

Environmental Reporting Bill

Government Bill

Explanatory note

General policy statement

The purpose of this Bill is to create a national-level environmental reporting system to ensure that reporting on our environment occurs on a regular basis and can be trusted by the public as independent, fair, and accurate.

The consolidated *State of Environment* reports published by the Ministry for the Environment (the **Ministry**) in 1997 and 2007 were discretionary outputs for the Ministry, and were approved for release by the Minister for the Environment (the **Minister**). The current system of environmental reporting involves the periodic release of updates by the Ministry on 22 indicators. The timing of the indicator updates is determined by data availability and rate of change, with some indicators updated annually and others less frequently, at the discretion of the Ministry and the Minister.

The Government's objective is to have a legislative basis for independent environmental reporting in order to give the public certainty about the scope and quality of the information they will receive, and about how often it will be released. The Bill will require the Secretary for the Environment and the Government Statistician to publish a domain report on 1 of 5 environmental domains (air, atmosphere and climate, freshwater, land, and marine) every 6 months and pub-

lish a synthesis report (providing an analysis of cross-domain trends and interactions) once every 3 years.

Reporting will be required to give a fair and accurate representation of the state of New Zealand's environment as a whole, or the state of the domain being reported on. Reporting will draw on the expertise of the Ministry and Statistics New Zealand to ensure high standards of statistical integrity and robustness. Reports will give New Zealanders the information they need to understand the condition of their environment, why it is like that, and what that means.

The Bill focuses on reporting the best available data and does not include any requirement to generate information that is not currently collected. Over time, it is likely to drive improvements in future monitoring and data collection by setting out the topics reporting should cover, in alignment with international practice. Reports will include information on the biophysical state of a domain, trends over time, pressures driving changes in the state, and the impacts of changes in the state on—

- ecosystem integrity:
- public health:
- economic benefits derived from utilising natural resources:
- culture and recreation.

The regulation-empowering provision will require that topics to be reported on be selected on the basis of significance, statistical rigour, and evidence of a strong connection to an environmental state.

A key element of the new environmental reporting system is independence from the Government of the day. This is achieved through providing key roles for the Minister, the Minister of Statistics, the Government Statistician, and the Parliamentary Commissioner for the Environment as follows:

- the Minister and the Minister of Statistics will be responsible for recommending regulations that set out topics to be reported on, following consultation with the Government Statistician and the Parliamentary Commissioner for the Environment:
- the Government Statistician, after consulting the Secretary for the Environment, must determine the statistics to be used to measure 1 or more aspects of each topic as set out in regulations, and must ensure that the statistics chosen accurately represent the relevant topic:

- the Government Statistician has sole responsibility for determining procedures and methods to be used in providing statistics that will be included in the environmental reports:
- the Secretary for the Environment and the Government Statistician will be responsible for reporting at arm's length from the government, and ensuring reports are fair and accurate:
- the Parliamentary Commissioner for the Environment will provide independent commentary at his or her discretion.

The responsibilities of the Government Statistician under this Bill are not intended to limit or affect the independence of the Government Statistician when exercising or performing his or her powers, duties, or functions under the Statistics Act 1975.

Departmental disclosure statement

The Ministry for the Environment is required to prepare a disclosure statement to assist with the scrutiny of this Bill. It provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2014&no=189&>.

Regulatory impact statement

A regulatory impact statement is not required for this Bill.

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 is the commencement clause. The Act comes into force on the earlier of a date appointed by the Governor-General by Order in Council, or 9 months after the date on which the Act receives the Royal assent. The Ministry advises that commencement by Order in Council is desirable because regulations will need to be developed that provide for the topics to be covered in domain and synthesis reports. The Ministry plans to consult on the proposed topics before making regulations. It is anticipated that regulations could be made and brought into force by mid-2015. The Act is intended to commence at the same time as the regulations are brought into force.

Part 1

Preliminary provisions

Clause 3 states that the purpose of this legislation is to require regular reports on the state of New Zealand's environment as a whole, and on the state of the air, atmosphere and climate, freshwater, land, and marine domains.

Clause 4 defines terms used in this legislation.

Clause 5 states that the legislation binds the Crown.

Part 2

Environmental reporting

Synthesis reports

Clause 6 states that the chief executive of the Ministry for the Environment (the **Secretary**) and the Government Statistician must jointly produce and publish reports on New Zealand's environment as a whole. These reports are called **synthesis reports**.

Clause 7 sets out the matters that synthesis reports must describe. These matters include the state of New Zealand's environment, pressures that may be causing, or have the potential to cause, changes to the state of New Zealand's environment, and impacts that the state of New Zealand's environment, or changes to it, may be having on certain matters. The Secretary and the Government Statistician are not required to include in synthesis reports information that cannot be obtained by using reasonable efforts.

