



COVERSHEET

Minister	Hon Dr Megan Woods	Portfolio	Energy and Resources
Title of Cabinet paper	Proposed Energy and Emissions Reporting Scheme	Date to be published	29 September 2023

List of documents that have been proactively released

Date	Title	Author
August 2023	Proposed Energy and Emissions Reporting Scheme	Office of the Minister of Energy and Resources
2 August 2023	Proposed Energy and Emissions Reporting Scheme DEV-32-MIN-0159	Cabinet Office
17 July 2023	Energy and Emissions Reporting Scheme	Ministry of Business, Innovation and Employment

Information redacted

YES / NO

Any information redacted in this document is redacted in accordance with MBIE's policy on Proactive Release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Some information has been withheld for the reasons of Confidential advice to Government.

In Confidence

Office of the Minister of Energy and Resources
Cabinet Economic Development Committee

Proposed Energy and Emissions Reporting Scheme

Proposal

- 1 This paper seeks agreement to introduce a mandatory energy and greenhouse gas (GHG) emissions reporting scheme for large energy users.

Relation to government priorities

- 2 On 2 December 2020 the Government declared a climate change emergency. Cabinet agreed that climate change requires decisive action at all levels of government, the private sector, and communities [CBC-20-MIN-0097 refers].
- 3 On 16 May 2022, the Government released the first Emissions Reduction Plan (ERP). Action 11.4.1 of the ERP includes the commitment to develop a mandatory energy and emissions reporting scheme for large energy users as part of a suite of measures aimed at decarbonising Aotearoa New Zealand's industries.

Executive Summary

- 4 There is a lack of consistent, accessible, and granular data available to government and the public on the energy use and emissions from New Zealand's large energy users. This affects decision making and market coordination.
- 5 For example, we do not have good information on how many large energy users utilise coal or fossil gas for heating purposes and where these entities are located. We also do not know the proportion of energy use and emissions that come from electricity end uses versus direct use of fossil fuels. This hinders policymakers' ability to assess mitigation potential and monitor the effectiveness of existing measures, and for clean energy suppliers to forecast and manage potential growth at a regional level.
- 6 Greater access to this data will enable government to develop robust policy to support emissions reduction, inform investment and purchasing decisions, increase firms' motivation to effectively assess and minimise their environmental impact, and improve the coordination of energy use and low-emissions energy supply. This more accurate information will support decisions on an optimal policy mix to ensure a fair and cost-effective transition to meet our emissions targets and avoids the risk of more costly and abrupt change later.
- 7 I am seeking Cabinet decisions on an energy and emissions reporting scheme (EERS) that will:

IN CONFIDENCE

- 7.1 cover large emitters, defined as entities with annual entity-level gross emissions from stationary energy consumption and purchased energy greater than 2000 tonnes of carbon dioxide equivalent (2kt CO₂-e);
 - 7.2 require these entities to submit annual site-specific and entity-level reports on energy use and emissions, and to have these reports independently assured;
 - 7.3 establish an Energy and Emissions Reporting register to be administered by the Ministry of Business, Innovation, and Employment (MBIE);
 - 7.4 establish and appoint a Registrar within MBIE who will be responsible for maintaining the register, publishing a subset of the information to the public and sharing other information provided with specific agencies; and
 - 7.5 empower the Chief Executive of MBIE (the Chief Executive) to undertake compliance and enforcement functions, including seeking pecuniary penalties for non-compliance with the new requirements.
- 8 I expect the scheme is likely to cover around 150 to 200 entities, including those in the industrial sector such as wood and food processing, the commercial sector such as supermarkets and big box retail, and public sector and local government organisations. These entities will likely spend more than two million dollars per year on energy.
- 9 Officials tested and refined these proposals through three different public consultations from 2019 to 2021. Most stakeholders agreed that the lack of transparent data on energy use and emissions is a problem. Some stakeholders raised concerns about public reporting of emissions. I consider the proposed scheme settings address these concerns through different levels of reporting requirements.
- 10 New primary and secondary legislation is required to give effect to these proposals.
- 11 To provide the sector with sufficient time to prepare for the regime and ensure that secondary legislation is well aligned with the Government's goals:
- 11.1 mandatory energy and emissions reporting will be required for financial years commencing on or after the first day of the calendar year following enactment; and
 - 11.2 assurance, compliance and enforcement requirements will begin from financial years commencing on or after 12 months following when the reporting requirements come into force.
- 12 Initial estimates of the expected average compliance costs for reporting entities are around \$14,000 in year one, \$79,000 in year two and \$47,000 annually ongoing. Compliance costs are expected to be higher in year two, as this is the first year that entities will be required to procure external assurance.

The costs associated with obtaining independent assurance are expected to reduce in subsequent years. Costs will differ depending on the size of the entity, and the extent to which entities already have systems in place to measure and report energy and emissions internally. I consider these costs are relatively low for the size of the entities that would be covered by the scheme.

- 13 I propose MBIE review the EERS after three years of operation to ensure it is operating as intended, and to consider adjustments to the scope and reporting threshold. Specifically, the review will consider whether mobile energy users, such as transport entities, should also be in scope.
- 14 Budget 2022 included funding for MBIE to implement the EERS, as part of the *Funding Further Decarbonisation of Process Heat and Implementation of Supporting Policies* initiative.

