

## **Appendices**

to the McGuinness Institute submission on the  
Strategy and Metrics and Targets Consultation  
Aotearoa New Zealand Climate Standard 1:  
Climate-related Disclosures (NZ CS 1)



## Appendix 1: Consultation questions

### 1) Do you think the proposed Strategy section of NZ CS 1 meets primary user needs?

- a) Do you think that the information in this section of the standard will provide information that is useful to primary users for decision making? If not, please explain why not and identify any alternative proposals.
- b) Do you consider that this section of the standard is clear and unambiguous in terms of the information to be disclosed? If not, how could clarity be improved?
- c) Do you consider that this section of the standard is adequately comprehensive and achieves the right balance between prescriptiveness and principles-based disclosures? If not, what should be removed or added to achieve a better balance?

### 2) Do you agree that a standalone disclosure describing the entity's business model and strategy is necessary? Why or why not?

### 3) Do you agree that we should not prescribe which global mean temperature increase scenario(s) should be used to explore higher physical risk scenarios (such as 2.7°C and/or 3.3°C or by using Representative Concentration Pathways (RCP) such as RCP4.5 or 6), but rather leave this more open by requiring a 'greater than 2°C scenario'? Why or why not?

### 4) We do not require transition plans to be tied to any particular target such as net zero and/or 1.5°C, but that entities will be free to disclose this if they have done so. Do you agree? Why or why not?

### 5) Do you have any views on the defined terms as they are currently proposed?

### 6) The XRB has identified adoption provisions for some of the specific disclosures in NZ CS 1:

- a) Do you agree with the proposed first-time adoption provisions? Why or why not?
- b) In your view, is first-time adoption relief needed for any of the other disclosure requirements? Please specify the disclosure and provide a reason.
- c) If you are requesting further first-time adoption relief, what information would you be able to provide in the interim?

### 7) Do you think the proposed Metrics and Targets section of NZ CS 1 meets primary user needs?

- a) Do you think that the information in this section of the standard will provide information that is useful to primary users for decision making? If not, please explain why not and identify any alternative proposals.
- b) Do you consider that this section of the standard is clear and unambiguous in terms of the information to be disclosed? If not, how could clarity be improved?
- c) Do you consider that this section of the standard is adequately comprehensive and achieves the right balance between prescriptiveness and principles-based disclosures? If not, what should be removed or added to achieve a better balance?

### 8) We have not specified industry-specific metrics. The guidance will direct preparers where to look for industry-specific metrics. Do you believe this is reasonable or do you believe we should

include a list of required metrics by industry? If so, do you believe we should use the TCFD recommendations or follow the TRWG prototype?

9) We will require disclosure of scope 3 value chain emissions as part of this standard. Are there areas (particularly in your scope 3 value chain) where there are impediments to measuring at present? If so, what are these areas and when do you think it might be possible to measure these areas?

10) Paragraphs 8, 9 and 10 contain specific requirements relating to the disclosure of GHG emissions to facilitate the conduct of assurance engagements in line with the requirement of section 461ZH of the Financial Markets Conduct Act. Do you have any observations or concerns about these proposed requirements?

11) Do you have any views on the defined terms as they are currently proposed?

12) The XRB has proposed not providing first-time adoption provisions for the Metrics and Targets section of NZ CS 1. Do you agree? Why or why not?

13) The XRB proposes that the minimum level of assurance for GHG emissions be set at limited assurance. Do you agree?

14) The XRB has proposed a definition of material (Information is material if omitting, misstating, or obscuring it could reasonably be expected to influence decisions that primary users make on the basis of their assessments of an entity's enterprise value across all time horizons, including the long term). Do you agree with this definition? Why or why not?

15) Do you have any other comments on the proposed materiality section?



Appendix 2:

**Relevant McGuinness Institute publications  
from 2011 onwards**

## Appendix 2: Relevant McGuinness Institute publications from 2011 onwards

Digital versions of these publications are available [here](#).

**Table 3: List of relevant publications**

Year	Month	Publication type	Status	Publication title
2011	January	Survey	Final	<i>Integrated Annual Report Survey of New Zealand's Top 200 Companies: Exploring Responses from Chief Financial Officers on Emerging Reporting Issues</i>
	December	Submission	Final	<i>Submission on the International Integrated Reporting Committee Discussion Paper</i>
2013	February	Submission	Final	<i>Submission on the Public Finance (Fiscal Responsibility) Amendment Bill 2012</i>
	July	Submission	Final	<i>Submission to the International Integrated Reporting Councils' (IIRC) Consultation Draft of the International Framework</i>
2014	April	Submission	Final	<i>Submission on the Environmental Reporting Bill</i>
2015	March	2058 Report	Final	<i>Report 10 – One Ocean: Principles for the stewardship of a healthy and productive ocean</i>
2016	October	Submission	Final	<i>Submission on the NZX Corporate Governance Best Practice Code</i>
2017	April	Submission	Final	<i>Submission on disclosing non-GAAP financial information</i>
	10 April–3 July	Survey	Final	<i>Preparers' Survey: Attitudes of the CFOs of significant companies towards Extended External Reporting (published in collaboration with the XRB)</i>
	29 May–21 August	Survey	Final	<i>Users' Survey: Attitudes of interested parties towards Extended External Reporting (published in collaboration with the XRB)</i>
	December	Submission	Final	<i>Submission on NZX Listing Rule Review</i>
2018	March	Survey	Final	<i>Survey Insights: An analysis of the 2017 Extended External Reporting Surveys</i>
	March	Survey	Final	<i>Survey Highlights: A summary of the 2017 Extended External Reporting Surveys</i>
	March	Worksheet	Final	<i>ReportingNZ Overview Worksheet: An analysis of the state of play of Extended External Reporting</i>
	March	Working Paper	Final	<i>Working Paper 2018/01 – NZSX-listed Company Tables</i>
	March	Supporting Paper	Final	<i>Supporting Paper 2018/01 – Methodology for Working Paper 2018/01: NZSX-listed company tables</i>
	May	Submission	Final	<i>Submission to the Tax Working Group on the Future of Tax</i>
	July	Working Paper	Final	<i>Working Paper 2018/03 – Analysis of Climate Change Reporting in the Public and Private Sectors</i>
	July	Submission	Final	<i>Submission to Productivity Commission on a Low-emissions Economy</i>
	July	Submission	Final	<i>Submission to Ministry for the Environment on the Zero Carbon Bill</i>
	September	Working Paper	Final	<i>Working Paper 2018/04 – Legislation Shaping the Reporting Framework: A compilation</i>
	October	Think Piece	Final	<i>Think Piece 30 – Package of Climate Change Reporting Recommendations</i>
2019	July	Submission	Final	<i>Submission to Ministry for the Environment on the Climate Change Response (Zero Carbon) Amendment Bill</i>
	August	Submission	Final	<i>Oral Submission to Select Committee on Climate Change Response (Zero Carbon) Amendment Bill</i>
	September	Working Paper	Final	<i>Working Paper 2019/05 – Reviewing Voluntary Reporting Frameworks Mentioned in 2017 and 2018 Annual Reports</i>

Year	Month	Publication type	Status	Publication title
2019	September	Working Paper	Final	<i>Working Paper 2019/06 – Updated Analysis of Climate Change Reporting in the Public and Private Sectors</i>
	September	Think Piece	Final	<i>Think Piece 32 – Exploring Ways to Embed Climate Reporting in the Existing Framework</i>
	October	Slideshow	Final	<i>TCFD Workshops: Practical steps for implementation (Auckland and Wellington)</i>
	October	Discussion Paper	Final	<i>Discussion Paper 2019/01 – The Climate Reporting Emergency: A New Zealand case study</i>
	December	Survey	Final	<i>Survey Insights: An analysis of the 2019 Task Force on Climate-related Financial Disclosures (TCFD) survey</i>
	December	Submission	Final	<i>Submission on Climate-related financial disclosures: Understanding your business risks and opportunities related to climate change</i>
2020	May	Working Paper	Final	<i>Working Paper 2020/02 – The Role of a Directors’ Report: An analysis of the legislative requirements of selected Commonwealth countries</i>
	May	Legal Opinion	Final	<i>2020/01 – Obligations on directors to report risk in New Zealand annual reports under the Companies Act 1993</i>
	June	Working Paper	Final	<i>Working Paper 2020/03 – Reporting Requirements of Five Types of Entities</i>
	June	Working Paper	Final	<i>Working Paper 2020/04 – Analysis of Climate Reporting in the Public and Private Sectors</i>
	June	Working Paper	Final	<i>Working Paper 2020/05 – Reviewing Voluntary Reporting Frameworks mentioned in 2019 Annual Reports</i>
2021	March	Submission	Final	<i>Submission in response to He Pou a Rangi Climate Change Commission 2021 Draft Advice for Consultation</i>
	May	Submission	Final	<i>Submission in response to Financial Sector (Climate-related Disclosures and Other Matters) Amendment Bill</i>
	June	Working Paper	Final	<i>Working Paper 2021/06 – Reviewing TCFD information in 2017–2020 Annual Reports of NZSX-listed companies</i>
	July	Submission	Final	<i>Submission in response to the International Financial Reporting Standards Foundation (IFRS)</i>
	September	Working Paper	Final	<i>Working Paper 2021/11 – Analysis of Donations and Political Donations in 2020 Annual Reports by NZSX-listed companies</i>
	October	Discussion Paper	Final draft	<i>Discussion Paper 2021/04 – An Accounting Dilemma: Does a commitment to purchase offshore carbon credits create a requirement to disclose that obligation in the financial statements of the New Zealand Government?</i>
	November	Submission	Final	<i>Submission on Te hau mārohi ki anamata – Transitioning to a low-emissions and climate-resilient future</i>
	November	Submission	Final	<i>Submission on XRB’s Governance and Risk Management (NZ CS 1)</i>
	November	Working Paper	Final	<i>Working Paper 2021/14 – The Role of Water Temperature in Climate Change Policy – A New Zealand King Salmon Case Study</i>
	November	Working Paper	Final	<i>Working Paper 2021/15 – Looking for a taxonomy for Aotearoa New Zealand’s oceans</i>
	December	Working Paper	Final	<i>Working Paper 2021/09 – Analysis of Climate Change Reporting in the Public and Private Sectors</i>
	December	Working Paper	Final	<i>Working Paper 2021/04 – Reviewing Voluntary Reporting Frameworks Mentioned in 2018–2020 Annual Reports</i>
	WIP	Discussion Paper	In press	<i>Discussion Paper 2021/06 – Accounting for Natural GHG emissions, such as wildfires and volcanic eruptions (to become a 2022 discussion paper)</i>

Year	Month	Publication type	Status	Publication title
2022	January	Submission	Final	<i>Submission on NZX Corporate Governance Code Review 2021</i>
	March	Submission	Final	<i>Submission on Te Ara Paerangi – Future Pathways Green Paper</i>
	March	Submission	Final	<i>Submission on Improving Aotearoa New Zealand’s environmental reporting system</i>
	April	Submission	Final	<i>Submission on Proposed changes to regulations for the New Zealand Emissions Trading Scheme 2022</i>
	May	Discussion Paper	Final draft	<i>Discussion Paper 2022/02 – New Zealand King Salmon Case Study: A financial reporting perspective</i>
	May	Working Paper	Final	<i>Working Paper 2022/10 – New Zealand King Salmon key documents 2012–2022</i>
	WIP	Working Paper	In press	<i>Working Paper 2022/07 – Analysis of COVID-19 wage subsidy in 2020 Annual Reports by NZSX-listed companies</i>
	WIP	Working Paper	In press	<i>Working Paper 2022/08 – Analysis of Non-IFRS information in 2020 Annual Reports by NZSX-listed companies</i>
	WIP	Working Paper	In press	<i>Working Paper 2022/09 – Analysis of NZSX-listed companies in terms of market capitalisation and net assets in their 2018-2021 annual reports</i>

