority needs to be the arms length regulator and that the Parliamentary Commissioner for the Environment needs to be the auditor.
7. The parallel in the economic and financial sphere is the Treasury as policy advisor, the Reserve Bank with its regulatory function, and the Auditor-General. This is supported by the independent production and analysis of economic statistics by the Government Statistician.

Background

8. Credible state of the environment monitoring and reporting is critical to good decision-making. In order to build a reliable and accurate national picture of our natural capital, we need a regular reporting and independent state of the environment reporting system that is underpinned by high quality, consistent statistics that conform to the standards for official statistics. Such statistics are a key part of New Zealand's official statistical infrastructure.
9. A discussion document has been prepared that outlines a proposed Environmental Reporting Bill. The proposed Bill aims to provide regular and independent national-level state of the environment reporting and improve the quality of environmental statistics that underpins this reporting.
10. This proposal also reflects the National Party 2008 election manifesto agreement 'to introduce a new Environmental Reporting Act requiring independent five-yearly State of the Environment Reports as a new function of the Parliamentary Commissioner for the Environment'.
11. The importance of environmental reporting to be perceived as independent was highlighted during the release of the last State of the Environment Report. Changes made between an earlier draft and the final document removed a conclusions chapter. The substance of the report was unchanged but the release of the draft generated negative media and public response,
12. This discussion document focuses on improving the consistency of environmental statistics generated by local authorities, in fulfilling their Resource Management Act (RMA) obligations to monitor the state of the environment under section 35(2). This proposal does not cover environmental statistics generated by other environment-related legislation (eg, environmental legislation covered under the Environmental Protection Authority Act). Nor does it cover environmental information collected by central government agencies, Crown research institutes and universities.

Release of a discussion document for public consultation

13. I plan to release the attached discussion document on a proposed Environmental Reporting Bill at the 25th anniversary of the Parliamentary Commissioner for the Environment on the 18th of August. The discussion document content is attached but it will be formatted into a publication with pictures for release.
14. I am seeking general public consultation on my proposal through written submissions (closing on 18th October 2011) and participation at a subsequent symposium to be held in February 2012. The symposium will be held primarily to discuss in detail any new regulations that could be made under the proposed RMA changes of the Environmental Reporting Bill.
15. Copies of the discussion document will be sent to:
 - Chief Executives and environmental monitoring managers of every regional council and territorial authority
 - Local Government New Zealand
 - public and community interest groups
 - Crown Research Institutes
 - environmental NGOs

16. The discussion document will also be publically available on the Ministry for the Environment's website.
17. It is likely that the release of the discussion document for public consultation will generate some media attention. Issues that could draw negative media attention include:
 - regional councils not seeing the need to change their monitoring programmes, because they meet their regional objectives
 - potential costs to implement any future environmental monitoring regulations.
18. The Ministry for the Environment is managing communications around the release of the discussion document and has a set of questions and answers prepared around these and other issues.

Content of the discussion document

19. The attached discussion document discusses the following:
 - *Current national level state of the environment monitoring and reporting in New Zealand* - Specifically this section looks at the roles of local authorities, Crown Research Institutes and iwi in state of the environment monitoring and the Ministry for the Environment, Statistics New Zealand and other central government agencies in national state of the environment reporting.
 - *The issues and objectives* - This section describes the issues with the current environmental monitoring and reporting system and the objectives the proposed approach is seeking to achieve to address these issues. The main issues discussed include the lack of a statutory obligation to require a regular and independent report of New Zealand's environment and lack of a statutory obligation to require standardised state of the environment monitoring.
 - *What are the options to achieve the objectives?* – A range of options are assessed to determine whether they achieve the stated objectives. These include the status quo, non regulatory guidance and better use of or amending existing legislation.
 - *The proposed Environmental Reporting Bill for New Zealand* – this section presents the preferred option based on the analysis set out in the preceding section. The Bill proposes to:
 - make the Parliamentary Commissioner for the Environment's auditing role more explicit under the Environment Act 1986 by requiring 5-yearly reports on the state of the environment
 - expand regulation-making powers under section 360 of the Resource Management Act to improve the consistency of state of the environment monitoring statistics at the local level.
 - *Costs and Benefits of the proposed Environmental Reporting Bill* – a preliminary cost benefit assessment has been prepared by the Ministry. The preliminary assessment shows that the nationwide impacts of the Bill are expected to be positive, although a full cost benefit assessment would be undertaken following public consultation.
 - *Written feedback and the symposium* – Public consultation would be sought through written submissions and roundtable discussions at a subsequent symposium. The deadline for written submissions close on 18th October 2011

and the symposium is to be held in February 2012. The symposium will be particularly targeted at the RMA changes of the proposed Bill.

Consultation

20. Feedback suggests that the following agencies are broadly comfortable with the discussion document as currently worded: Statistics New Zealand, Ministry of Agriculture and Forestry, Ministry of Fisheries, Local Government New Zealand, Office of the Auditor General, Environmental Protection Authority, Ministry of Science and Innovation, Department of Internal Affairs, Ministry of Economic Development and the Parliamentary Commissioner for the Environment.
21. The Treasury, State Services Commission, Department of Prime Minister and Cabinet, and the Department of Conservation were also provided a copy of the discussion document but have not provided comment at this time.
22. The Officials' Economic Growth and Infrastructure Committee have been consulted.

Financial implications

23. There are no financial implications arising from consultation on the proposed Environmental Reporting Bill discussion document.
24. However, if following consultation, Cabinet decides an Environmental Reporting Bill should proceed, there will likely be financial implications to give effect to that decision.

Human rights, gender implications and disability perspective

25. There are no implications arising from this paper. The proposal appears to be consistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act.

Legislative implications

26. If, following consultation, Cabinet decides an Environmental Reporting Bill should proceed, legislation will be required to give effect to that decision.
27. Specifically, this will include an amendment to the PCE's functions in the Environment Act and an expansion of the regulation-making powers under section 360 of the RMA.

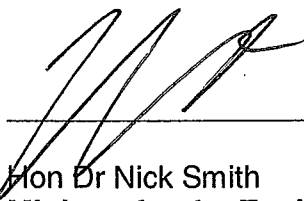
Regulatory Impact Analysis requirements

28. The draft discussion document contains all of the substantive elements required for a regulatory impact analysis (problem, feasible options, and impacts of those options) and questions around the suitability of the preferred option.
29. The Ministry for the Environment's Regulatory Impact Analysis Panel has reviewed the Proposed Environmental Reporting Bill Discussion Document and associated supporting material and consider that the information and analysis meets the quality assurance criteria, and that the document will facilitate effective and efficient consultation. A regulatory impact statement will be prepared once options are put to Cabinet for consideration.

Recommendations

The Minister for the Environment recommends that the Committee:

1. **Note** that:
 - a) current legislation does not require regular and independent state of the environment reporting.
 - b) current legislation does not require local authorities to monitor the environment in a consistent way, thus making it difficult to produce a satisfactory national picture of the state of the environment.
2. **Agree** to the public release of the discussion document "Proposed Environmental Reporting Bill: Discussion Document" subject to minor and technical editorial changes approved by the Minister for the Environment.
3. **Invite** the Minister for the Environment to report back to the Economic Growth and Infrastructure Committee by 31 March 2012 on the outcome of consultation and recommendations for a proposed Environmental Reporting Bill.



Hon Dr Nick Smith
Minister for the Environment

4 / 8 / 2013