Clause 8 provides that a synthesis report must be published once every 3 years. The first synthesis report must be published by 30 June 2015.

Domain reports

Clause 9 states that the Secretary and the Government Statistician must jointly produce and publish reports on the air, atmosphere and climate, freshwater, land, and marine domains. These reports are called **domain reports**.

Clause 10 sets out the matters that domain reports must describe. These matters include the state of the domain, pressures that may be causing, or have the potential to cause, changes to the state of the domain, and impacts that the state of the domain or changes to it

may be having on certain matters. The Secretary and the Government Statistician are not required to include in domain reports information that cannot be obtained by using reasonable efforts.

Clause 11 provides that a domain report for one of the domains must be published at least once every 6 months. Each domain must be reported on at least once every 3 years. The first domain report must be published within 6 months after the publication of the first synthesis report.

Production of environmental reports

Clause 12 provides an overview of the process for producing synthesis and domain reports (**environmental reports**). First, topics to be reported on are prescribed by regulations made under *clause 18*. Secondly, statistics to measure those topics are selected by the Government Statistician in accordance with *clause 13(2)*. Thirdly, the procedures and methods to be used in providing those statistics in the report are selected by the Government Statistician in accordance with *clause 13(4)*.

Clause 13 sets out the roles of the Secretary and the Government Statistician in producing and publishing environmental reports. Both the Secretary and the Government Statistician must use the expertise of the Ministry and Statistics New Zealand. The Government Statistician must, after consulting the Secretary, decide what statistics will be used to measure topics prescribed by regulations made under *clause 18*. In making these decisions, the Government Statistician must follow what he or she believes to be best practice principles and protocols. He or she must also be satisfied that the statistics selected accurately represent the topics they purport to measure. The Government Statistician has sole responsibility for deciding what procedures and methods will be used for providing statistics to be included in an environmental report.

Clause 14 specifies that the Secretary and the Government Statistician must act independently of any Minister of the Crown in producing and publishing an environmental report.

Clause 15 states that the Secretary and the Government Statistician must, in so far as it is reasonably practicable, ensure that all environmental reports fairly and accurately represent the state of New Zealand's environment as a whole, or the domain being reported on.

Clause 16 states that if any person involved in producing or publishing environmental reports receives a request for disclosure of information or analysis that will be used in a forthcoming report, the person must refer the request to the Secretary and the Government Statistician. Any information or analysis requested must not be disclosed without the consent of both the Secretary and the Government Statistician. The clause allows the Secretary and the Government Statistician to withhold the information or analysis if they are of the opinion that disclosure would compromise the independence of the report, or the information or analysis is integral to significant findings or conclusions of the report.

Role of Parliamentary Commissioner for the Environment

Clause 17 affirms the ability of the Parliamentary Commissioner for the Environment under the Environment Act 1986 to report on an environmental report and the processes that produced it.

Regulations

Clause 18 provides for regulations to be made for the purposes of the legislation.

Hon Amy Adams

Environmental Reporting Bill

Government Bill

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Environmental Reporting Act **2014**.
- 2 Commencement**
This Act comes into force on the earlier of the following: 5
- (a) a date appointed by the Governor-General by Order in Council (and 1 or more orders may be made bringing different provisions into force on different dates):
 - (b) the day that is 9 months after the date on which this Act receives the Royal assent. 10

Part 1
Preliminary provisions

- 3 Purpose**
The purpose of this Act is to—
- (a) require regular reports on the state of New Zealand’s environment as a whole: 15
 - (b) require regular reports on the state of the air, atmosphere and climate, freshwater, land, and marine domains:
 - (c) ensure that producers of environmental reports act independently and produce fair and accurate reports: 20
 - (d) ensure that the expertise of government departments is utilised in producing environmental reports:
 - (e) affirm the role of the Parliamentary Commissioner for the Environment in reporting on environmental reports and the processes that produced the reports. 25
- 4 Interpretation**
In this Act, unless the context otherwise requires,—

air domain means the domain surrounding the earth that is composed of gases, vapours, and particulates

atmosphere and climate domain—

- (a) means the domain that—
 - (i) extends from the surface of the earth to the outer layer of the stratosphere; and
 - (ii) is composed of gases, particulates, and meteorological conditions; and
- (b) includes climate

biodiversity means the variability among living organisms, and the ecological complexes of which they are a part, including diversity within species, between species, and of ecosystems

climate means meteorological conditions and their variations, including solar radiation, temperature, humidity, clouds, precipitation, atmospheric pressure, and wind