Appendix 3:

**Insights from *Report 17 – ReportingNZ:*  
*Building a reporting framework fit for purpose***

(25 June 2020)

- 3(a) Section 6: Policy knots shaping the reporting framework  
Section 6.1: Who should the reporting framework be designed for: shareholders or stakeholders?  
(pp. 95–99)
  
- 3(b) Section 7.3.1: Relevance of the directors' report  
Section 7.3.2: Ensuring consistent application of TCFD recommendations  
Section 7.3.3: Who should apply climate-related disclosures?  
(pp. 115–118)
  
- 3(c) Section 8: Comprehensive list of recommendations  
(pp. 125–137)



## 6. Policy knots shaping the reporting framework

### Highlights

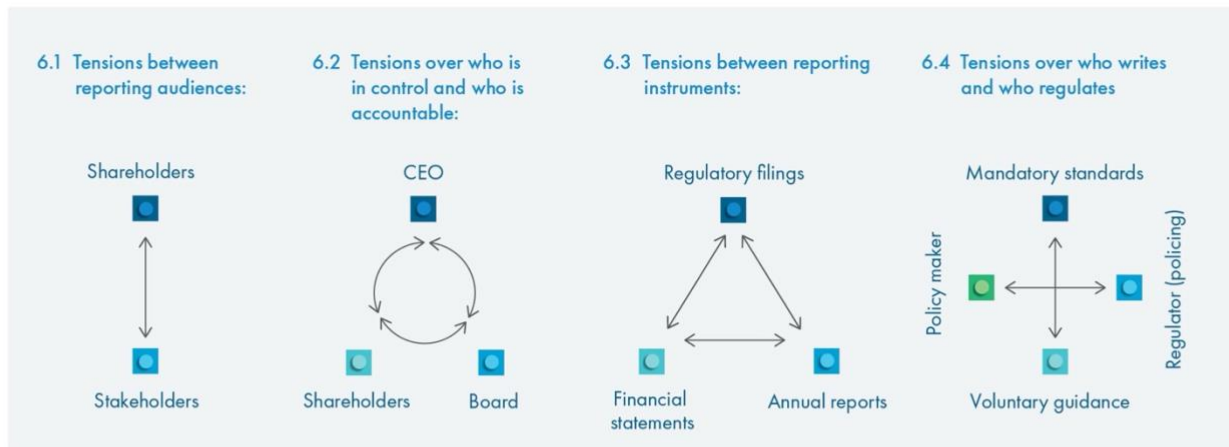
If the following overarching questions were answered by government, they would help develop a new, improved reporting framework fit for purpose:

1. Who should the reporting framework be designed for: shareholders or stakeholders?
2. Who is in control – the CEO, the board or the shareholders – and who are they being held accountable to?
3. Which policy instruments should be used for which type of organisation: financial statements, annual reports and/or regulatory filings?
4. Who should write and regulate reporting and assurance policy, and which disclosures should be mandatory?

Policy knots is a term the McGuinness Institute uses to refer to high-level tensions and complex, interconnected issues that are often difficult to untie. They are usually caused by strategic issues such as an unbalanced system, ill-defined purpose, conflicting goals, confusing processes, or a lack of regular reviews (meaning the system fails to refresh and recalibrate). When policy knots are resolved the system can operate without disruption and deliver on its purpose in a cost-effective and timely manner.

Figure 34 below illustrates the four policy knots in the reporting framework that the Institute believes require urgent attention. Government could clarify the purpose and principles driving the reporting framework by outlining a response to each of the policy knots summarised below. Having a clear purpose and agreed set of principles is the first step to ensuring that New Zealand has a reporting framework fit for purpose.

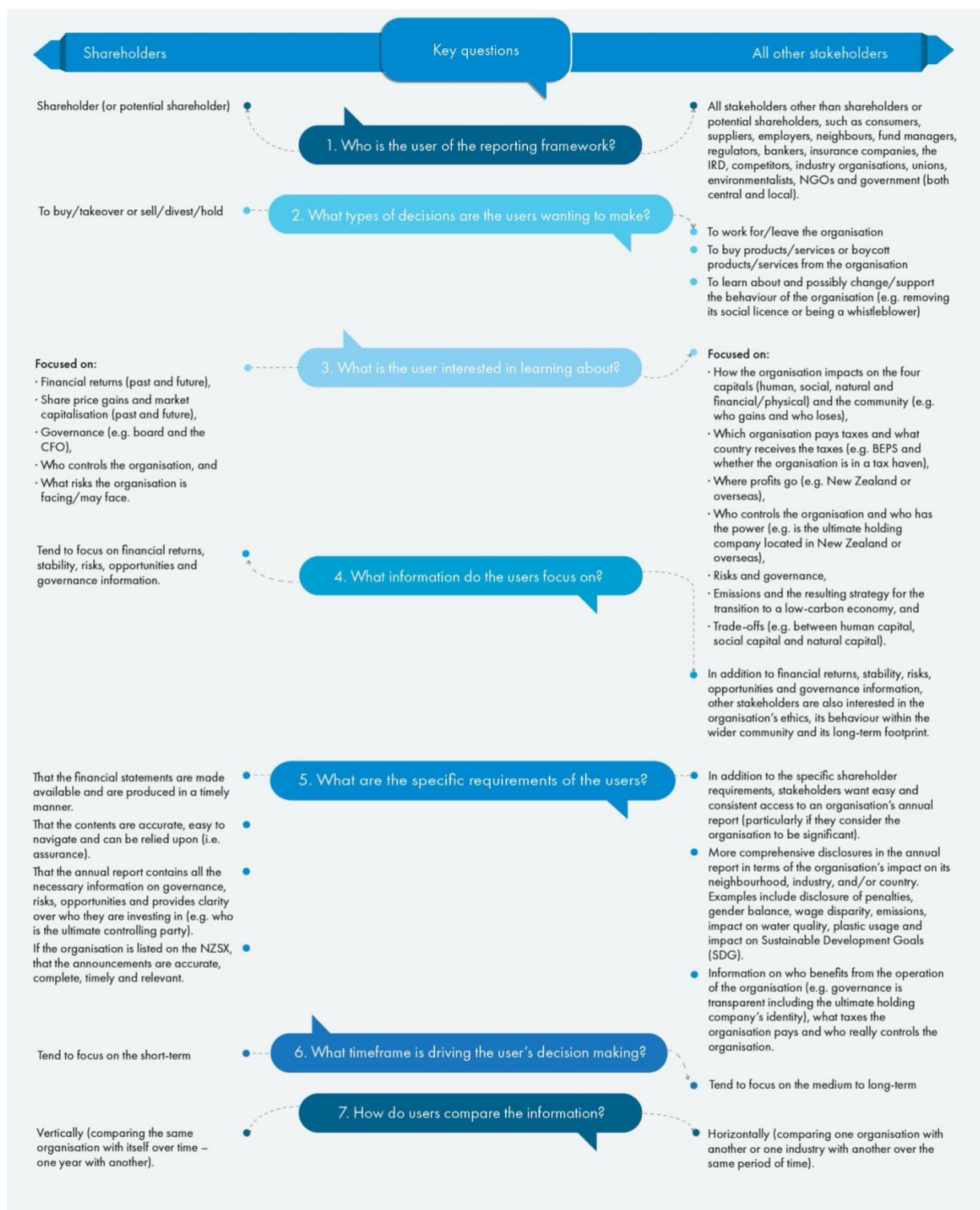
Figure 34: Illustrating the policy knots creating uncertainty in the reporting framework



### 6.1 Who should the reporting framework be designed for: shareholders or stakeholders?

The first policy knot concerns the most significant question raised by this research – should the reporting framework be designed for shareholders or stakeholders? Answering this question will have the biggest impact on the framework in terms of structure and strategy. Figure 35 opposite compares a framework designed for shareholders to a framework designed for stakeholders.

Figure 35: Comparing shareholders and stakeholders as the key users of the reporting framework



The key to the distinction between the terms 'shareholder' and 'stakeholder' is that the former has a share in an organisation's profits while the latter has a stake or interest in the impacts of an organisation's operations. The term stakeholder first started appearing in the early 1960s in reference to 'groups without whose support the organization would cease to exist' (Freeman & Reed, 1983, p. 89). Over time the types of users 'who have ideas about what the economic and social performance of the enterprise should include' have expanded to include a wide range of parties other than shareholders, including employees, suppliers, neighbours, bankers, insurers and government (Freeman & Reed, 1983, p. 90). The remainder of this policy knot explores who the existing framework was designed for and whether there are emerging audiences with different needs.



6. POLICY KNOTS SHAPING THE REPORTING FRAMEWORK

The existing framework was designed for shareholders; ‘a doctrine of shareholder primacy [...] has defined Anglo-Saxon capitalism for almost 50 years and shaped a world that is increasingly driven by corporations’ (Edgecliffe-Johnson, 2019). This can be evidenced in a number of ways. For example, the term ‘shareholder’ is recognised in law in relation to reporting, while the term ‘stakeholder’ is now only emerging as a term used in legislation (see Table 2 in Section 4). The term ‘stakeholder’ was incorporated into s 64B of the Local Government Act 2002 in October 2019. The amendments to the Act require council-controlled organisations to prepare a ‘statement of expectations’ in relation to how a council-controlled organisation is to conduct its relationships with ‘shareholding local authorities; and the communities of those local authorities, including any specified stakeholders within those communities...’. This is the only piece of legislation that mentions stakeholders in terms of reporting, albeit in terms of letting shareholders know about how those relationships are managed.

The prevalence of the term ‘shareholder’ in legislation is even seen in the Public Finance Act 1989, which requires reports to be presented to the House of Representatives, arguably in their role as the shareholder of the public sector (see s 31).

Stakeholders are mentioned elsewhere in legislation, but not in relation to reporting. For example, the Education Act 1989 and the Fiordland (Te Moana o Atawhenua) Marine Management Act 2005 respectively mention the term stakeholder in relation to consultation requirements or in the preamble.