Background

- 15 A lack of accurate information on firms' energy use and emissions performance is a barrier to decarbonising business energy use, reducing energy emissions and achieving a just transition to a low emissions economy.
- 16 Very few large energy users voluntarily report information on their energy use and emissions. Where entities report this data, it is often at an aggregate level and is not standardised. This restricts effective policy making and consultation, impacts informed consumer and investor decision-making, and undervalues energy efficiency and renewable energy opportunities.
- 17 Several other jurisdictions have implemented mandatory energy and emissions reporting schemes, including Japan, Australia, Canada, the United States and the United Kingdom (UK). Some international schemes have indicated an estimated two per cent annual increase in energy efficiency as a result of mandatory reporting.
- 18 While scheme structures and thresholds vary, all require large energy users to disclose energy-use and emissions. For example:
 - 18.1 Australia's National Greenhouse and Energy Reporting regime, established in 2007 requires registered corporations to report all greenhouse gas emissions, energy production and energy consumption from facilities under their operational control.
 - 18.2 The UK implemented a Streamlined Energy and Carbon Reporting policy in April 2019, which replaced and built on existing energy and emissions reporting requirements. Companies covered by the scheme must report global annual energy use and emissions, split by the UK and offshore operations.

The EERS is part of a wider work programme to decarbonise Aotearoa's industries

- 19 There is an ambitious and comprehensive programme of work underway to transition New Zealand to a highly renewable energy system and ensure we can meet our domestic and international emissions reduction targets.
- 20 In 2022, the Government committed to implementing a mandatory EERS for large energy users by mid-2024, as part of a suite of measures in the first ERP aimed at decarbonising Aotearoa's industries. An EERS will support industry to improve energy efficiency, reduce costs and switch to low-emissions alternative fuels. It will also support government efforts to develop appropriate policy responses to meet decarbonisation and economic objectives.

The EERS has been thoroughly consulted

- 21 Officials tested and refined these proposals through three different public consultations from 2019 to 2021:
- 21.1 The technical paper *Process Heat in New Zealand: Opportunities and Barriers to Lower Emissions* tested with stakeholders our understanding of the barriers to lowering process heat emissions.
- 21.2 The *Accelerating Renewable Energy and Energy Efficiency (AREEE)* discussion document included a proposal for large energy users to publish Corporate Energy Transition Plans (CETPs), which would require energy and emissions reporting as part of a broader suite of information.
- 21.3 The *Transitioning to a low-emissions and climate-resilient future: emissions reduction plan discussion document* sought feedback on the definition of a large energy user for the purposes of the EERS.
- 22 Across these consultations, most stakeholders expressed broad support for improved energy and emissions reporting to inform climate policy. Some industry stakeholders raised:
- 22.1 the preference to have closer cooperation with government on information/data exchange, rather than mandatory requirements;
- 22.2 concern about public reporting due to commercial sensitivities;
- 22.3 the need to link up existing government data and align regulatory regimes; and
- 22.4 concerns that the government may consider requirements for blanket reduction targets once disclosure has been mandated.
- 23 The risks and mitigations section outlines some of the concerns stakeholders raised during consultation. I consider the proposed scheme settings address these concerns.

Analysis

A lack of energy and emissions information leads to information and coordination failures

- 24 Government has an incomplete and ad-hoc overview of the energy end-use in New Zealand.¹ For example, we do not have good information on how many large energy users utilise coal or fossil gas for heating purposes and where these entities are located. We also do not know the proportion of energy use and emissions come from electricity end uses versus direct use of fossil fuels. This hinders policymakers' ability to assess mitigation potential and monitor the effectiveness of existing measures, and for clean energy suppliers to forecast and manage potential growth at a regional level.
- 25 Better information on energy use and emissions would have significant benefits for the public, investors and government policy development. The lack of energy use data creates a coordination barrier between energy users and suppliers of clean energy infrastructure such as electricity infrastructure development and bioenergy providers. More visible energy and emissions performance data at the entity level also increases firms' motivations to improve their environmental impact.
- 26 Intervention is required to improve the government's ability to develop, assess and meaningfully consult on appropriate policy responses to meet our emission reduction and economic targets. More available, frequent, and detailed energy use and emissions data will:
- 26.1 enable government to develop robust policy to support emissions reduction;
 - 26.2 ensure that New Zealand's efforts to meet emission budgets and domestic and international targets can be effectively monitored and adjusted over time; and
 - 26.3 improve coordination of energy use and low-emissions energy supply.

Existing and proposed schemes do not meet the policy objectives

- 27 I consider it is appropriate to introduce a mandatory EERS as existing and proposed government-led emissions reporting mechanisms do not meet the policy objectives of an EERS (as set out in table 1). These schemes:
- 27.1 only partially target large energy users and emitters;
 - 27.2 do not provide a sector-wide view of energy use and emissions; and

¹ For the *National GHG Inventory and Energy in New Zealand*, Government currently relies on energy supply data to determine energy end-use and emissions, along with some data provided by some very large energy end-users on a voluntary basis. This data is for statistical purposes only and individualised company data cannot be shared with policy functions.

27.3 do not require energy data to be reported at the site-specific level of detail required under the EERS.

28 Further, the data collected for these schemes that may be relevant to the EERS often cannot be shared freely between government agencies to inform policy development.

Table 1: Gaps in existing and proposed reporting mechanisms

Reporting mechanism	Purpose and scope	Gaps in meeting the EERS policy objectives
Climate-Related Disclosures	<ul style="list-style-type: none"> To ensure the effects of climate change are routinely considered in business, investment, lending and insurance underwriting decisions Covers large registered banks, credit unions, building societies, licensed insurers, listed issuers and managers of registered investment schemes 	<ul style="list-style-type: none"> Focuses on increasing transparency of climate risks in financial markets Does not directly target large energy users (though some may be captured), nor does it capture all types of information required by the EERS
New Zealand Emissions Trading Scheme (NZ ETS)	<ul style="list-style-type: none"> To assist New Zealand to meet its international obligations under the Paris Agreement and help New Zealand to meet its 2050 target and emissions budgets Covers large energy importers or producers, i.e., “upstream suppliers” and industrial processes (non-energy) emissions 	<ul style="list-style-type: none"> Only includes emissions reported by participants in the NZ ETS² – Does not capture site-specific information or target the energy use and emissions of large energy users
NZ Greenhouse Gas Inventory	<ul style="list-style-type: none"> Contains emissions and removals data, national and sectoral emissions trends, and methodology used by New Zealand for estimating its emissions and removals to inform policy recommendations and monitor progress towards emissions reduction targets 	<ul style="list-style-type: none"> Does not provide site-specific information or target energy use Data for the Inventory is obtained by agencies responsible for specific chapters of the inventory, with support from Statistics New Zealand and cannot be shared for other purposes Collects entity-level emissions of certain firms but individual company information cannot be used or shared for other purposes
Carbon Neutral	<ul style="list-style-type: none"> To accelerate the reduction of emissions within the public 	<ul style="list-style-type: none"> Does not apply to private sector entities