Commissioner means the Parliamentary Commissioner for the Environment appointed under the Environment Act 1986

domain report means a report of a kind required to be produced by **section 9**

ecosystem means a system of organisms interacting with their physical environment and with each other

environmental report means a synthesis report or a domain report

freshwater domain—

- (a) means the domain composed of water in all its physical forms; but
- (b) does not include atmospheric water or water forming part of the marine domain

Government Statistician means the Government Statistician appointed under the State Sector Act 1988

land domain means the domain composed of land cover and soil, and includes minerals and associated elements

marine domain—

- (a) means the domain bounded on the landward side by the mean high-water mark, and on the seaward side by the outer limits of New Zealand's exclusive economic zone and continental shelf; and

- (b) includes estuaries, the sea, the seabed, subsoil, and the air space above the area described in **paragraph (a)**; and
- (c) includes items of cultural and historic heritage within the marine domain 5

Minister for the Environment means the Minister of the Crown who, with the authority of the Prime Minister, is for the time being responsible for the administration of the Environment Act 1986

Minister of Statistics means the Minister of the Crown who, with the authority of the Prime Minister, is for the time being responsible for the administration of the Statistics Act 1975 10

Ministry means the department that is, with the authority of the Prime Minister, for the time being responsible for the administration of the Environment Act 1986 15

pressure means a natural or human-induced circumstance, factor, element, activity, or process

Secretary means the chief executive of the Ministry

Statistics New Zealand means the department of State established under that name by the Statistics Act 1975 20

synthesis report means a report of a kind required to be produced by **section 6**.

5 Act binds the Crown
This Act binds the Crown.

Part 2 25
Environmental reporting

Synthesis reports

- 6 Synthesis reports**
- (1) The Secretary and the Government Statistician must jointly produce and publish reports on New Zealand's environment as a whole. 30
- (2) In **subsection (1)**, **New Zealand's environment as a whole** includes the domains referred to in **section 9**.

7 Content of synthesis reports

- (1) Each synthesis report must describe, in relation to the topics for the time being prescribed in regulations made under **section 18**,—
- (a) the state of New Zealand’s environment as a whole: 5
 - (b) the pressures that may be causing, or have the potential to cause, changes to the state of New Zealand’s environment as a whole:
 - (c) the impacts that the state of the environment and changes to the state of the environment may be having on the following: 10
 - (i) ecological integrity:
 - (ii) public health:
 - (iii) economic benefits derived from utilising natural resources: 15
 - (iv) culture and recreation.
- (2) In addition to the matters set out in **subsection (1)**, each synthesis report must describe—
- (a) changes to the state of New Zealand’s environment as a whole over time, including, if information in the report is able to be compared with that in a previous synthesis report, changes to the state of the environment since that previous report was published: 20
 - (b) how the state of New Zealand’s environment as a whole measures against national or international standards. 25
- (3) The Secretary and the Government Statistician are not required to include in synthesis reports information that cannot be obtained by using reasonable efforts.

8 Frequency of synthesis reports

- (1) A synthesis report must be published once every 3 years. 30
- (2) The first synthesis report must be published by 30 June 2015.

Domain reports

9 Domain reports

- The Secretary and the Government Statistician must jointly produce and publish reports on the following: 35
- (a) the air domain:

- (b) the atmosphere and climate domain:
- (c) the freshwater domain:
- (d) the land domain:
- (e) the marine domain.

- 10 Content of domain reports** 5
- (1) Each domain report must describe, in relation to the topics for the time being prescribed in regulations made under **section 18**,—
- (a) the state of the domain the report relates to, including biodiversity and ecosystems dependent on that domain: 10
 - (b) the pressures that may be causing, or have the potential to cause, changes to the state of the domain:
 - (c) the impacts that the state of the environment and changes to the state of the environment may be having on the following: 15
 - (i) ecological integrity:
 - (ii) public health:
 - (iii) economic benefits derived from utilising natural resources:
 - (iv) culture and recreation. 20
- (2) In addition to the matters set out in **subsection (1)**, each domain report must describe—
- (a) changes to the state of the domain over time, including, if information in the report is able to be compared with that in a previous domain report, changes to the state of the domain since that previous report was published: 25
 - (b) how the state of the domain measures against national or international standards.
- (3) The Secretary and the Government Statistician are not required to include in domain reports information that cannot be obtained by using reasonable efforts. 30
- 11 Frequency of domain reports**
- (1) The first domain report for one of the domains listed in **section 9** must be published within 6 months after the publication of the first synthesis report. 35
- (2) A domain report for one of the domains listed in **section 9** must be published at least once every 6 months, unless, within

the next 6 months after the most recent domain report is published, a synthesis report is due to be published.

- (3) If, by virtue of **subsection (2)**, a domain report is not published because of the publication of a synthesis report, the domain report must be published within the next 6 months after the synthesis report is published. 5
- (4) Each of the domains listed in **section 9** must be reported on at least once every 3 years.