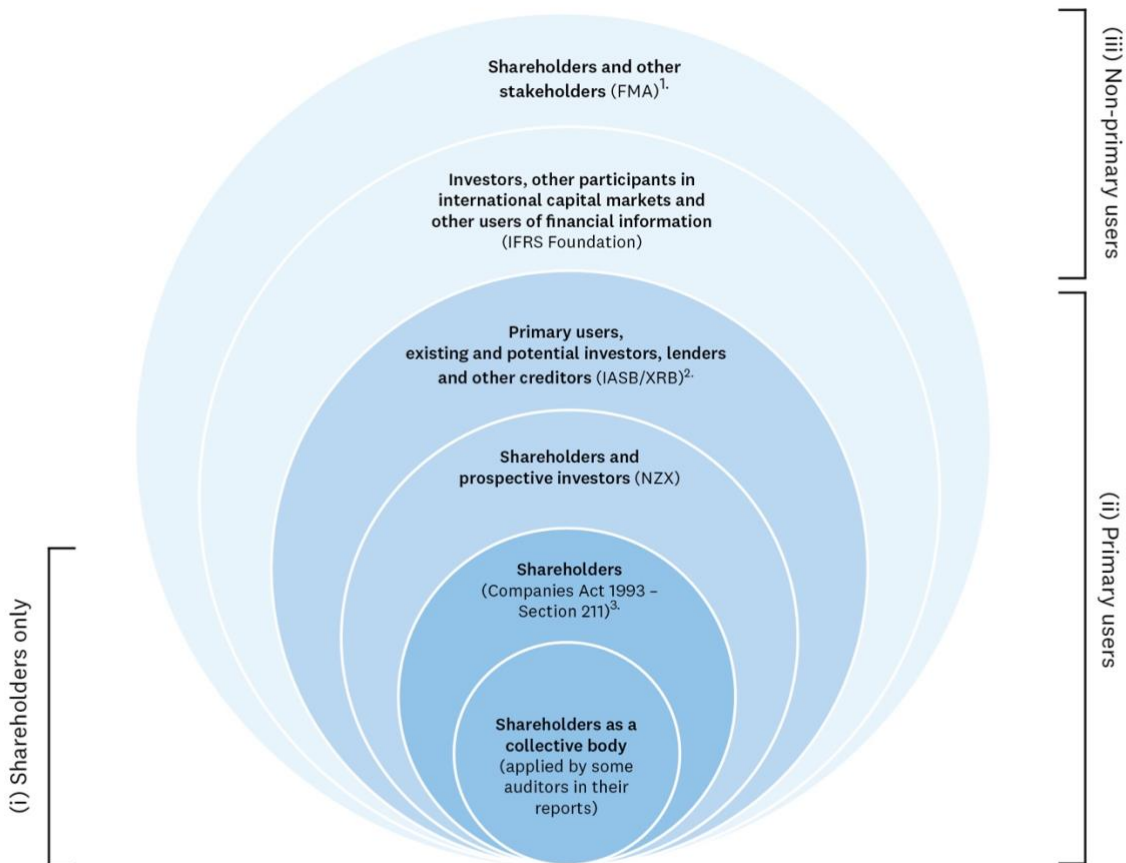
Shareholder and creditor bias is also evident in the XRB’s *NZ Conceptual Framework* for for-profit entities, which identifies primary users and other users as follows:

Many existing and potential investors, lenders and other creditors cannot require reporting entities to provide information directly to them and must rely on general purpose financial reports for much of the financial information they need. Consequently, they are the primary users to whom general purpose financial reports are directed [...] Throughout the 2018 *NZ Conceptual Framework*, the terms ‘primary users’ and ‘users’ refer to those existing and potential investors, lenders and other creditors who must rely on general purpose financial reports for much of the financial information they need (XRB, 2018e, p. 9).

Figure 36 below illustrates the distinction between shareholders, primary users, and non-primary users (wider stakeholders).

Figure 36: Illustrating six types of users in New Zealand’s regulatory regime

Source: (McGuinness Institute, 2019a, p. 33)





Notes to Figure 36:

1. The FMA's Corporate Governance Handbook includes 'shareholder relations and stakeholder relations' as one of the eight principles of good governance (FMA, 2018, p. 3).
2. In the PBE sector, primary users are a wider group including service recipients and resource providers.
3. Referring to shareholders 'as a body' or 'as a collective body' is not terminology required by the XRB or the IAASB.

Shareholder bias also extends to guidance documents. For example, the *NZX Code* only includes 'shareholder rights & relations' as a principle but makes no mention of stakeholder rights/relations (NZX, 2020d, p. 33). The *FMA Handbook* previously included stakeholder interests as a distinct principle, but this was combined with shareholder relations in 2017 to become Principle 8: 'Shareholder relations and stakeholder interests' (FMA, 2014a, p. 2; 2018a, p. 4). This may have been in response to the FMA's *2016 Review of corporate governance disclosure*, which found that 'of the nine principles outlined in our handbook, stakeholder interests had the lowest reporting (19%)' (FMA, 2016, p. 5).

Shareholders and stakeholders can be considered in terms of their interest or stake, and the type of power they have. While a historical model would indicate a simple division ('shareholders and directors have formal or voting power; customers, suppliers, and employees have economic power; and government and special interest groups have political power'), shifts over time have resulted in a much more complicated array of stakes and powers (e.g. government also has economic power in terms of 'import quotas or the trigger price mechanisms' and some regulators have 'formal power in terms of disclosure and accounting rules') (Freeman & Reed, 1983, pp. 93–94). As 'stakeholders have begun to exercise more political power and [...] marketplace decisions have become politicized', the current model has become less useful and relevant (Freeman & Reed, 1983, p. 96).

Although New Zealand does not currently have any meaningful recognition of stakeholder interests, there are more significant recognitions of other stakeholders being undertaken internationally. From 1 January 2019, some directors of large companies in the UK have had to report to shareholders on how they 'take employee and other stakeholder interests into account' and what their 'responsible business arrangements' are (Department for Business, Energy & Industrial Strategy, 2018). In addition, the FRC UK has updated their *Guidance on the Strategic Report* 'to recognise the increasing importance of non-financial reporting' and is now encouraging companies 'to consider wider stakeholders and broader matters that impact performance over the longer term' (Deloitte, 2018, p. 79).

The UK is a clear leader in the area of recognising stakeholder interests. It has 'a growing emphasis on engagement by UK boards and management with stakeholders other than shareholders (as well as, not instead of, continued engagement with shareholders)', which is accompanied by 'an increased focus on public reporting' beyond financial information on matters such as ESG issues (ICLG, 2019). Under the UK *Corporate Governance Code*, this specifically takes the form of 'workforce-engagement methods' and directors' duties to have regard to matters such as long-term consequences of decisions, 'impact of the company's operations on the environment and the desirability of the company maintaining a reputation for high standards of business conduct' (ICLG, 2019).

A number of factors and trends support the UK's attention to these matters. For one, the current and historical shareholder focus of the framework does a disservice to the emerging subset of investors who concern themselves with stakeholder interests in their investment practices, despite being 'the very people who seem most at risk in any shift from shareholders' interests' (Edgecliffe-Johnson, 2019; see also discussion of shareholder activism in Section 3.1.7 of this report). Such practices are 'driven in part by millennials', who are 'twice as likely as older generations to want their pensions to be invested responsibly' in terms of social and environmental impacts (Edgecliffe-Johnson, 2019). This demographic significance suggests that the trend is only likely to increase as a new generation of investors enter the market.

The trend is also being driven by the erosion of trust in government and other public institutions as stakeholders, like consumers and employees, 'find it easier to influence brands than elected officials' (Edgecliffe-Johnson, 2019; see also Section 3.1.3 of this report). Stakeholder interest in exerting influence can be linked to an expanded understanding of capital (see discussion of this trend in Section 3.1.8 of this report): 'Elevating shareholder's interests above those of employees, the environment or communities may have made sense when financial capital was scarce [...] but now finance is abundant while human, natural and social capital are in short supply' (Edgecliffe-Johnson, 2019).



Furthermore, there is increased recognition that consideration of stakeholder interests does not necessarily have adverse effects on profit, and in many cases the opposite can be true. For example, ESG issues and sustainability are connected to long-term profitability and ‘if the board sees itself as responsive only to the shareholder in the short term, senior management will continue to manage towards economic decline’ (Freeman & Reed, 1983, p. 96). Especially in times of heightened uncertainty, considering stakeholders strengthens strategy development and implementation by enabling ‘analysis of all external forces and pressures whether they are friendly or hostile’ (Freeman & Reed, 1983, p. 92). Such strategy development might be informed by the following ‘regulative principles’:

- Generalize the marketing approach: understand the needs of each stakeholder, in a similar fashion to understanding customer needs, and design products, services and programs to fill those needs.
- Establish negotiation processes: understand the political nature of a number of stakeholders, and the applicability of concepts and techniques of political science, such as coalition analysis, conflict management, and the use and abuse of unilateral action.
- Establish a decision philosophy that is oriented towards seizing the initiative rather than reacting to events as they occur.
- Allocate organizational resources based on the degree of importance of the environmental turbulence (the stakeholders’ claims) (Freeman & Reed, 1983, p. 92).

### Key observations

Although shareholders are developing a stronger interest in the wider impacts of their organisations’ operations, the broader needs of stakeholders are largely neglected. This has serious implications for those interested in tackling public issues such as climate change, poverty, water quality and gender equality. Ultimately, ‘all companies “are embedded in a political and socioeconomic system whose health is vital to their sustainability”’ (Edgecliffe-Johnson, 2019).

## 6.2 Who is in control – the CEO, the board or the shareholders – and who are they being held accountable to?

The second policy knot deals with the tension between different parties with decision-making powers, and explores how and by whom those parties are held accountable for their decisions. Different sectors have different approaches for the division of control and accountability between CEOs, boards and shareholders. In the current reporting framework it is very clear who is accountable and responsible in the private sector (but there are questions of whether this is appropriately balanced); conversely, it is not clear who exactly is accountable for public sector entity decision-making.

### Private sector

In the private sector, ‘the separation of governance and management provides clear lines of accountability’, with the management of a company being accountable to the board of directors (IoD & MinterEllison RuddWatts, 2019, p. 25). The board of directors is then accountable to the company under s 131 of the Companies Act 1993, which places a duty on ‘directors to act in good faith and in [the] best interests of company’. Directors are also held accountable through their signing off of the annual report as required under s 211 of the Companies Act 1993. To a certain extent, this means the board is also accountable to shareholders, but tensions can arise when the best interests of the company are not necessarily in the best interests of the shareholders. Commercial law firm Chapman Tripp expects that ‘boards will continue to be subject to high levels of scrutiny, including from the New Zealand Shareholders’ Association (NZSA), institutional and retail investors, and the FMA’ (Chapman Tripp, 2018, p. 1). Shareholders’ rights are protected by the Takeovers Panel. The Panel published the *Takeovers Code, 2000* which ‘governs transactions and events that impact on the voting rights [of] shareholders of “Code companies”’ (see glossary). The guidance reinforces the expectation that directors will formulate a recommendation for the shareholders regarding responses to Code-regulated transactions (Takeovers, n.d.).

The balance of powers between CEO, board and shareholders was discussed by Barbara Hackman Franklin, 29th US Secretary of Commerce and chair emerita of the National Association of Corporate Directors, in a 2017 *Harvard Business Review* interview. To the question ‘Do you agree that excessive focus on shareholders has become a problem?’, Franklin responded with the following:



## 7. PACKAGE OF CLIMATE-RELATED REPORTING RECOMMENDATIONS

- Consistent (e.g. benchmarking across entities and over time);
- Comparable;
- Trusted (assured and verified); and
- Future-focused.

Where the mechanisms could diverge is where the climate change information is published. Given that a number of the reporting entities are not required to prepare and publish an annual report, the Institute suggests that these entities (including public sector entities) should prepare a separate Statement of Climate Information that is filed on the Companies Office as a standalone document. This would require extending the remit of the Companies Office to include filing by public benefit entities or creating a separate Register, kept by the Crown. It would also require the Companies Office to enable entities to upload more than one document onto the Companies Register.

### 7.3.1 Relevance of the directors' report

The reason for New Zealand proposing to adopt a mandatory reporting regime is set out in the New Zealand Government's discussion document (MfE & MBIE, 2019, p. 8).

It is a view of the TCFD, and shared by the Institute, that in order to allow for more adequate pricing of climate risks into assets and hedge against market instability, material climate-related financial information must be publicly available.

There is a clear distinction between preparing a report, distributing a report (to a specific group of individuals such as shareholders), filing a report (as a matter of public record) and assuring a report (as a means of providing independent verification to external parties) (McGuinness Institute, 2020c, p. 9). The Institute notes that the Productivity Commission recommended that disclosures should be audited and accessible to the 'general public' and that the Government was seeking feedback on proposals for how we would give effect to this recommendation (NZPC, 2018, p. 199).

The McGuinness Institute has made the following observations in relation to the directors' report:

#### 1. What is the status of a directors' report in New Zealand company law?

New Zealand law does not have a specific requirement for a "directors' report" along the lines of that stipulated in the UK (s 415 of the Companies Act 2006 UK) and in Australia (s 298 of the Corporations Act 2001). Section 211(1)(k) of the New Zealand Companies Act 1993 requires two directors to sign the contents of the annual report, and best practice in New Zealand indicates this is often presented as a 'Directors' responsibility statement' (see, for example, page 37 of the EBOS Group 2019 annual report). It is unclear to the Institute whether this is a directors' report or simply relates to delivering the financial statements to shareholders alongside the other required content of the annual report.