² Emissions returns report | EPA

Reporting mechanism	Purpose and scope	Gaps in meeting the EERS policy objectives
Government Programme (CNGP)	sector • Covers public sector departments, departmental agencies, executive branch and Crown agents	
Proposed energy performance ratings for owners of large buildings	• To improve the energy efficiency of existing buildings • Covers owners of large commercial, public, industrial, and multi-unit residential buildings	• Targets building owners rather than corporate organisations that occupy the building space and may not provide the organisation with an overall picture of its emissions

Purpose

- 29 As outlined in table 1, existing reporting requirements do not capture detailed information on large emitters’ energy use and emissions.
- 30 A mandatory EERS will require large emitters to report their annual energy use and emissions. The purpose of the scheme is to:
 - 30.1 provide data to government to inform the development and monitoring of energy and climate policy and programmes, including to enable good policy decisions on setting and meeting targets in future emissions budget periods;
 - 30.2 provide data to the public and industry on the firms’ emissions performance, enabling meaningful consultation on government policy and to inform investment and purchasing decisions; and
 - 30.3 increase firms’ motivations to effectively assess and minimise their environmental impact.

Overview of the EERS

Scope

- 31 I propose that large emitters, defined as entities with annual gross entity-level emissions greater than 2000 tonnes of carbon dioxide equivalent (2kt CO₂-e) from their stationary energy consumption and purchased energy, will be required to report under this scheme.

- 32 Stationary energy use³ is energy used directly from fossil and geothermal sources for electricity and heat consumption. Purchased energy is electricity and heat generated offsite for a range of uses including manufacturing, space heating, water heating, lighting, refrigeration, pumping, other electrical appliances, and electronics. Emissions from stationary energy are equivalent to emissions referred to as Scope 1 (direct emissions) and emissions from purchased energy are equivalent to emissions referred to as Scope 2 (indirect emissions from purchased electricity and heat).
- 33 This definition excludes emissions referred to as Scope 3 (value chain emissions) under commonly accepted reporting guidelines, such as the Greenhouse Gas Protocol.⁴ It also excludes both direct and indirect emissions from mobile energy uses, such as energy used for transport, vehicles, mobile mining equipment or fishing vessels.
- 34 This definition largely captures firms in the industrial, commercial and public sectors. These entities will likely spend more than two million dollars per year on energy. This would include, for example:
- 34.1 large industrial firms in wood processing and dairy manufacturing;
 - 34.2 large commercial firms such as airports, supermarkets and big-box retail; and
 - 34.3 large public sector entities such as Te Whatu Ora and the Department of Corrections.
- 35 The EERS will generally not capture transport operators (such as trucking firms) unless they have significant emissions from stationary or purchased energy. Large stationary energy users share similar energy use patterns (heat and electricity consumption in buildings and other facilities), so using a broad definition ensures the largest share of energy and emissions can be captured while avoiding compliance costs on smaller businesses.
- 36 I am proposing a higher threshold than the 1kt CO₂e entity-level emissions per year that was consulted on in the ERP Discussion Document. While submitters were generally supportive of the proposed threshold, additional analysis identified that 1kt CO₂e is likely to capture smaller businesses, for which compliance costs could be quite high, as well as organisations covered under the CNGP.
- 37 I consider this higher threshold:
- 37.1 balances the benefits accrued to government, investors consumers and the public through open and transparent data on energy end-use

³ See also similar definitions by the U.S. Environmental Protection Agency <https://www3.epa.gov/carbon-footprint-calculator/tool/definitions/stationary-fuel.html> and the NZ Environmental Protection Agency <https://www.epa.govt.nz/industry-areas/emissions-trading-scheme/industries-in-the-emissions-trading-scheme/stationary-energy/>

⁴ See <https://ghgprotocol.org/corporate-standard>

and emissions, while minimising compliance burden on the reporting entities;

37.2 provides a starting point for understanding the level of emissions of our largest energy users; and

37.3 aligns with the definition of a “high-emissions site” in the Resource Management Act National Direction on Industrial Greenhouse Gas Emissions.

38 For the purpose of this scheme, reporting entities would include (but not be limited to) companies, body corporates, corporations sole, government departments, organisations and Crown entities. The entity-level reporting requirement is aimed at capturing large single-entities and large group-entities comprising their subsidiaries, to provide a more complete view of the large entity’s energy use and emissions. For example, at the entity level, the EERS is intended to require reports from entities such as:

38.1 Foodstuffs North Island, rather than each individual subsidiary of this supermarket franchise; and

38.1 Te Whatu Ora, rather than rather than each individual hospital that sits under Te Whatu Ora.

Proposed exemptions

39 I propose the legislation enable the Minister of Energy and Resources to provide exemptions for certain entities, or for entities to be exempted from reporting certain requirements, if the Minister is satisfied that those entities are already reporting that information to another government body, and the information will be shared with the EERS Registrar. This will ensure that any overlapping regulatory requirements are minimised where practicable and can help manage compliance costs.

