

# Improving Aotearoa New Zealand's environmental reporting system

Submission on to the Ministry for the Environment on proposals to strengthen the Environmental Reporting Act 2015, so environmental reports have more impact.

March 2022



## What is Taituarā?

Taituarā – Local Government Professionals Aotearoa thanks the Ministry for the Environment (the Ministry) for the opportunity to submit on the discussion document *Improving Aotearoa New Zealand’s environmental reporting system* (the document).

Taituarā is an incorporated society of 943 members<sup>1</sup> drawn from local government Chief Executives, senior managers, and council staff with significant policy or operational responsibilities. We are an apolitical organisation. Our contribution lies in our wealth of knowledge of the local government sector and of the technical, practical, and managerial implications of legislation.

Our vision is:

*Professional local government management, leading staff and enabling communities to shape their future.*

Our primary role is to help local authorities perform their roles and responsibilities as effectively and efficiently as possible. We have an interest in all aspects of the management of local authorities from the provision of advice to elected members, to the planning and delivery of services, to the less glamorous but equally important supporting activities such as election management and the collection of rates.

The present Environmental Reporting Act (the Act) is best viewed as a transitional piece of legislation. It bedded in the notion of a legislatively mandated framework that had a relatively high degree of independence from central government. To that extent that a central compilation of evidence on each of the domains, and a synthesis, were new requirements, the current Act was a step forward.

However, we agree that the Act in its present form lacks any real drive to further action. We therefore agree that there are opportunities to improve both the reporting and more importantly the role that reporting can play in improving the environment. We agree with much of what the document proposes – with some amplifications and some differences in emphasis.

### Proposal 1: Clarifying the Purpose

The present purpose of the Environmental Reporting Act is perhaps one of the least relevant and purposive purpose statements we have come across in legislation. While the present purpose statement is a clear statement it confuses means (the production of a report) with any desirable end (i.e. so that we can ultimately improve

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<sup>1</sup> As of 31 December 2021

the state of the environment by better informing policy choices etc). To that end the present purpose arguably incentivises activity (i.e. the production of a report) for its own sake).

We support the Ministry's proposed option 1 – enacting the Parliamentary Commissioner for the Environment recommendation while separating out the purpose of reporting from the methods used to accomplish the purpose.

It was not clear whether points 1-4 on page 28 represented the Ministry's position on the structure of a purpose clause. While it is easy to fall into the trap of 'wordsmithing' we suggest that a purpose statement should open with the desired end goal, preferably expressed in action-oriented terms. The fourth of these bullet points comes closest (with appropriate sequencing e.g., "The purpose of this Act to promote effective environmental stewardship by ...."

We concur with the attributes of good environmental reporting listed in the first of the bullet points on page 28. We consider that the third of the bullet points goes to the relevance of the reporting – if it is not informative and does not meet the needs of Māori then it is unlikely to be of any relevance. We therefore suggest adding relevance to the list of attributes of good environmental reporting.

We do not downplay the importance of te ao Māori and mātauranga Māori in this Act. Indeed we consider that this should be strengthened by combining these elements together in a separate explanatory provision.

Giving

- "(1) The purpose of this Act is to promote effective environmental stewardship by providing regular, independent, authoritative, relevant and culturally inclusive statement of the environment reporting that serves as a basis for informed decision making and action.*
- (2) In subsection (1) reporting is culturally inclusive if it:*
- (i) recognises and aligns with te ao Māori and mātauranga Māori; and*
  - (ii) meets the needs of Māori."*

## **Proposal 2: Mandate a Government Response**

The real value in the reporting lies in what policy-makers actually do with the information once they have it. Probably the major gap in the present Act is the lack of any real spur for policy-makers to take any action in response to the reporting. Without such a spur, reports could easily become 'just another collection of interesting figures' of interest to researchers only. We therefore strongly support proposal two – and would query the value of many of the other proposals without it.