The Institute prefers a clear definition of a "directors' report" in New Zealand law that is based around our understanding of the UK law. Section 415 of the Companies Act 2006 (UK) sets out a 'duty to prepare directors' report'. Section 416 sets out the contents, which can be expanded through the 'provision by regulations as to other matters that must be disclosed in a directors' report'. Recent regulatory changes in the UK have introduced new reporting requirements in the directors' reports for large companies. These include requirements on reporting on corporate governance arrangements and carbon and energy reporting.

The Institute's understanding is that, in UK company law, the directors' report forms only part of the annual report and must be filed on the Company House (Registrar) by all companies with a few exceptions. For example, companies that are subject to the small companies regime under s 444 (1)(b) of the Companies Act 2006 (UK) are required to file the profit and loss account and the Directors Report (but are not required to file an annual report).

In contrast, in New Zealand, only FMC e-reporting entities are required to make public their annual report on their website (see cls 61D(2) and (3) of the Financial Markets Conduct Regulations 2014). Part 12 of the Companies Act 1993, 'Disclosure to shareholders', does not require those companies to prepare an annual report, or to file it on the Companies Office (Registrar). This line of thinking, in the Institute's view, is narrow given today's needs, and arguably reflects the age of the legislation (it was written nearly 30 years ago,

in 1993, and has not changed since). In addition, New Zealand law does not have a mechanism (like in UK law) to change the content requirements of the annual report through regulations; instead a change to the Act is required.

**1. How can we ensure that the contents of an annual report includes material climate-related financial disclosures?**

Currently, the contents of an annual report are set by what the board believes is material in order for shareholders to have an appreciation of the ‘state of the company’s affairs’ in terms of the ‘changes in the nature of the business’ or ‘the classes of business’. However, there is a proviso; the board can decide not to disclose if such information is harmful to the business. This means, other than the financial reports and certain items listed in s 211 Companies Act 1993, the contents of an annual report are disclosed at the discretion of the directors.

The only potential climate-related financial disclosure requirement available under New Zealand legislation in relation to disclosures by directors is found under ss 208 and 211(1)(a) of the Companies Act 1993 (McGuinness Institute, 2020c, p. 10).

The following excerpt is from a legal opinion provided by Fitzgerald Strategic Legal:

4.16 While this may not have been contemplated at the time the Act was drafted (30 years ago), it is clear that expectations of the business community for effective corporate governance and reporting have increased. The Act provides the scope for Court’s to follow that change in sentiment.

4.17 Such a duty would fit comfortably with the obligation not to engage in misleading or deceptive conduct in relation to any dealing in financial products imposed by section 19 of the Financial Markets Conduct Act.

4.18 Likewise, it would fit comfortably with the obligation under the Financial Markets Conduct Regulations to disclose key risks when an entity raises money from the public. Afterall, it would be a slightly strange result if the obligation to disclose risks ended with the capital raising, when investor reliance on disclosure continues for ongoing decisions concerning the investment.

4.19 However, the present position is that neither sections 208 nor 211 specifically require such disclosure of risks. Absent a specific statutory requirement (or other obligation arising under (say) Listing Rules), and absent a court decision confirming the obligation exists in any event, it is unlikely that companies will voluntarily move to greater risk disclosure in their annual reports.

4.20 It would be better that legislation address the point, and my preference would be that section 211 be varied to include a more explicit requirement for annual reports to address proximate and imminent risks which would be reasonably likely to have a material adverse effect on the company’s financial position or financial performance if they were to materialise.

4.21 The ‘opt in/opt out’ provisions of the Act provide an appropriate mechanism to balance the cost/benefit analysis from any legislative change and allow companies to choose their preferred approach.

4.22 Such legislative change might be best aligned with appropriate changes in financial reporting standards (Fitzgerald Strategic Legal, 2020, paras 4.16–4.22).

The legal advice received by the Institute would suggest that s 211 of the Companies Act 1993 needs to be amended to make directors legally required to report on risks in their annual report.

The conclusions from *Working Paper 2020/02 – The Role of a Directors’ Report: An analysis of the legislative requirements of selected Commonwealth countries* which explores the role of the directors’ reports in the disclosure regimes of selected other Commonwealth countries are as follows:

**(a) New Zealand does not use the term ‘directors’ report’ in legislation.**

It is clear that New Zealand is behind at least two other Commonwealth countries: UK and Australia (and possibly Canada), despite sharing many structural commonalities. A directors’ report is becoming a useful mechanism to improve reporting to shareholders and wider stakeholders. For example, in regard to reporting on emissions, UK quoted companies, large unquoted companies and large limited liability partnerships (LLPs) are required under the Companies (Directors’ Report) and Limited Liability Partnerships (Energy and Carbon Report) Regulations 2018 to disclose key information on annual emissions and their intensity ratio in the directors’ report (in a New Zealand context this requirement would cover listed companies and other selected for-profit entities). The 2018 Regulations came into force on 1 April 2019. Directors’ reports form part of UK company filing obligations with the Companies House (DEFRA & BEIS, 2019, p. 35). See further in the Institute’s *Discussion Paper 2019/01 – The Climate Reporting Emergency* (McGuinness Institute, 2019a, pp. 86–88).



**(b) New Zealand places ‘weak’ information obligations on directors.**

The ability for directors not to disclose material strategic information to shareholders if they believe it would ‘be harmful to the business of the company’ should be a concern to shareholders (see s 211 (1)(a) of the Companies Act 1993). Given that it is up to the directors to make this decision, it is hard to see a situation where a shareholder could challenge a company over a lack of strategic information. This also raises questions of how these obligations are reviewed (e.g. by the FMA) and who is working to ensure shareholders obtain useful and timely information from directors.

**(c) New Zealand is slow to adopt international instruments to disclose risk to shareholders and wider stakeholders about the strategic operations of a company.**

Internationally, the directors’ report complements the financial statements and is a key platform for directors to share reliable information about their business model to a wide range of interested parties. In New Zealand, legislation specifies that the audience of the annual report is shareholders only. This is evident in Part 12 of the Companies Act 1993 (ss 208–218) that ‘Disclosure by companies’ are designed to be a ‘Disclosure to shareholders’. Therefore the obligation on directors is to only consider shareholders.

This is particularly concerning given that COVID-19 and climate change will significantly impact the viability of many businesses.

### 7.3.2 Ensuring consistent application of TCFD recommendations

To improve the quality and consistency of reporting on climate-related information across all sectors to shareholders and other stakeholders (including the Minister and the Climate Change Commission), the Institute considers that the XRB should set standards based on the TCFD reporting framework (which is voluntary) for mandatory application by selected for-profit entities and public benefit entities in New Zealand. A mandatory reporting framework would ensure consistency of information from the entities.

If the XRB decided to establish a separate climate-related financial disclosures Board (e.g. CRFDB) that consults on and sets standards for Tier 1 for-profit entities and Tier 1 public benefit entities, invoking the provisions of s 17(2) of the Financial Reporting Act 2013 may be a necessary and sufficient means for the XRB to set the necessary TCFD-based climate-related standards.

On 28 May 2020 the McGuinness Institute alongside Simpson Grierson and the CDSB held an event, *A Near Horizon – Seizing the opportunities and managing the risks in the transition to net zero: The importance of climate-related financial disclosures*, which brought Mark Carney (UN Special Envoy for Climate Action and Finance and former Governor for the Bank of England), Adrian Orr (Governor of the Reserve Bank of New Zealand) and James Shaw (Minister for Climate Change, Finance and Statistics) together in conversation. Minister Shaw made an important announcement during his speech that the XRB is the preferred partner with government to prepare guidelines and ideally (in time) mandatory standards on climate-related financial disclosures (see 28.20 min) (McGuinness Institute, 2020f).

### 7.3.3 Who should apply climate-related disclosures?

It should be noted that the XRB’s functions are limited to setting standards outlining ‘what’ requirements entities need to apply: the XRB does not have the mandate to determine ‘who’ should apply its standards. Legislation needs to specify which entities would need to apply any climate-related standards that may be issued by the XRB.

In terms of the selected entities that any climate-related disclosures should apply, the summary of submissions received by the Ministry of Business, Innovation and Employment (MBIE) and the Ministry for the Environment (MfE) on the New Zealand Government’s discussion document reveals that:

While most submitters agreed the disclosure requirements should apply to banks, insurers, listed issuers, asset managers and asset owners (subject to a size threshold) as proposed in the discussion document, many submitters also expressed support for expanding the scope to other entities. This included large non-listed entities and companies in sectors highly at risk from the impacts of climate change (MfE & MBIE, 2020, p. 11).

The Institute is of the view that any disclosure requirements should also apply to public benefit entities.



In conjunction with any change to the Financial Reporting Act 2013 to enable the XRB to set standards that cover climate-related information, the regulations referred to in s 5ZX (1) of the Climate Change Response Act 2002 could potentially be used as a means to direct selected directors (and boards) of for-profit entities and public benefit entities to report, in their annual reports, climate-related financial information.

If it were to be decided that banks, insurers, listed issuers, asset managers and asset owners would be the only organisations that prepare climate-related disclosures, the Institute considers that it may be feasible to amend the Financial Markets Conduct Act 2013 to require climate-related financial disclosures of those entities to be included in the annual report. The Institute believes material climate-related information must be made public to support the transition to a low-carbon economy.

## 7.4 Creating a committee/board to develop and issue climate-related financial reporting standards

The Institute is of the view, in the absence of any moves by international accounting standard setters to progress a climate-related financial disclosure regime in the immediate future, that New Zealand needs to rise to the challenge of developing its own solution to improve climate reporting. The Institute considers the best way forward is to build on existing legislative and external reporting frameworks, design features and terminology and utilise New Zealand's international standing and reputation in standard-setting.

### 7.4.1 Proposal for a separate committee/board under the XRB

The Institute proposes that a new separate committee/board be set up under the XRB to set up climate-related reporting standards, similar to the NZASB (for setting accounting standards) and the NZAuASB (for setting assurance and ethical standards). See Step 2 of Section 7.4.3 for further detail on the logistics of setting up a separate board/committee.

The Institute considers having a new committee/board, separate from the NZASB, to set climate-related reporting standards is necessary for the following reasons:

1. There is a capacity issue – there are still ongoing and global accounting issues (outside of climate reporting) that needs to be addressed by the NZASB. If the NZASB was also required to take on the additional work of setting climate-related reporting standards, it may disrupt its existing work programme.
2. There is a skills and expertise issue – climate-related financial reporting will require a significant amount of work to ensure the standards align with New Zealand law, with climate change science and with international best practice (e.g. the TCFD recommendations). A new committee/board can be established with a range of different skills and experience which might not be available within the existing NZASB.
3. It allows the XRB, as the overarching board for governance and external reporting strategy, to continue to ensure that all external reporting (and assurance) standards are cohesive and consistent with the XRB's strategic intentions and reporting strategy for all New Zealand entities that have legislative requirements to prepare an external report. If the XRB does not undertake this work, another institution will either need to be established or an existing institution instructed to create the necessary standards. In either case, the Institute believes another external reporting body will compromise user and preparer needs (through no central external reporting body), add additional costs, and put at risk the XRB's licence to operate as the body responsible for external reporting.

### 7.4.2 The relevant legal requirements

The Institute understands that s 17(2) of the Financial Reporting Act 2013 was put in place to future-proof standard setting without causing any major change to the legislation in the short to medium term. This was a forward-thinking mechanism put in place by officials to enable the emerging need for non-financial information to be implemented.