40 For example, some public sector entities reporting under the CNGP could fall within the scope of the EERS. If information reported under the CNGP is also required under the EERS, it may not be necessary to also report this information under the EERS.

41 In 2021 (as part of the draft ERP), officials consulted on the proposal to include transport operators (i.e., mobile energy users) in scope of the EERS. The current definition of who is captured by the scheme is based on *stationary* energy use so by definition excludes *mobile* energy users. This means many transport operators, if they do not otherwise meet the 2kt CO₂-e threshold based on stationary energy uses – will not be captured by the scheme. While some submitters were supportive of including the transport sector, I consider it is appropriate to exclude it at this stage, as:

41.1 While there would be similar benefits to including transport companies to meet the overall policy intent, the structure of the industry, particularly road freight, is very different to stationary energy users. The

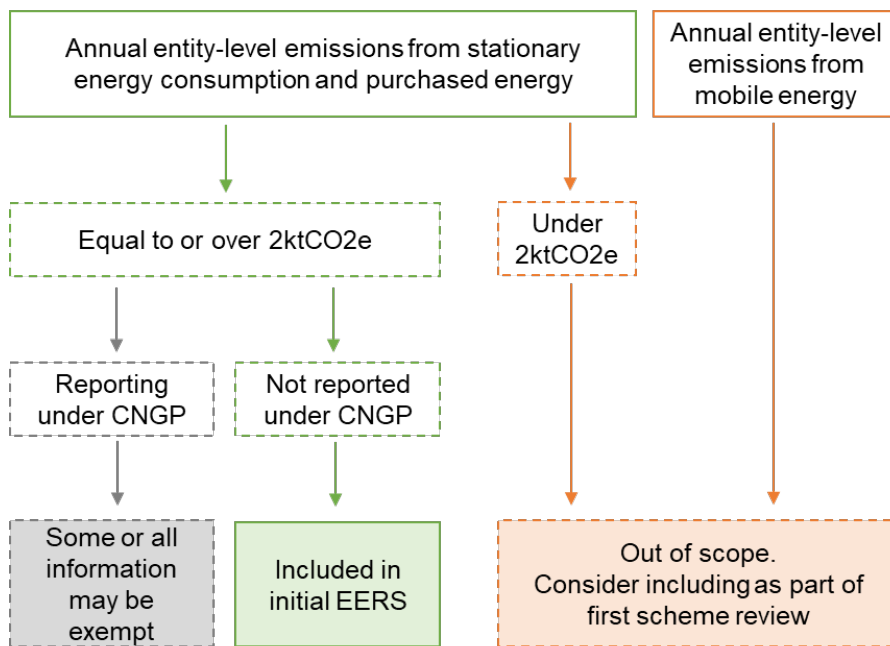
road freight sector consists of many more firms than stationary energy users, most of which are small. A number also operate as contractors to larger logistics firms, which is a dynamic not present in stationary energy.

41.2 This creates significant design and implementation challenges, requiring bespoke consideration of the appropriate emissions threshold and reporting obligations. The additional resource, analysis and consultation required to include this sector would delay implementation of the scheme.

42 I recommend the first review of the EERS includes consideration of the scheme’s sectoral coverage. This will provide a clear signal that the government will consider including the transport sector in the reporting scheme in the future.

43 Diagram 1 below sets out the proposed scope of the EERS.

Diagram 1: Proposed EERS scope



Reporting entities will be required to provide annual information on energy use, intensity, and emissions

44 Once an entity meets the reporting threshold, they will be required to report on all material emissions both at a site-specific and entity-wide level.

45 Table 2 sets out the proposed reporting requirements under the EERS. During consultation, some submitters raised concerns about potential requirements to publicly report commercially sensitive information. To address this, I propose that only information on entity-level energy use and emissions will be made publicly available. Site-specific information will not be publicly available.

This will ensure the data collected balances the needs of industry, the public and policy makers.

- 45.1 Entity-level information refers to an entity's total energy use and emissions from across all of its sites.
- 45.2 Site-specific information refers to an entity's energy use and emission from an individual site. Where entities operate more than one site, they will be expected to report on energy use and emissions for each site.

Table 2: Proposed reporting requirements under the EERS

Reporting category	Available to government	Available to public
Annual energy use by fuel (e.g., coal, diesel) and end-use (e.g., heating, stationary motive power)	Site-specific data	Entity-level data
Annual energy intensity metric(s) based on physical production (e.g., kilojoule of fuel per kg of total product)	Site-specific data	n/a
Annual emissions intensity metric(s) based on physical production (e.g., CO2 per kg of total product)	Site-specific data	n/a
Annual greenhouse gas emissions	Site-specific data	Entity-level data

- 46 Secondary legislation will set out further detail on the annual reporting requirements, including the manner and form in which the reports must be submitted and the specific methodology entities should use for each reporting category.

Reporting frequency

- 47 Reporting entities will be required to report by financial year, with a deadline to submit the energy and emissions report within four months after their financial reporting year ends. This will enable entities to complete reporting alongside existing analysis undertaken at the end of the financial year, whilst also allowing sufficient time to review the information collected and have that information independently assured. This reporting approach aligns with the climate-related disclosures regime.
- 48 I consider annual reporting appropriately balances compliance burden and information requirements. Large energy users already have other annual reporting requirements, including financial statements. More frequent reporting would increase the compliance burden and operational cost, and impact entities' ability to robustly respond. Similar schemes in other jurisdictions employ annual reporting.
- 49 I propose reporting requirements will apply for financial years commencing on or after the first day of the first calendar year following enactment. This will allow entities sufficient notice to prepare for the new regime, and for the Registrar to prepare and publish reporting guidance.