It has long been a requirement that Government's respond to Select Committee reports on inquiries and petitions (where these draw matters to the attention of the House). Other papers presented to the House by Ministers likewise require a response – for example reports from the Productivity Commission and the Parliamentary Commissioner for the Environment.

We concur with the first of the options presented, that the Minister for the Environment coordinate a response on behalf of the Government. There are a wide range of portfolio interests that impact on the environment – including but not limited to Transport, Building, Housing, Agriculture, Fisheries, Forestry, Energy and Resources, and less direct interests such as Finance, Education and Research and Science. Making a named Minister solely responsible may result in some loss of focus on environmental outcomes around the Cabinet table. Many of the drivers of environmental performance lie within the portfolios of other Ministers.

We also concur with the proposal that the feedback loop include both an acknowledgment of the synthesis report and its findings within six months, and an action plan within a year of the synthesis report. We would however add that an action plan needs to set out not only the Government's intended course of action, but when it intends those actions be completed. Our observation of responses to other reports is that they focus heavily on what's already been done.

### **Proposal 3: Adding drivers and outlooks**

We agree that environmental reporting should be neutral and that drivers and outlooks should be added.

Our preference would have been to add responses to the reporting framework directly. We reluctantly concur that reporting on responses cannot help but move into commenting on the effectiveness (or otherwise) of the response that may not sit well vis-à-vis maintaining statutory independence. Both the Secretary for the Environment and the Government Statistician (to a lesser extent) are accountable to Ministers for the exercise of their duties (though the latter has independence in the selection of statistical methods).

Governments ought not fear free and frank advice about the effectiveness of their policy. Loss of data on response does go some way to compromising the purpose of the reporting – indeed possibly one of the more important aspects of good environmental stewardship. We submit that there is a case for the collection of environmental data on responses and for the independent agent that is the Parliamentary Commissioner for the Environment to report on those aspects.

We noted the proposal includes reporting on outlooks. We concur but note that these methodologies draw on tools such as scenario-modelling, forecasting and the like. Even the best and most scientific forecasting relies on assumptions that can be challenged – while climate science is the most obvious example, but it is far from the only one. That doesn't go so far as to rule out this reporting, but it does go to proceeding with caution and with recognition that the rules of the game might be somewhat different with this aspect of reporting. For example, confidence intervals, assumptions and limitations of the outlook data would form a far more important aspect of this report.

#### **Proposal 4: Adjusting roles and responsibilities**

We concur with these proposals. We do however refer to our earlier comments about the potential role for the Parliamentary Commissioner for the Environment. We also see some value in explicitly stating that the Government Statistician has a role in defining standards for the collection and procurement of statistics.

#### **Proposal 5: Advisory panel**

We concur with the proposal to establish a statutory advisory panel. The document correctly notes that the Ministry and Statistics New Zealand will draw on external skills and expertise. A panel brings in those contributing to the development of the reporting, while providing an independent source of scientific advice. The beauty of legislating for the panel and its independence is that it places the appointment of panel members and their advice separate from the political processes.

Where legislation requires the establishment of boards or panels, legislation generally specifies a set of competencies or skills for the panel as a whole. We suggest that the following might be a useful place to start:

*"The Secretary for the Environment must appoint members who collectively have knowledge of and experience and expertise in relation to; -*

- (a) environmental science and monitoring*
- (b) environmental policy and regulation; and*
- (c) te ao Māori and mātauranga Māori; and*
- (d) statistical methods and concepts; and*
- (e) the views and perspectives of each of central and local government"*

Local government and central government each have significant policy and regulatory roles and will be major agents in the supply of the data necessary for the environmental reporting. Given present reforms to the Resource Management Act and the so-called Future for Local Government Review might lead to some change to

the roles of local authorities as regulators we do not see it as appropriate to specify that there be “a” representative from the sector or whether that should be a regional council person or a territorial authority representative.