However, the Institute considers that the broad phrasing in s 17(1)(c) regarding a non-financial matter that 'relates, or is incidental or ancillary to' confuses the line between what XRB can and cannot do and would benefit from clarifying or at least narrowing. Moreover, the entity's performance is mentioned in both ss 17(1)(a) and 17(2)(a)(iv), raising the question of what the difference is between the two sub-sections.



## 8. Comprehensive list of recommendations

### Highlights

The three core objectives to make the reporting framework fit for purpose are:

**Objective 1:** Reclaim the annual report as the key instrument for reporting to stakeholders.

**Objective 2:** Ensure disclosures in the annual report are useful, timely and cost-effective.

**Objective 3:** Maintain stewardship across the system.

The following seven major recommendations set out the overarching requirements needed to strengthen the existing framework.

**Major recommendation 1:** Create a central register for all external filing requirements (including for Crown entities and registered charities).

**Major recommendation 2:** All organisations that are currently required to make their annual report publicly available, should be required to file their annual report on the central register.

**Major recommendation 3:** Change legislation to better meet user needs and align with global best practice in relation to the reporting of information to shareholders and external users.

**Major recommendation 4:** Review the external financial reporting framework and accounting standards to better meet user needs.

**Major recommendation 5:** Require the directors report (the annual report in New Zealand) to report on risks.

**Major recommendation 6:** Embed climate-related financial reporting into the New Zealand reporting framework (see Section 7).

**Major recommendation 7:** Provide clarity over the overarching principles, parameters and strategy that shape the legislative framework for external reporting.

### 8.1 The context

The external reporting framework is a key foundation of New Zealand's democracy as it provides invaluable evidence on how investors, policy-makers, researchers and other stakeholders make decisions.

An effective, efficient reporting framework drives foresight in terms of analysing trends and implications and identifying risks and opportunities. Foresight shapes effective strategy to guide individuals and organisations to their goals. In turn, clear strategy informs what kind of disclosures will be needed in reporting. In times of rapid change, it is imperative to review systems regularly to ensure that they are adaptive and responsive and that risks are identified and managed. This means regularly re-evaluating the reporting framework as a whole to ensure it meets its purpose.

This report aims to lay the groundwork for a comprehensive review of New Zealand's reporting framework. The Institute has found the current framework to be outdated, stagnant, inflexible and, arguably, expensive. This is likely the result of a series of ad hoc solutions over time to situations where the reporting framework has not functioned as it was intended to, adding further complexity and compliance costs to an already overloaded system. In short, the reporting framework is not fit for the needs of current New Zealanders and is unlikely, in its present state, to be responsive to the needs of future New Zealanders. It does not meet current user needs in that investors need access to quality information on the risks and opportunities the entity faces.

There is much greater emphasis on disclosing risks in other Commonwealth countries (e.g. company law in both Australia and the UK requires preparation of directors' report which contains non-financial information). See the discussion in Section 4 of this report and *Working Paper 2020/02 – The Role of a Directors' Report: An analysis of the legislative requirements of selected Commonwealth countries* (May 2020).

A great deal of work, much of it urgent, is required to ensure New Zealand's current framework meets user needs and aligns with international best practice.

## 8.2 The problem

The aim of the Institute was to make a broad assessment of the external reporting framework in New Zealand. We expected our research would highlight areas of the reporting framework that did not meet current needs; with a particular focus on identifying the needs of new users and the changing needs of existing users. Instead what we found was an unnecessarily complex and fragmented framework that raised a number of strategic concerns. The issues raised within this report, see in particular Table 15 at the end of Section 5.3 of this report, can be summarised by four key problems:

1. The framework lacks stewardship.
2. The framework is fragmented, complex and inefficient.
3. The framework is outdated and is failing to adapt to emerging trends and changes in user needs.
4. The framework fails to provide users with easy access to annual reports.

## 8.3 Three core objectives

The Institute believes that focusing on three core objectives will deliver the best outcomes for New Zealand.

### **Objective 1: Reclaim the annual report as the key instrument for reporting to stakeholders.**

The recommendations aim to contribute to this objective by focusing on improving the usefulness and accessibility of the annual report. This is particularly important because annual reports are required to be prepared by law (unlike voluntary reports like sustainability reports, or corporate governance reports, which are required to be prepared under *NZX Listing Rules*). The recommendations include filing annual reports on the Companies Register and improving the centralisation and function of registers across all sectors more generally. In New Zealand legislation, the annual report is effectively the directors' report. Reclaiming the annual report as a key instrument upon which to build the framework and inform stakeholders is both logical and cost effective, and aligns with the original intent of the Companies Act 1993.

### **Objective 2: Ensure disclosures in the annual report are useful, timely and cost-effective.**

The recommendations aim to contribute to this goal focus on standard-setting, cost-effective information, auditing, regulation and penalties for misinformation or late filing. Disclosures will increasingly be future-focused, with a particular emphasis on risks and opportunities. This in turn will require directors to report against the risks their businesses/organisations face and how they use or plan to use their capital to manage risks and optimise opportunities. Information to be useful, is likely to be specific to the unique characteristics of the organisation. For example, natural capital may require reporting on climate-related disclosures and water quality; social capital may require reporting on diversity, political donations and governance; human capital may require reporting on health and safety while financial capital may require reporting on intangible assets and insurance risks. Businesses and organisations, as a rule, tend to work hard to retain a social licence to operate, hence reporting on risk and opportunities provides information that is likely to be of interest to shareholders, employees, suppliers, neighbours, potential investors and other stakeholders.

These recommendations are about improving the content of reporting and include measures like amending s 211 of the Companies Act 1993 and broadening the remit of the XRB under s 17(2) of the Financial Reporting Act 2013. Assurance will also enter into this goal as part of ensuring that disclosures can be trusted.

### **Objective 3: Maintain stewardship across the system.**

The recommendations aim to contribute to this goal focus on strengthening the institutions that uphold the reporting framework through measures such as requiring the Companies Office to regularly publish an operational report on the Companies Register. It also includes applying checks and balances in the system and maintaining trust and fiscal stability. Mechanisms include ensuring penalties are sufficient to deter non-compliance, surveying users and preparers to pick up and engage with emerging problems and watch and where possible follow international best practice.



This report identified seven major recommendations required to strengthen the existing framework. These recommendations take into account the reporting framework's historical context (Section 2), emerging trends (Section 3), the Institute's research (Section 4), analysis of how the existing reporting framework operates in practice (Section 5), the four strategic policy knots shaping the reporting framework and its purpose (Section 6), and a closer look at the best way to embed climate-related reporting into the existing framework (Section 7).

## 8.4 Seven major recommendations

Table 16, at the end of this section, provides a summary of how each of these recommendations aligns with each of the four objectives.

### 8.4.1 Create one central register for all external filing requirements (including for public sector entities and registered charities)

#### 1. Use the regulatory filing system to address emerging and urgent information needs.

This could be achieved by requiring the following:

- Companies that are already required to make financial filings to also file annual reports. A total of 87 of the 2017 Deloitte Top 200 companies voluntarily made their annual reports (not just their financial statements) available on the Companies Register (McGuinness Institute, 2018b, p. 50).
- A 'Statement of Climate Information' to be filed on the Companies Register and included in the annual report. For the purposes of this report, such entities are referred to as climate change reporting entities (see discussion in Section 7).

This would also provide an opportunity for the registrar to create a single register for all New Zealand organisations to make their annual reports public, similar to the single platform ASIC and ABN have put forward to the Australian Government. This could be voluntary for non-significant companies and mandatory for significant entities. The register should be a website that is easy to navigate and search (e.g. by entity type, industry type, size, NZBN, registered location) and would serve as a central information hub, benefiting investors, government, NGOs, researchers and the general public. Developing such a platform would encourage a culture of transparency. Greater accessibility to annual reports would develop benchmarks in terms of quality and reduce unnecessary complexity. This would enable comparisons to be drawn both over time, and between companies, industries and the public and private sectors. It would also provide a central platform for bankers, insurers and investors, improving access to capital and building trust in New Zealand's reporting framework.

#### 2. Companies Office to improve searchability on its website.

This could be achieved in a variety of ways:

- Only accepting searchable PDFs of documents for upload to the website;
- Compiling the registers into a single search function to address the fragmentation of the registers on the website; and
- Increasing the range of possible searches to include information such as location (including the domicile of each overseas company on a map and notification of whether or not the domicile country is a signatory or party to the BEPS Multilateral Instrument), New Zealand companies more than 25% overseas-owned, industry classification, New Zealand Business Number (NZBN), NZX-listed status and size (e.g. large).

#### 3. Companies Office to allow any registered company to have the option to voluntarily file if they do not meet mandatory filing requirements e.g. large private New Zealand-owned companies.

Extending the Companies Register to make voluntary filing an option would retain its original purpose in law but make it a more comprehensive resource.

#### 4. Treasury or MBIE to be responsible for a public sector register.

A public sector register would provide immediate public access to all regular external reports prepared by government organisations. The content would include annual reports, statements of service performance

and other significant reports (e.g. Financial Statements of the Government of New Zealand). The types of content could be expanded and developed along the lines of the Australian ‘Transparency Portal’ (see discussion in Finding 9 in Section 5). The public sector register could be established without a change to existing legislation, but this obligation to register could be made law (e.g. see the Australian Public Governance, Performance and Accountability Act 2013). A public sector register is likely to not only improve civics and community engagement but also increase collaboration between public and private sector organisations. The register could be structured to complement the New Zealand Government’s annual Budget. For example, while the *2019 Wellbeing Budget* illustrated where public funds were intended to be spent, a public sector register would work in tandem to show where money was actually spent, thereby developing trust in and awareness of government activities. Given the above-mentioned reports are already prepared and the costs of uploading these would be minimal, a public sector register seems a simple and cost-effective mechanism to improve transparency and accountability.

Given that the distinction between the public and private sector is becoming increasingly blurred (e.g. public-private partnerships), a central repository for all regular external reports across the public and private sector is likely to be the best solution in the long-term.

**1. Treasury or DIA to prepare combined financial statements of local government.**

This should be published on the central register.

**2. Parliament to consider the establishment of the equivalent to the Australian Public Governance, Performance and Accountability Act 2013.**

Transparency will be a key mechanism for driving decision making and ensuring durable public policy making. The Australian Public Governance, Performance and Accountability Act 2013 not only defines public sector entities but clarifies who (i.e. the officials) is to be held accountable if those entities fail to deliver on their purpose. It is also the legislation that puts in place the ‘Transparency Portal’, mentioned in 4 (directly above).

#### 8.4.2 All organisations that are currently required to make their annual report publicly available should be required to file their annual report on the central register

1. Require local government, who are required to publish an annual report, to file the report on a central public sector register.
2. Require government departments, who are required to publish an annual report to file the report on a central public sector register.
3. Require companies that are currently required to publish their annual report publicly (NZSX-listed companies), to file it on the Companies Office.

#### 8.4.3 Change legislation to better meet user needs and align with global best practice in relation to the reporting of information to shareholders and external users

**1. Minister of Commerce and Consumer Affairs to authorise the XRB to produce New Zealand standards specifically for non-financial reporting.**

The Minister should recommend that the Governor-General authorise the XRB to issue reporting standards for non-financial information under s 17(2) of the Financial Reporting Act 2013. Three areas should be urgently addressed by such standards: financial statements, annual reports and climate-related reporting.

**2. Amend the existing ‘content of the annual report’ requirements in ss 211(1)(a) to 211(1)(k) of the Companies Act 1993.**

Standards are effectively legal instruments, but unlike Acts they can be changed without being passed in the House, enabling greater flexibility in these changing times. Government would need to decide whether legislation or a standard would be the best instrument. Amendments to specific subsections of s 211 are discussed below.