Independent assurance

- 50 Independent assurance supports trust and builds confidence in information to support decision making by central and local government, energy providers and users, and the public.
- 51 I propose that reporting entities will be required to have their energy end-use and emissions information subject to independent third-party assurance for financial years commencing on or after 12 months following when the reporting requirements come into force.
- 52 This means that, for example, if the legislation was enacted in mid-2025, an entity with a 30 June balance date would be required to report on their energy use and emissions in relation to the financial year ending 30 June 2027. They would then be required to obtain independent assurance on their energy use and emissions reporting in relation to the financial year ending 30 June 2028.

Implementation

- 53 I propose that MBIE administers the scheme, which will include development and maintenance of an online register, education of the scheme and compliance and enforcement functions.

Establishment of Registrar and register

- 54 To enable this, I propose to establish an EERS register and appoint an employee of MBIE as a Registrar. The Registrar will be able to delegate the undertaking of its functions and powers to other public sector employees.
- 55 Reporting entities will be required to register, and to disclose prescribed information to the Registrar.

Information sharing

- 56 The proposal is intended to address the lack of data available to government agencies. Therefore, I propose the Bill enables the Registrar to share energy use and emissions information provided by reporting entities within MBIE and with other government departments and Crown Entities. This would be for the purposes of policy and programme development, database and statistical inputs and outputs, and the publication of insights. Agency chief executives will agree appropriate data sharing protocols to ensure commercially sensitive information is not publicly released.

Compliance and enforcement

- 57 Separate to the Registrar function, I propose the Chief Executive has compliance and enforcement powers that promote compliance to achieve the policy intent of the regime, while not imposing unreasonable obligations on reporting entities.

- 58 To facilitate effective implementation and compliance, in the first year, the Registrar and the Chief Executive will focus on providing guidance to assist entities to comply with the scheme and will offer feedback on their first reports.
- 59 The Chief Executive will only have powers to issue corrective notices or seek penalties for financial years commencing on or after 12 months following when the reporting requirements come into force. This means that the Chief Executive will be unable to pursue enforcement action relating to reporting in the first year of the scheme.
- 60 I propose the Chief Executive is given the following set of powers to promote compliance:
- 60.1 **Monitor and investigate** compliance with the Act, including requiring entities to produce relevant documents for inspection. The Registrar will not have the power to conduct on-site inspections.
- 60.2 **Issue corrective notices** to a reporting entity, which will require the entity to remedy any non-compliance within a specified period.
- 60.2.1 This approach will enable the Chief Executive to address low level non-compliance whilst minimising cost to both government and regulated entities. It will reduce the likelihood of significant non-compliance and support the principle of high trust outlined above.
- 60.3 **Seek civil pecuniary penalties** should non-compliance continue following issuance of a corrective notice, with the maximum penalties set at:
- 60.3.1 \$20,000 for an individual and \$60,000 for a body corporate for failing without reasonable excuse to register an energy and emissions report
- 60.3.2 \$20,000 for an individual and \$60,000 for a body corporate for intentionally providing incomplete, false or misleading information required in an energy and emissions report
- 60.3.3 \$100,000 for an individual and \$300,000 for a body corporate for failing without reasonable excuse to independently assure an energy and emissions report
- 60.3.4 \$100,000 for an individual and \$300,000 for a body corporate for intentionally providing incomplete, false or misleading information in relation to independent assurance.
- 61 The size of these penalties is intended to:
- 61.1 provide sufficient incentive to comply, while not imposing unreasonable obligations on reporting entities or on the Crown;

- 61.2 enable the provision of good quality data in line with the policy intent; and
- 61.3 be proportionate to the size of the entities covered by the scheme.
- 62 Given the current lack of information on large energy users' energy use and emissions, it is difficult to estimate the number of entities that will be captured by the EERS. This creates a risk that some entities who meet the threshold may not self-identify or register into the scheme. I therefore propose that the Chief Executive's power requiring entities to produce relevant documents for inspection extends to entities that have not self-identified or registered into the scheme but where the Chief Executive has reasonable grounds to suspect the entity may meet the reporting threshold.
- 63 If following this investigation, the entity is found to be over the reporting threshold, they will be required to comply with the EERS reporting requirements and may be subject to penalties for non-compliance. Officials will develop a compliance and enforcement regime for the entities captured in paragraph 62 above, to include in the exposure draft of the Bill.
- 64 I propose the scheme includes a complaints process that enables reporting entities to seek a review by a third party of corrective notice and an appeal process against a review decision.

Future proofing

- 65 I propose MBIE review the EERS after three years of operation, to ensure that the scheme is operating as intended and achieving its stated purpose. The review will include:
- 65.1 the reporting threshold;
- 65.2 consideration of expanding the scheme's scope to include mobile energy users, i.e., transport companies; and
- 65.3 administration of the scheme, including funding, education and guidance, and the compliance and enforcement regime.
- 66 This will clearly signal to the transport sector and to businesses currently below the reporting threshold that the government will consider including them in the scheme in the future.

Costs and benefits of the EERS

- 67 The main costs for reporting entities will relate to data collection, record keeping, annual reporting and annual independent third-party assurance. Initial estimates of the expected average compliance costs for reporting entities are around \$14,000 in year one, \$79,000 in year two and \$47,000 per annum ongoing. Compliance costs are expected to be higher in year two, as this is the first year that entities will be required to procure external assurance. The costs associated with obtaining independent assurance are expected to reduce in subsequent years. These costs were benchmarked against the UK

Streamlined Energy and Carbon Reporting policy (where relevant), given the similarity between the two schemes.