Production of environmental reports

12 Overview of process for producing environmental reports 10

The process for producing an environmental report involves the following steps:

- (a) the topics to be reported on are prescribed by regulations made under **section 18**, after the Minister for the Environment and the Minister of Statistics are satisfied that the topics meet the requirements of **section 18(2)**; and 15
- (b) the statistics to measure those topics are selected in accordance with **section 13(2)**; and
- (c) the procedures and methods to be used in providing those statistics in an environmental report are selected in accordance with **section 13(4)**. 20

13 Roles of Secretary and Government Statistician

- (1) In producing and publishing an environmental report, the Secretary and the Government Statistician must utilise the expertise of the Ministry and Statistics New Zealand. 25
- (2) Before producing an environmental report, the Government Statistician must, after consulting the Secretary, decide what statistics will be used to measure topics prescribed by regulations made under **section 18**. 30
- (3) In deciding under **subsection (2)** what statistics will be used to measure topics, the Government Statistician must—
 - (a) follow what he or she believes to be best practice principles and protocols; and
 - (b) be satisfied that the statistics accurately represent the topic they purport to measure. 35

- (4) The Government Statistician has the sole responsibility for deciding the procedures and methods that are to be used in providing statistics that will be included in an environmental report.
- 14 Duty to act independently** 5
In producing and publishing an environmental report, the Secretary and the Government Statistician must act independently of any Minister of the Crown.
- 15 Reports to be fair and accurate** 10
The Secretary and the Government Statistician must, in so far as it is reasonably practicable, ensure that all environmental reports published give a fair and accurate representation of the state of New Zealand's environment as a whole, or the state of the domain being reported on.
- 16 Disclosure of information** 15
- (1) If any person involved in producing or publishing environmental reports receives a request for disclosure of information or analysis that will be, or has been, used in an environmental report to be published, that person must refer the request to the Secretary and the Government Statistician. 20
- (2) The Secretary and the Government Statistician may, in response to a request referred to them under **subsection (1)**, order that the information or analysis not be disclosed if they are of the opinion that— 25
- (a) disclosure of the information or analysis would compromise the independence of the report; or
- (b) the information or analysis is integral to significant findings or conclusions of the report.
- (3) Information or analysis must not be disclosed without the consent of both the Secretary and the Government Statistician. 30
- (4) This section applies despite any other enactment.

Role of Parliamentary Commissioner for the Environment

17 Role of Commissioner

- (1) In accordance with his or her functions and powers under the Environment Act 1986, the Commissioner may, at his or her discretion, report on an environmental report and the processes that produced it. 5
- (2) The matters that the Commissioner may report on under **subsection (1)** include, but are not limited to,—
- (a) analysing environmental reports: 10
 - (b) identifying trends:
 - (c) discussing the implications of environmental report findings:
 - (d) recommending responses to environmental report findings. 15

Regulations

18 Regulations

- (1) The Governor-General may, on the joint recommendation of the Minister for the Environment and the Minister of Statistics, by Order in Council, make regulations prescribing— 20
- (a) topics to be covered in synthesis reports relating to—
 - (i) the state of New Zealand’s environment as a whole:
 - (ii) the pressures that may be causing, or have the potential to cause, changes to the state of New Zealand’s environment as a whole: 25
 - (iii) the impacts that the state of the environment and changes to the state of the environment may be having on the matters set out in **section 7(1)(c)**:
 - (b) topics to be covered in domain reports relating to— 30
 - (i) the state of the domain:
 - (ii) the pressures that may be causing, or have the potential to cause, changes to the state of the domain:
 - (iii) the impacts that the state of the domain and changes to the state of the domain may be having on the matters set out in **section 10(1)(c)**. 35

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- (2) Before recommending the making of regulations under **subsection (1)**, the Minister for the Environment and the Minister of Statistics must be satisfied that any—
- (a) pressure topic or impact topic affects significant areas, resources, or numbers of people: 5
 - (b) topic can be measured with robust statistical methods:
 - (c) pressure topic is closely related to any state topic that it is asserted to affect:
 - (d) impact topic is closely related to any state topic that is asserted to give rise to that impact. 10
- (3) Before recommending the making of regulations under **subsection (1)**, the Minister for the Environment and the Minister of Statistics must consult the Government Statistician and the Commissioner. 10
- (4) In this section,— 15
- impact topic** means a topic of a kind referred to in **subsection (1)(a)(iii) or (1)(b)(iii)**:
- pressure topic** means a topic of a kind referred to in **subsection (1)(a)(ii) or (1)(b)(ii)**:
- state topic** means a topic of a kind referred to in **subsection (1)(a)(i) or (1)(b)(i)**. 20
-