### **Proposal 6: Replace environmental domains with cross-domain themes**

We generally support this proposal. The domain-based structure can compartmentalise and lead to some loss of insight that viewing domains together can generate. To take an analogy, a patient with a complex medical condition requiring therapy from multiple specialists might receive a clean bill of health from each, yet still be sick. The interconnectedness of the different domains also reflects te ao Māori.

While the Parliamentary Commissioner for the Environment’s suggested set of five themes appears generally suitable to us, we submit that the appropriate balance of themes may change over time. There should be a requirement to review the domains from time to time – perhaps once every 12 years (to coincide with the completion of two reporting cycles). Reviews would also come with a requirement to engage.

### **Proposal 7: Reduce the frequency of synthesis reports to six-yearly**

We agree. We need little convincing that environmental indicators generally take some time to change.

### **Proposal 8: Replace domain reports with one commentary each year**

No comment.

### **Proposal 9: Establish a set of core environmental indicators**

*“You can’t improve what you don’t measure”*

anonymous but often attributed to Peter Drucker

Nothing is more than certain than that the selection of the environmental indicators will be the subject of much debate. There is an opportunity for the Act to provide more of a statutory steer to those designing that indicator set as to what the attributes of a good indicator. We consider that good indicators for this purpose would be:

- *outcome focussed* – the revised statement of purpose makes it clear that it is improvement in the quality of the environment that matters, output type measures (such as the number of possums trapped) are not as relevant

- *action oriented* – we mean this in the sense that the indicators must go to the effectiveness of policy and action, and not that they incentivise action for actions sake
- *relevant* – the selection of indicators should reflect the key issues of concern and measure aspects of importance to environmental quality
- *cognisant of cost and practicality issues* – that is to say, an indicator should be able to stand scrutiny of the costs and benefits of collecting the information.

There is statutory precedent for this. The so-called mandatory set of non-financial performance measures that local authorities report against under the Local Government Act 2002 are subject to a statutory test. The Secretary of Local Government must be satisfied that each of the performance measures:

- (i) *measures the level of service for a major aspect of the group of activities; and*
- (ii) *addresses an aspect of the service that is of widespread interest in the communities to which a service in relation to the group of activities is provided; and*
- (iii) *contributes to the effective and efficient management of the group of activities.*<sup>2</sup>

We agree that a core set of environmental indicators should be formally specified in some instrument with statutory backing. It makes little difference if these are regulations or some form of rules made as secondary legislation. The Local Government Act measures cited above are rules made by the Secretary for Local Government that have been accorded the status of secondary legislation. In both cases this brings the instrument within scrutiny of the Regulations Review Committee should there be need to challenge them.

What is important is that there is a process specified in statute for adoption of the instrument that specifies the indicators. This should include an obligation to engage the community as the indicator set is developed. Engagement brings in a set of wider perspectives than the advisory panel could provide (including from those who supply the data).

One final question. Neither the present Act, nor the discussion document explicitly provide for the review of the reporting and (particularly) the indicators. There are a host of factors that might potentially impact on the types and nature of indicators. For example, the proliferation of sensor technology makes monitoring *in real time* a viable option and adds greatly to the depth and frequency of data that can be collected. We think there should be a requirement on the Secretary and Government Statistician to review the indicators at least once every six years (including engaging with the public as they do so).

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<sup>2</sup> Section 261B(2), Local Government Act 2002. Note: the above comment is intended to commend the precedent to the Ministry's attention, and should not be taken as a comment on the present set of non-financial performance measures!

### **Proposal 10: Strengthen the mechanisms for collecting the data**

We concur that robust environmental reporting may need to go beyond information that is currently collected. Some strengthening of the mechanisms for collection is justified. We agree that voluntary mechanisms and the building of relationships should be the first means to draw upon. We would like to add that this increases the credibility of the engagement and other processes to determine the reporting framework and the core set of indicators.





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