- 68 Costs will differ depending on an entity's size, and the extent to which they already have systems in place to measure and report energy and emissions internally. However, I consider these costs are relatively low for the size of the entities that would be covered by the scheme, and note that many large energy users are already measuring their energy use at a site or process level.
- 69 The main costs for government are for establishing, administration, providing implementation guidance, monitoring and enforcing of the EERS.
- 70 Measuring and reporting emissions fills a key information gap necessary to develop and evaluate policy, track progress towards our emission reduction targets, and enable the adoption of energy saving and emission reducing technologies. This information creates greater visibility, transparency and accountability around energy use and emissions. This more accurate information will support decisions on an optimal policy mix to ensure a fair and cost-effective transition to meet our emissions targets, and avoids the risk of costly and abrupt change later.
- 71 I consider the main direct benefits of the EERS to stakeholders are:
- 71.1 **Large energy users:** increased visibility of the benefits of energy efficiency and emission reduction projects and the ability to make more informed choices on fuel choice and timing.
 - 71.2 **Energy stakeholders:** indications of entities' opportunities for potential site conversion could help stimulate the electricity and bioenergy markets to provide regionally based solutions, inform Transpower and electricity distributors on the infrastructure needs to support decarbonisation, and support the bioenergy sector to identify areas of future market demand.
 - 71.3 **Energy suppliers:** increased data availability will improve energy suppliers' confidence to invest in supply-side infrastructure.
 - 71.4 **Government:** more accurate statistical reporting, improved evidence-base for policy development and monitoring the effectiveness of policy interventions.
 - 71.5 **Public:** enhanced public confidence that New Zealand's large energy users are actively taking responsibility for managing their emissions.
 - 71.6 **Shareholders and investors:** greater assurance for investors that businesses are actively assessing, managing and disclosing their energy use and emissions, enabling better informed investment decisions.

71.7 **Local Government:** increased availability of regional data to develop greenhouse gas inventories, which supports regional climate change responses.

72 There are also indirect benefits from measuring and reporting as a result of energy efficiency and renewable energy investments. While these are harder to measure precisely, similar schemes in other jurisdictions have estimated a two per cent annual increase in energy efficiency as a result of better information and scrutiny. In a New Zealand context, this would translate to around \$196 million in annual energy savings.

Risks and mitigations

73 Table 3 below sets out the main concerns raised through stakeholder consultation and proposed mitigations. I consider these will sufficiently address entities’ concerns.

Table 3: Risks and mitigations of introducing the EERS

Main concerns	Mitigation measures
Reporting schemes are already in place / overlap with other reporting requirements	Where practical, I intend EERS reporting requirements to align with current CNGP requirements, proposed building energy performance ratings, and climate-related disclosures reporting. This will reduce the potential compliance and reporting burden for entities that may also be captured by the EERS regime. The responsible Minister will also be empowered to make exemptions to further reduce compliance burden and overlapping requirements.
Reporting compliance burden	Mechanisms to reduce the compliance burden on reporting entities include: <ul style="list-style-type: none"> • alignment with existing reporting mechanisms • providing a standardised reporting framework • operating a “support and educate” regulation format • reduced compliance cost in the first year of reporting.
Release of commercially sensitive data	To address this concern, the public and reporting to government requirements have been separated. Public reporting requirements are at an aggregated entity level. The provision of information to government can be protected under the Official Information Act 1982 if it is considered to be commercially sensitive information. MBIE will establish appropriate data sharing protocols between agencies and ensure that the publication of data does not identify the specific data of particular sites.
Misleading information to the public	Energy intensity reporting will only be provided to government to protect public comparison between sites that may produce products with different emissions profiles.
No discernible impact on emissions	Analysis of international schemes has proven that transparent and available information on energy use and emissions reduces

Main concerns	Mitigation measures
	emissions through increased energy efficiency and renewable energy investment.
Disproportionate burden on small-medium operators	The scheme will cover large-energy users, which are mainly large operators. The regulator will support entities to comply as easily and efficiently as possible.

Implementation

- 74 I propose legislation is introduced by mid-2024, with policy work on secondary legislation occurring concurrently with the Parliamentary stages of the Bill. Final implementation timeframes will depend on the priority given to EERS legislation in the next term of Parliament.
- 75 MBIE will implement reporting systems and appointment of a Registrar in time for commencement of the EERS.

Cost-of-living implications

- 76 I do not expect the introduction of the EERS to have direct or indirect impacts on the cost of living, due to the narrow focus of the scheme and the length of time before it will be in force.

Use of external resources

- 77 Sapere consulting was engaged to undertake a cost-benefit analysis (CBA) in 2019. MBIE routinely outsources CBAs and at the time, this technical expertise was not available within the Energy and Resources Branch.

Financial Implications

- 78 Budget 2022 included funding for MBIE to set up and administer the scheme in the appropriation *Energy and Resources: Monitoring and Enforcement of an Energy and Emissions Reporting Scheme for Large Energy Users*, as part of the *Funding Further Decarbonisation of Process Heat and Implementation of Supporting Policies* initiative [CAB-22-MIN-0129 refers].
- 79 This funding was based on the 2021 estimate that costs to the Crown to implement the scheme would be \$1.427 million for the first year, and on average \$0.933 million ongoing.
- 80 The EERS will be implemented later than the original timeline due to focus on other priorities.⁵ Confidential advice to Government [REDACTED]

⁵ In late 2022 final policy development of the scheme slowed due to prioritisation of target measures with direct emissions reductions (e.g., large emitter partnerships). In May 2023, the Prime Minister confirmed slowing work on the EERS and acknowledged that policy decisions will still be sought this term.

80.1 Confidential advice to Government [Redacted]

80.2 Confidential advice to Government [Redacted]

80.3 Confidential advice to Government [Redacted]

81 Confidential advice to Government [Redacted]

82 Confidential advice to Government [Redacted]

Legislative Implications

83 Confidential advice to Government [Redacted]

84 To ensure that the proposed changes are workable in practice, I seek Cabinet's authority for me to approve the release of an exposure draft Bill and related commentary for public consultation.