- (a) Amend s 211(1)(a) to require annual disclosure of the ‘nature’ and ‘classes of business’.

The Institute believes that all company annual reports should state the nature of business (as it forms the basis of a company’s business model, strategies and long-term goals) rather than simply ‘changes to the nature of businesses’ and ‘classes of business in which the company has an interest’ (s 211 of the Companies Act 1993). Furthermore, companies should state their industry type in alignment with the ANZSIC system.

- (b) Amend s 211(1)(c) to require a statement on the front cover of the financial statements outlining the type of assurance engagement that was undertaken.

The audit report does not form part of the financial statements in legislation, but all companies that must file their financial statements are legally required to have those statements audited.

- (c) Amend s 211(1)(e) to clarify whether the annual interests register is included in the annual report.

- (d) Amend s 211(1)(f) to include the remuneration package (including bonuses) for the Chief Executive.

Chief Executives are an important part of executive and shareholder governance structures and other stakeholders have a strong interest in the benefits they receive.

- (e) Amend s 211(1)(g) to make the executive team remuneration package (including incentives) transparent.

This should also be applied to the public sector.

- (f) Amend s 211(1)(h) to distinguish between donations and political donations and add definitions for these terms to the interpretation section of the Act.

The definition for political donations should be broad enough to cover donations to local authority candidates.

- (g) Amend s 211(1)(k) to require the annual report to also be signed by the CFO (or another executive if there is no CFO) (if the financial statements are not audited and/or do not include an audit report to ensure credibility). Another option would be to incorporate this requirement into s 211(1)(c).

- (h) In addition to the amendments above, the Institute believes that additional information should be disclosed (see Section 4.4). This includes risks (which will include climate change), gender and cultural representation, health and safety, political donations, tax paid in cash to the New Zealand Government, penalties (i.e. breaches of New Zealand legislation) and intangible assets. It would also be beneficial to review the *FMA Handbook* and the *NZX Listing Rules* to include other disclosures that would be more appropriately required by all entities (not just FMC reporting entities and NZSX-listed entities). This will improve alignment and ensure all significant entities provide comparable information. This suggested change also relates to the suggestion in 7(c), which suggests that corporate governance statements should form part of the annual report. The Institute believes that instead of major reporting obligations continuing to sit outside legislation (and be written by a range of diverse entities), these types of reporting requirements should be set out in s 211 of the Companies Act 1993, and be included in the content of annual reports.

**1. Amend the Companies Act 1993 to remove/further limit the opt out provision in s 211(3).**

Concessions in s 211(3) of the Companies Act 1993 allow shareholders holding at least 95% of the company’s voting shares to withhold disclosure of select governance information, remuneration and information on the company’s nature of the business. This is mostly used by companies operating in New Zealand that are subsidiaries of overseas companies. Once the concession is activated, the required content of an annual report can be stripped back to the financial statements only, thereby reducing the document’s capacity to inform its users. Options could include reducing the concession to those that hold at least 99%, reducing the type of information allowed under the concession or removing it completely.

**2. Add penalties for failure to meet s 211 content of annual report requirements, increase existing penalties and fees, and require any penalties received to be made public.**

All requirements should have a penalty and a regulator in place to ensure legal compliance. While there are currently penalties for late filing of annual reports, there are no penalties (as far as the Institute is aware) for

the content. In other words, the system currently sends the message that it is not what is filed, but filing on time that matters.

Furthermore, the current penalties and fees for late filing should be significantly increased, as they do not currently act as a deterrent (see Section 4.2.1 for discussion on current penalties). The penalty for late filing of financial statements should be increased to \$50,000. If not filed within 28 working days, the penalty should be \$7000 from each director (new). If the penalty is not paid within 56 working days of notification, the company should be de-registered (new). Lastly, the Institute believes that entities that are fined (or pay late fees) should be required to make this public in their annual report as reputational damage may be a more effective incentive than fines to improve content and filing practices.

These requirements could be retained (existing practice) or expanded (new) to include the following:

- All FMC-reporting entities (existing practice).
- All State-owned enterprises (new).
- All government organisations/entities (new, although there are currently requirements for various specific government entity types).
- All registered charities (existing practice).
- All companies with an overseas shareholding in excess of 25% and their subsidiaries (see s 207D of the Companies Act 1993). The current system already puts a higher level of transparency on overseas companies and their subsidiaries through the Financial Reporting Act 2013; s 45 places a lower threshold on overseas companies than New Zealand companies owned by overseas investors (see the Institute's *Working Paper 2018/04 – Legislation Shaping the Reporting Framework: A compilation*).
- All external climate reporting organisations (new). The Institute has used the term external climate reporting organisations in relation to the package of climate reporting recommendations in Section 7 to refer to entities as determined by MfE to either be connected to infrastructure vulnerable to climate change, or to be significant carbon emitters or emitters of other pollutants such as phosphates. In relation to the creation of an aggregate reporting act, the term 'significant entity' could be expanded to include all entities not captured by the other requirements that have a significant impact on one or more of the capitals (financial, human, natural or social). These entities are distinct from companies defined as large. The thresholds for definition as a 'significant entity' should be outlined in regulations, as the government may want to change them over time. Entities should receive 12 months advance warning of their classification as a 'significant entity' and an outline of their corresponding filing requirements.

1. **Either replace the term 'concise annual reports' in the Companies Act 1993 with 'concise financial reports' (as is international practice) or remove it completely.**

New Zealand's use of the term is not in line with international practices and, given the increasing importance of cash flow statements and notes to the financial statements, and that both are required under GAAP financial statements, it is questionable whether a summary is useful if read in isolation.

2. **Change the term 'annual return' to 'confirmation statement' (in line with the UK).**

This terminology is continuously confused with an annual report, and could easily be changed across all the reporting framework to the term 'confirmation statement' in line with UK practices.

3. **Amend the FMA Handbook and NZX Code to include the following disclosures in the corporate governance statement:**

- (a) More robust disclosures surrounding gender and other forms of diversity, including wage disparities and diversity of representation among board members, officers and employees.
- (b) Disclosure of 'shareholder rebellions' as discussed in Section 4, Trend 7. The Companies Register should keep a public record of shareholder rebellions by 20% or more shareholders. These should include shareholder disagreements over a company's environmental or social records as well as rebellions regarding executive pay.



- (c) In Section 3.8.1(a) of the *NZX Listing Rules*, remove the ability for companies to direct the user of the annual report to a URL link that contains the company's corporate governance statement. The Institute understands that this may make annual reports longer; however, we believe the current approach creates unnecessary complexity and confusion. Further, the Institute believes that the types of information required in corporate governance statements should be contained in all annual reports, not just NZX-listed companies. This information should be listed in s 211 of the Companies Act 1993.

#### 8.4.4 Review the external financial reporting framework and accounting standards to better meet user needs

##### 1. XRB to improve the content and presentation of financial statements.

- Include in a domestic reporting standard specific information on each of the following to improve transparency
  - net GST paid/received to/from the New Zealand Government,
  - tax (income) paid to the New Zealand Government,
  - any other tax paid to the New Zealand Government,
  - tax (income) paid to the Australian Government (or any other country's government specified by name),
  - political donations paid, and
  - non-political donations paid (see also Recommendation 2h in Section 8.2 of this report).
- Specify the placement of the audit report.

##### 2. XRB to issue a reporting standard to improve the content and presentation of annual reports.

- Require disclosure of nature of business.
- Require disclosure of company purpose to make it clear how companies define success.
- Require disclosure of industry classification in line with the ANZSIC system. The Institute notes that most large companies already provide industry classification data to Stats NZ.
- Require disclosure of cybersecurity breaches including costs and risks to the public.
- Require the publication of strategic reports (the UK model and similar to Australia's OFR).
- Require the disclosure of health and safety policy along the lines of the *NZX Corporate Governance Code*; '[a]n issuer should disclose how it manages its health and safety risks and should report on its health and safety risks, performance and management (NZX, 2020b, p. 30). In particular, given recent deaths in the construction and forestry industries, it is important that this disclosure should operate across all entities that produce annual reports (not just those that are NZSX-listed). For example, see Fletcher Building Limited's Annual Report 2019 (p. 5).
- Require the disclosure of pollution.

##### 3. XRB to issue a reporting standard to improve the content and presentation of climate information in the annual report.

- Issue a reporting standard and guidance document based on the TCFD voluntary reporting framework. This would be mandatory for selected entities and voluntary for all others. Note: The TCFD recommendations align with the Institute's methodology of assessing climate-related information in the annual reports of New Zealand's most significant entities (see Figure 24).
- The standard would require entities to prepare a 'Statement of Climate Information' which would be required to sit in the annual report but outside the financial statements.
- The 'Statement of Climate Information' should be prepared by the board, be signed by two directors, audited by an external party and published in the annual report.
- The Institute supports international best practice using either GHG Protocol or ISO 14064-1:2018 (in New Zealand, Toitū Envirocare is accredited with ISO) to measure emissions using Scope 1, 2 and 3. The Institute considers that UK company law, which requires selected entities to disclose Scopes 1 and 2 in the strategic report is a model New Zealand could look at. In March 2019, the UK

- Department for Environment, Food & Rural Affairs (DEFRA) and the UK Department for Business, Energy and Industrial Strategy (BEIS) published the 2019 *Environmental Reporting Guidelines*, which includes guidance on what is referred to as the Streamlined Energy and Carbon Reporting (SECR) policy. The Carbon Trust, an international consultancy based on London, has stated that the new regulations ‘will require an estimated 11,900 companies incorporated in the UK to disclose their energy and carbon emissions’ (Carbon Trust, 2019).

**1. XRB to prepare guidance on the content of annual reports for all entities operating in the state services.**

Treasury has created guidance documents for annual reports and end-of-year performance information for specific public entity types, including Crown entities and government departments (See Table A3.1 in Appendix 3). Creating a single guidance document for all public sector entities would give a baseline standard for annual reports regardless of entity types. Further guidance documents can be used to differentiate reporting requirements for different entity types. This could be the first step towards unifying the framework and improving the quality of reporting across the broader framework.

**2. XRB to issue a standard that requires for-profit entities which identify as a social enterprise to prepare a Statement of Service Performance (SSP)**

This could be an interim mechanism for adapting the existing reporting framework to account for the role of social enterprises in the economy. The XRB could replicate the existing *Statement of Service Performance* standards to require for-profit entities who identify as a social enterprise to prepare a *Statement of Service Performance* for each accounting period. For Tiers 1 and 2 entities, this would include disclosures on their outcomes (what impacts they intend to have on society) and outputs (the goods and/or services delivered throughout the year) (see Section 3.1.6). Identifying as a social enterprise may require a legislative mechanism that defines the nature of the organisation, similar to the definitions that define a company as ‘large’ in the Financial Reporting Act 2013 which outlines the financial size requirements that determines which accounting Tier a company should report against. This new section could establish a definition of a ‘social enterprise’ which would in turn determine whether or not the entity has to prepare a *Statement of Service Performance*.

**3. XRB to continue to work with all international accounting and assurance (including ethics) institutions to improve the usefulness and relevance of financial statements.**

International standard setters must evolve in response to emerging trends (see Section 3). In the for-profit sector, areas where improvement to international standards or guidance would be helpful include:

- IFRS information provided outside the financial statements. The IASB currently focuses on financial statements, leaving guidance and legislation relating to annual reports to individual nation states. This highlights the issue of how to present and assure GAAP information in parts of the annual report other than the audited financial statements.
- Non-IFRS information (such as APMs) provided within financial statements. The Institute does not believe financial statements should contain non-GAAP information as this undermines the integrity of financial statements and may lead to confusion for investors.

**4. XRB to review existing assurance standards in line with emerging accounting standards**

Section 8.4 will require the existing assurance standards and assurance engagement standards to adapt to reflect changes in reporting practices. In this case, it is important that the following standards (at least) be reviewed to ensure it aligns with future non-financial reporting standards:

- ISA (NZ) 720 – At present this standard is an exact replica of the international standard and has not been adapted to meet New Zealand reporting practices. The recommendations will require *ISA (NZ) 720* to adapt to meet additional reporting requirements outlined in legislation and accounting standards.
- ISAE (NZ) 3000 (Revised) – Assurance Engagements Other than Audits or Reviews of Historical Financial Information: The Auditor’s Responsibility Relating to Other Information. The IAASB has been exploring assurance of EER information over the last number of years. *ISAE (NZ) 3000* has been deemed by the organisation to be a key instrument in assuring that reporting information has some degree of uncertainty, e.g. future-focused information and narrative reporting. The XRB should review



## 8. COMPREHENSIVE LIST OF RECOMMENDATIONS

- and apply this assurance engagement standard as means of providing appropriate levels of assurance.
- ISAE (NZ) 3410 Assurance Engagements on Greenhouse Gas Statements – If the XRB issues requirements to prepare climate-related financial information, this assurance engagement standard could be reviewed and/or extended to not only include GHG emissions information but other climate-related disclosures.

If s 17(2) of the Financial Reporting Act 2013 is triggered to enable XRB to prepare new non-financial reporting standards, new assurance standards may need to be prepared to mirror these requirements. This standard could be broad (i.e. cover multiple areas of non-financial reporting) or narrow (i.e. as best practice in certain areas of EER emerge globally, new standards may develop that pertain to specific disclosure types).

### 1. MfE to prepare a comprehensive environmental reporting guidance document updated each year.

This could be similar to the UK 2019 *Environmental Reporting Guidelines* published by the Department for Environment, Food & Rural Affairs (DEFRA) and the UK Department for Business, Energy and Industrial Strategy (BEIS), which includes guidance on what is referred to as the Streamlined Energy and Carbon Reporting (SECR) policy. We note that the MfE has published voluntary guidance on how entities should measure their emissions. MfE's *Measuring emissions: A guide for organisations* is an existing instrument which could be incorporated into the content requirements of the 'Statement of Climate Information'.

### 2. Climate Change Commission to become steward for recording and benchmarking emissions.

This could include storing 'Statements of Climate Information' on a single public register.

### 3. The XRB to review the existing standards for reporting of cyberattacks.

See discussion of cybersecurity concerns in Section 3.1.5 of this report.

## 8.4.5 Require the directors' report (the annual report in New Zealand) to report on risks

### 1. This would require the legislation to be amended in the following ways:

- Section 211 of the Companies Act 1993 should require the disclosure of risks in a strategic report signed by directors.
- The audience of an annual report in law, currently specified as shareholders, should be removed (to align with international best practice).

### 2. IoD should provide guidance to directors on how to prepare an annual report. This approach would enable the IoD to move the quality of reporting by directors in a considered and timely manner through their courses. For example:

- The Annual Report should make it clear that the whole report is the directors report.
- Further, the use of a 'Directors' report', 'Chair's report' or a 'Chair and CEO report' in an annual report should not be used as it is misleading as it implies the rest of the report is not a directors' report.

## 8.4.6 Embed climate-related financial reporting into the New Zealand reporting framework

Please refer to discussion in Section 7. The Institute prefers option 1 on Table 16.

## 8.4.7 Provide clarity over the overarching principles, parameters and strategy that shape the legislative framework for external reporting

### 1. Amend the Companies Act 1993 to include a reporting requirement to recognise and respect the Crown's responsibility to take appropriate account of the principles of the Treaty of Waitangi (similar to s 4 of the Local Authorities Act 2002).

Adding this section would be a small step to ensure that principles of the Treaty are embedded into the

obligations and decisions made by companies and the institutions that govern the system. Applying principles of Māoritanga can aid in redesigning external reporting requirements in a manner that accounts for long-term responsibility and risk management. Annual reports and the existing legislation and standards that govern these documents are typically backward looking.

### 1. Aggregate all external regular reporting legislation into a single Act.

This could be achieved by replacing the word ‘financial’ in the Financial Reporting Act 2013 with ‘external’ and rewriting the Act to bring together all external reporting requirements, including all entity types, registers and references to the annual report. All corresponding sections would be removed from other legislation.

This External Reporting Act would result in the following improvements:

- Assign responsibility for stewardship of the whole reporting system to a single body. If necessary, responsibility could be shared across the role of the Independent Fiscal Institution (currently being established) and MBIE (Treasury, 2019). However, the Institute’s preference is for one appointed body to standardise and streamline (but not centralise) reporting by acting as an independent appointed steward.
- Establish a set of key principles in legislation to drive and measure success (these could be similar to the seven characteristics outlined in Section 1.3).
- Clarify the responsibilities of the appointed steward, such as managing complaints, ensuring all institutions work together with minimal repetition and undertaking five-yearly reviews of the system. This review should include assessment of the following:
  - compliance costs;
  - the needs of users in terms of balancing costs to preparers;
  - accessibility of reports and their content/format;
  - the quality of reporting; and
  - emerging issues.
- Require an ‘Annual Report of Government’ to be published in order to improve public understanding of government’s strategic narrative. This will increase awareness of what activities the New Zealand Government is carrying out and will enable citizens to act as an accountability check on these activities.
- Require government departments to replace their four-year plans with 10-year plans. These plans should align with local government and with annual reports, and should consider citizens as their audience. The 10-year plans should be prepared every three years (aligned with local government). Currently, the four-year plans are endorsed by ministers and appear to be written for ministers.
- Require a consolidated ‘Financial Statements of Local Government’ and an ‘Annual report of Local Government’.
- Add a new section along the lines of s 211(1)(l) of the Companies Act 1993 requiring FMC reporting entities and public sector entities to report according to a set of agreed principles for extended external reporting.

Specific suggestions would include requiring regulatory filing requirements to be met within three months from balance date (currently annual reports only need to be prepared (but not made public) within five months for ‘large’ companies and four months for FMC reporting entities).

Furthermore, the new External Reporting Act would centre annual reports as the key reporting instrument for all significant entities. This would expand the requirement for the Treasury to prepare consolidated financial reports for central government to require them to also prepare a consolidated annual report. Unlike the content of financial statements in the for-profit sector, which are in effect, determined by the IASB (through New Zealand’s adoption of IFRS), the annual report is an instrument under New Zealand law and can be crafted to New Zealand’s unique needs, through either legislation or standards. This represents a significant opportunity to replace financial statements in reporting legislation with annual reports, enabling shareholders/investors and stakeholders access to a more comprehensive overview of the company’s operations and how they see success.



### 1. Minister to appoint a steward of the reporting framework to provide central oversight.

An appointed steward would have central oversight over the reporting framework, allowing them to monitor the activities of all entities involved in administering and enforcing reporting in New Zealand. The intention of this is not to centralise the system but rather to increase communication across silos and promote awareness of differences in standards, guidance and enforcement. This would prevent issues that the Institute has come across during the course of research for this report such as contacting many different agencies to determine who had oversight over s 211 of Companies Act 1993, discovering that the NZX only monitors compliance through the *NZX Listing Rules* for listed companies and no agency has oversight across the whole system, nor did they seem to be aware of this.

### 2. Reconsider annual report filing requirements and the definition of ‘large.’

The first consideration is that ‘large’ companies should be required to file not only their financial statements with the Companies Office, but their annual reports as well. As noted earlier, given Institute research found that 87 of the 2017 Deloitte Top 200 companies voluntarily file their annual reports (not just their financial statements), this is unlikely to be problematic.

The second consideration is that the definition of ‘large’ should be changed. The definition of ‘large’ is complex and places a high level of transparency on a few companies and less on others (see Section 5). Briefly, companies are considered ‘large’ based on whether they meet certain assets or revenue criteria. As noted earlier, the Companies Office does not know the number of ‘large companies operating in New Zealand’; however, the McGuinness Institute’s view is that there are not many (possibly in the hundreds rather than the thousands).<sup>9</sup>

In the past, a focus on the total assets of a company made sense, but with business models changing (as illustrated in Figure 26 in Section 4) and public goods being impacted by business operations in the private sector (e.g. climate change and water quality), the threshold should be reconsidered.

The Institute’s proposal is as follows:

- There should continue to be a higher obligation on overseas companies to be transparent; all overseas companies operating in New Zealand should produce separate financial statements (and ideally annual reports) for their New Zealand operations. The Institute appreciates this is likely to place an additional onus on these companies, but given their profits mostly go overseas it seems appropriate to ensure transparency regarding who is operating in New Zealand and what they are (or are not) contributing. This would require revisiting the existing system as outlined in Figure A5.1, Appendix 5. Instead of merely ‘Financial statement filing requirements for companies’ this would become ‘Annual report filing requirements for companies.’
- Further, ‘number of employees’ should be reintroduced as a threshold. This will need to be a threshold that can be adapted for other types of labour; for example, for charities, volunteer workers could be measured using FTEs for volunteer hours. Furthermore, given the increasing level of automation throughout the workforce, it may be prudent to consider how the threshold could account for this. Government needs to understand and monitor this transition and, as discussed internationally, consider the introduction of ‘robot taxes’ in the longer term. Getting early information on this transition should help inform effective public policy.
- There should be a threshold of reporting obligations for types of entities that have unique negative impacts on New Zealanders and the wider environment. This could be managed through a regular list produced by MfE. Such entities are likely to include tobacco and alcohol companies, and entities with sugary products (social health impact); and agriculture, energy and phosphate companies (environmental impacts).
- Total assets should also be retained as a financial threshold. Standard-setters should also recognise Intangible Asset Value (IAV) in financial statements to provide a better reflection of tangible and intangible value of a company. This could be strengthened with consideration of market capitalisation (at financial year end), although market capitalisation is not a particularly stable threshold and can change quite quickly.

<sup>9</sup> See Table A5.2. A more definitive number of ‘large’ companies was not available (Personal communication with MBIE, 2018a).



- The Institute considers that revenue as a threshold should take into account the wide range of business models operating today (e.g. social enterprises). The Institute considers the total inflows and outflows presented in a statement of cash flows to be extremely useful. Perhaps the inclusion of expenses might make a threshold more useful, as is done for PBE Standards.

**1. Companies Office to publish an operational report about the Companies Register every calendar year.**

The process of collating data for Appendix 4 highlighted to the Institute that this data should be produced annually by the Companies Office as a standard report available to the public. The report should include the number and names of new registrations and de-registrations for the year, the number and domicile country of new registrations that are from overseas or overseas subsidiaries, the number of New Zealand companies that are more than 25% overseas-owned, the number and names of companies that filed after their due date and their subsequent penalties, the administration costs per new registration, the revenue earned from registering a company, the number of economically significant enterprises and any issues or emerging issues for consideration. This change would allow changes over time to be analysed.

**2. MBIE to clarify responsibility for regulating annual reports of non-FMC reporting entities, along with penalties for omitting or providing misleading information in annual reports.**

The Institute understands that non-FMC reporting entities' annual reports are not assessed for compliance by the FMA. This means that a significant number of annual reports are prepared by companies and placed on their websites without being monitored for completeness and inclusion of all required information. However, for entities that are to have the financial statements audited, ISA 720 (NZ) requires the auditors to audit other information included in the annual report. Changes to s 211 of the Companies Act 1993 will not deliver significant improvements if the annual reports of non-FMC reporting entities continue to go unregulated. This is discussed further in the legislative recommendations below.

Furthermore, guidance for preparing annual reports for charities and government organisations was not always clear or aligned. See Table A3.1 in Appendix 3 for a list of guidance documents relevant to this research and the observations in Section 4.2.1 to understand the nuances in the existing reporting framework.