85 A draft Bill will be provided to Cabinet Legislation Committee for consideration prior to introduction.

86 Secondary legislation will be required to deliver the detail of these proposals, including specific reporting requirements. If the Bill were to be enacted, I anticipate it will not give rise to new requirements for the sector until at least 2026. This is intended to give time for the sector to prepare for the new requirements.

87 This Act will bind the Crown.

Impact Analysis

Regulatory Impact Statement

88 MBIE has prepared a Regulatory Impact Statement (RIS) for a mandatory energy and emission reporting scheme, attached as Annex One.

89 MBIE's Regulatory Impact Analysis Review Panel has reviewed the attached Impact Statement prepared by MBIE. The panel considers that the information and analysis summarised in the Impact Statement meets the criteria

necessary for Ministers to make informed decisions on the proposals in this paper.

Climate Implications of Policy Assessment

- 90 The climate implications of policy assessment (CIPA) team has been consulted on the scheme and confirms that the CIPA requirements do not apply to this proposal as there is no direct impact on emissions and any potential indirect impact on emissions is unable to be accurately quantified.
- 91 The purpose of the scheme is mandatory reporting of energy use and the associated emissions for large energy users. The primary objectives are to enable a stronger evidence base for policy development, monitoring and evaluation, and provide large energy users insight into their emissions profile. It will also enable publicly available data, to inform consumers. It is intended that this could lead to emissions being reduced indirectly through better visibility and management of energy use and reputational drivers to reduce it.

Population Implications

- 92 The proposed scheme is unlikely to have any material population impacts.

Te Tiriti o Waitangi Implications

- 93 Māori-owned entities will be required to report if they meet the threshold for reporting under the scheme. This may have compliance burdens and financial implications on these companies. In 2021, MBIE contacted iwi corporate holdings Ngāti Whātua Ōrākei Whai Rawa, Ngāi Tahu Holdings and Tainui Group Holdings it believed could meet the threshold to seek their views but received no opposition to the scheme. Prior to release of this policy, my officials intend to engage with Māori-owned entities that may be captured by the scheme.
- 94 The EERS may also benefit Māori interests, as increased transparency of information would provide iwi with an overview of regional energy use and the associated emissions. The regionalised view of energy use and emissions can support iwi understanding the activities occurring in their rohe and to encourage businesses in their rohe towards more sustainable energy.
- 95 Iwi/ Māori were invited to participate in consultation on these proposals alongside other stakeholders and bespoke hui were held as part of engagement on the draft ERP. Submissions from two entities – Te Korowai o Ngāruahine Trust and Te Rūnanga o Ngāi Tahu – indicated support for increased transparency and corporate responsibility in energy and emissions reporting and management.
- 96 More broadly on energy transition and the ERP, iwi/Māori submissions raised the expectation for the Crown to work together with tangata whenua to develop climate and energy transition policy, and to ensure their rights and interests are well provided for.

- 97 As part of implementing the ERP, the government is developing a Māori Climate Platform in partnership with tangata whenua to enable Māori-led climate action, planning, and solutions that build climate resilience. In November 2022, the Minister for Climate Change announced a new Interim Ministerial Advisory Committee to engage with Māori and lead the design phase of the platform.
- 98 MBIE's Energy and Resources Branch will also continue to engage with iwi/Māori stakeholders as part of its energy and resources portfolio.

Human Rights

- 99 The proposals in this paper are not inconsistent with the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993.

Consultation

Government consultation

- 100 The following agencies were consulted in the development of this paper: The Treasury, Department of Conservation, Ministry for Primary Industries, Ministry for the Environment, Ministry of Business, Innovation and Employment (Building for Climate Change, Small Business, Commerce and Consumer), Ministry of Foreign Affairs and Trade, Ministry of Justice, Ministry of Transport, Stats NZ, Te Arawhiti and Te Puni Kōkiri and Parliamentary Counsel Office. The Energy Efficiency and Conservation Authority, the Environmental Protection Authority and the External Reporting Board were also consulted. The Department of Prime Minister and Cabinet was also consulted.

Legislation Design and Advisory Committee

- 101 The Legislation Design and Advisory Committee provided advice on balancing policy between primary and secondary legislation, compliance and enforcement, legislative cohesion and workability. Officials have reflected this feedback in the policy design.

Public consultation

- 102 Officials tested and refined these proposals through three different public consultations from 2019 to 2021:
- 102.1 The technical paper *Process Heat in New Zealand: Opportunities and barriers to lower emissions* tested officials' understanding of the barriers to lowering process heat emissions with stakeholders.
- 102.2 The AREEE discussion document included a proposal for large energy users to publish CETPs, which would require energy and emissions reporting as part of a broader suite of information.

102.3 The *Transitioning to a low-emissions and climate-resilient future: emissions reduction plan discussion document* sought feedback on the definition of a large energy user for the purposes of the EERS.

103 Most stakeholders including some large energy users, central government, the public, shareholders, energy companies and local government agree that the lack of transparent data on energy use and emissions is a problem, albeit some for different reasons.

Communications

104 I may issue a media statement once Cabinet decisions have been made. This paper, and the RIS, will be made available on MBIE's website through proactive release.

Proactive Release

105 I intend to proactively release this paper on MBIE's website alongside the RIS within 30 business days, subject to redactions as appropriate under the Official Information Act 1982.

Recommendations

106 The Minister of Energy and Resources recommends that the Committee:

Context

- 1 **note** the lack of consistent, accessible, and granular data available to government and the public on the energy use and emissions from New Zealand's large energy users affects decision making and market coordination
- 2 **note** Action 11.4.1 of the Emissions Reduction Plan includes the commitment to develop a mandatory energy and emissions reporting scheme for large energy users
- 3 **note** the proposed scheme will enable government to develop robust policy to support emissions reduction and improve the coordination of energy use and low-emissions energy supply

Energy and Emissions Reporting Scheme

- 4 **agree** to prepare a new Bill to establish an energy and emissions reporting scheme (EERS)
- 5 **agree** that large emitters, defined as entities with annual entity-level gross emissions greater than 2000 tonnes of carbon dioxide equivalent (2kt CO₂-e) from their stationary energy use and purchased energy, will be required to report under this scheme
- 6 **agree** that the Bill empowers the relevant Minister to provide exemptions for certain entities, or for entities to be exempted from certain EERS reporting requirements, if the Minister is satisfied that those entities are already

reporting that information to another government body that will be shared in the EERS register

- 7 **agree** that reporting entities be required to report information on their emissions and energy use to the Registrar that shows their entity-level and site-specific annual energy use by fuel and end-use
- 8 **agree** that the Bill include the ability to make secondary legislation that specifies the details of the information that entities are required to report
- 9 **agree** that the Bill empowers the Registrar to prescribe the manner and form in which the information is to be provided
- 10 **note** that only the following information will be publicly available:
 - 10.1 entity-level annual energy use by fuel and end-use
 - 10.2 entity-level annual greenhouse gas emissions
- 11 **agree** that reporting requirements will apply to financial years starting on or after the first day of the first calendar year following enactment
- 12 **agree** that from financial years commencing on or after 12 months following when the reporting requirements come into force, reports must be independently assured
- 13 **agree** that the legislation enable the establishment of a EERS register and the appointment of an employee of the Ministry of Business, Innovation and Employment (MBIE) as the Registrar
- 14 **agree** that the Registrar and MBIE can share energy use and emissions information provided by reporting entities within MBIE and with other government departments and Crown Entities, with appropriate data sharing protocols to ensure commercially sensitive information is not publicly released
- 15 **note** I consider the Official Information Act adequately protects the potential commercial sensitivity of information provided to MBIE by the reporting entities

Compliance and enforcement

- 16 **agree** that the Bill provides the Chief Executive of MBIE (the Chief Executive) with powers to promote compliance:
 - 16.1 **monitor and investigate** compliance with the Act, including requiring entities to produce relevant documents for inspection
 - 16.2 **issue corrective notices** to a reporting entity, which will require the entity to remedy any non-compliance within a specified period

- 16.3 **seek civil pecuniary penalties** should non-compliance continue following issuance of a corrective notice, with the maximum penalties set at:
- 16.3.1 \$20,000 for an individual and \$60,000 for a body corporate for failing without reasonable excuse to register an energy and emissions report
 - 16.3.2 \$20,000 for an individual and \$60,000 for a body corporate for intentionally providing incomplete, false or misleading information required in an energy and emissions report
 - 16.3.3 \$100,000 for an individual and \$300,000 for a body corporate for failing without reasonable excuse to independently assure an energy and emissions report
 - 16.3.4 \$100,000 for an individual and \$300,000 for a body corporate for intentionally providing incomplete, false or misleading information in relation to independent assurance
- 17 **agree** that the power requiring entities to produce relevant documents for inspection extends to entities that have not self-identified or registered into the scheme but where the Chief Executive has reasonable grounds to suspect the entity may meet the reporting threshold
- 18 **authorise** the Minister of Energy and Resources and the Minister of Justice to make policy decisions on a compliance and enforcement regime for the entities captured in recommendation 17 above, to include in the exposure draft of the Bill
- 19 **agree** that the Chief Executive can only undertake compliance and enforcement actions relating to reports for financial years commencing on or after 12 months following when the reporting requirements come into force

Three-year review

- 20 **agree** that the scope, threshold and administration (including funding mechanisms) of the regime will be reviewed within three years of commencement
- 21 **note** that transport entities will generally not be captured by the scheme (unless they meet the proposed threshold based on stationary energy use)
- 22 **note** I intend to consider expanding the scheme to transport entities and other mobile energy users as part of the first review of the regime
- 23 **note** that the scope of the regime may expand in future years, subject to appropriate consultation

Funding implications

24 **note** that Budget 2022 included funding for MBIE to set up and administer the scheme in the appropriation *Energy and Resources: Monitoring and Enforcement of an Energy and Emissions Reporting Scheme for Large Energy Users*, as part of the *Funding Further Decarbonisation of Process Heat and Implementation of Supporting Policies* initiative

25 **note** that the EERS will be implemented later than the original timeline due to focus on other priorities

26 Confidential advice to Government

27 Confidential advice to Government

Legislative implications

28 **note** that new primary and secondary legislation are required to give effect to these proposals

29 **note** that the legislative proposals in this paper are enabling and will require further public consultation and the development of secondary legislation to operationalise the scheme

30 Confidential advice to Government

31 **invite** the Minister of Energy and Resources to issue drafting instructions to the Parliamentary Counsel Office to give effect to the policy proposals in this paper

32 **authorise** the Minister of Energy and Resources to share the draft Bill with the Energy Efficiency and Conservation Authority and Statistics New Zealand

33 **authorise** the Minister of Energy and Resources to make decisions on any minor or technical changes consistent with the policy intent

34 **authorise** the Minister of Energy and Resources to make decisions consistent with the proposals in this paper on any issues which arise during the drafting process

35 **authorise** the Minister of Energy and Resources to approve and release an exposure draft Bill and related commentary for public consultation

36 **agree** that the legislation drafted to give effect to the above policy proposals will bind the Crown

Communications

37 **agree** to proactively release this Cabinet paper package and associated Cabinet minute within 30 business days of Cabinet decisions.

Authorised for lodgement

Hon Dr Megan Woods

Minister of Energy and Resources

Appendix 1: Regulatory Impact Statement