Table 17: Overview of major recommendations

Objectives	Recommendations	Key results
<b>Objective 1:</b> <b>Reclaim the annual report as the key instrument for reporting to stakeholders.</b>	1. Create one central register for all external filing requirements (including for public sector entities and registered charities).	The Registrar would: <ul style="list-style-type: none"> <li>- Manage all external filing on one website (a central register).</li> <li>- Extend existing filings requirements to require annual reports (including a directors' report and a 'Statement of Climate Information' for all climate reporting entities).</li> <li>- Allow voluntary filing for entities that have no mandatory filing obligations.</li> </ul>
	2. All organisations that are currently required to make their annual report publicly available, should be required to file their annual report on the central register.	<ul style="list-style-type: none"> <li>- Require local government, who are required to publish an annual report, to file the report on a central public sector register.</li> <li>- Require government departments, who are required to publish an annual report to file the report on a central public sector register.</li> <li>- Require companies that are currently required to publish their annual report publicly (NZX-listed companies), and to file it on the Companies Office.</li> </ul>
<b>Objective 2:</b> <b>Ensure disclosures in the annual report are useful, timely and cost-effective.</b>	3. Change legislation to better meet user needs and align with global best practice in relation to the reporting of information to shareholders and external users.	Parliament to amend legislation to: <ul style="list-style-type: none"> <li>- Expand s 211 of the Companies Act 1993 to state what is included in the annual report.</li> <li>- Require a directors' report to be prepared by all entities that are currently required to prepare financial statements (for-profit Tier 1 and Tier 2 entities).</li> <li>- Invoke s 17(2) of the Financial Reporting Act 2013.</li> <li>- Require a 'Statement of Climate Information' for all climate reporting entities.</li> </ul>

8. COMPREHENSIVE LIST OF RECOMMENDATIONS

	<p>1. Review the external financial reporting framework and accounting standards to better meet user needs.</p>	<p>The XRB would:</p> <ul style="list-style-type: none"> <li>- Improve the quality of disclosure requirements to meet the needs of users.</li> <li>- Align public and private sector reporting requirements.</li> <li>- Work with international standard setters.</li> <li>- Ensure annual report content is aligned to accounting and assurance standards.</li> </ul>
	<p>2. Require the directors report (the annual report in New Zealand) to report on risks.</p>	<p>1. MBIE would help facilitate changes to legislation. For example: expanding s 211 and removing the focus on shareholders. 2. IOD would provide guidance to directors on how to prepare an annual report.</p>
	<p>6. Embed climate-related financial reporting into the New Zealand reporting framework.</p>	<p>From the Institute’s perspective, this should be managed by the XRB as part of their normal business practice of issuing standards for selected entities to report against. The Institute envisages that this would result in a ‘Statement of Climate Information’ prepared and signed by two directors, audited by an external party and published in the entity’s annual report.</p> <p>MBIE would help facilitate changes to legislation:</p> <ul style="list-style-type: none"> <li>- Mechanism 1 (climate reporting organisations) is through expanding the breadth of climate reporting organisations (to include for-profit entities and public benefit entities) and requiring additional information under the Climate Change Response Act 2002 (CCRA) (e.g. including a mandatory reporting regime in addition to the reporting powers already provided under ss 5ZW and 5ZX(1)(c) CCRA.</li> <li>- Mechanism 2 (financial reporting standards) is through making changes to the Financial Reporting Act 2013 (e.g. s 17).</li> <li>- Mechanism 3 (publication and location requirements) is through changes to the Companies Act 1993 (e.g. s 211).</li> </ul>
<p><b>Objective 3: Maintain stewardship across the system.</b></p>	<p>7. Provide clarity over the overarching principles, parameters and strategy that shape the legislative framework for external reporting.</p>	<p>Appoint a steward to clarify the following:</p> <ul style="list-style-type: none"> <li>- Define the purpose of the annual report.</li> <li>- Ensure that the annual report is the key instrument to report to external users on the performance of an entity.</li> <li>- Ensure that disclosure requirements aim to meet user needs by ensuring information is relevant (useful) and reliable (trustworthy).</li> <li>- Clarify the role of Directors, shareholders and management.</li> <li>- Ensure that the size criteria for mandatory external reporting is appropriate. This requires a review of the size criteria in the legislative framework.</li> <li>- Clarify the parameters of the system (the system includes XRB, FMA, Charities Services, Treasury, OAG, all registrars and other entities such as NZX and IoD).</li> </ul> <p>The steward must annually review and publicly report on:</p> <ul style="list-style-type: none"> <li>- The extent compliance and penalty systems align across entities and are sufficient to change behaviour.</li> <li>- External reporting statistics across entities and any failures that exist in the system.</li> <li>- A comparison of the New Zealand system with major trading partners to ensure we are up to date with international best practice.</li> </ul>

Appendix 3(c)  
Report 17 (excerpt)

Appendix 4:

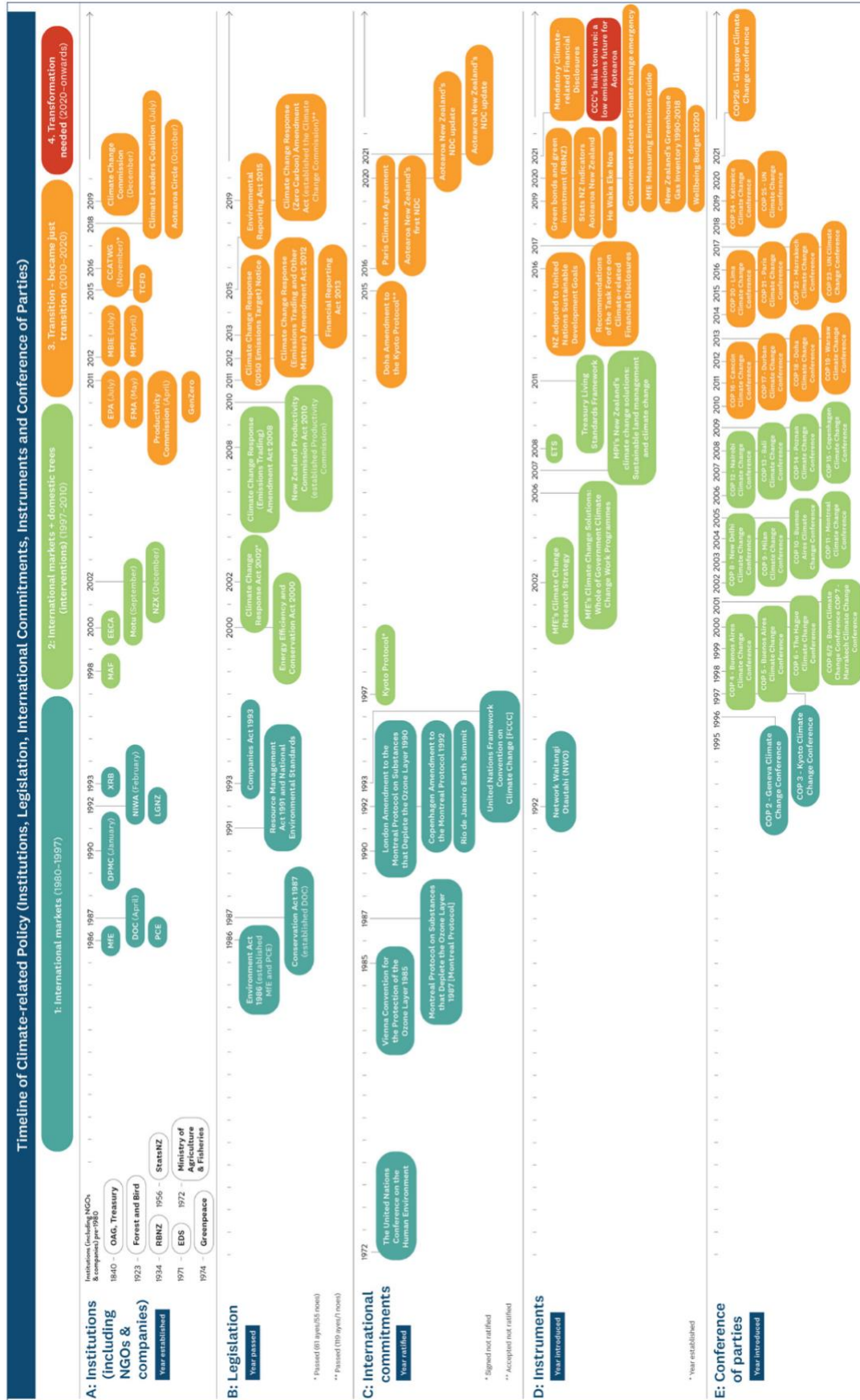
**Timeline of climate-related policy**



# Appendix 4: Timeline of climate-related policy

## Figure 14: Timeline of climate-related policy

Source: Working Paper 2021/01 – Timeline of climate change institutions and instruments since 1980<sup>1</sup>






## Appendix 5: Common climate-related terms from MfE (2021)

### Figure 15: Common climate-related terms from MfE (2021)

Source: Ministry for the Environment, *Te hau mārohi ki anamata Transitioning to a low-emissions and climate-resilient future* (2021)<sup>2</sup>

 <h1>Glossary</h1>	
<b>2050 target</b>	Set in the Climate Change Response Act 2002, this target requires: <ul style="list-style-type: none"> <li>▶ emissions of all greenhouse gases (except biogenic methane) to be net zero by 2050</li> <li>▶ emissions of biogenic methane emissions to be 24–47 per cent below 2017 levels by 2050 (and 10 per cent by 2030).</li> </ul>
<b>abatement</b>	The reduction or removal of greenhouse gas emissions.
<b>adaptation</b>	Actions to respond to the effects of a changing climate.
<b>anthropogenic</b>	Originating in human activity.
<b>Aotearoa</b>	A Māori name for New Zealand.
<b>bioenergy</b>	Energy produced by living organisms.
<b>biofuel</b>	Fuel produced from organic material – often plants or animal waste.
<b>biogenic methane</b>	All methane emissions produced from the agriculture and waste sectors (as reported in the New Zealand Greenhouse Gas Inventory).
<b>carbon sequestration or carbon sink</b>	Any reservoir that absorbs more carbon than it releases, thereby lowering the overall concentration of carbon dioxide in the atmosphere. Examples include forests, vegetation, peatland and the ocean.
<b>circular economy</b>	An economic system based on designing out waste and pollution, reusing products and materials, and regenerating natural systems.
<b>Climate Change Commission</b>	A Crown entity that gives independent, expert advice to the Government on climate change matters and monitors progress towards the Government's mitigation and adaptation goals.
<b>climate resilience</b>	The capacity of social, economic and environmental systems to cope with a hazardous event, effect, trend or disturbance caused by climate change, including by responding or reorganising in ways that maintain their essential function, identity and structure, while also maintaining the capacity for adaptation, learning and transformation.
<b>CO<sub>2</sub></b>	Carbon dioxide.
<b>CO<sub>2</sub>-e</b>	Carbon dioxide equivalent. Used to describe and compare different types of greenhouse gases, by comparing their warming potential to that of CO <sub>2</sub> .

<b>decarbonise</b>	Reduce greenhouse gas emissions, for example, through the use of low-emissions power sources and electrification.
<b>embodied emissions</b>	Emissions associated with the production of materials and construction processes throughout the lifespan of a building, including during construction, renovation, ongoing use and demolition.
<b>emissions</b>	Greenhouse gases released into the atmosphere, where they trap heat or radiation.
<b>emissions budget</b>	The cumulative amount of greenhouse gases that can be emitted in New Zealand over five-year periods prescribed in the Climate Change Response Act 2002. Three successive emissions budgets must be in place at any given time.
<b>emissions reduction plan</b>	A plan that sets out the policies and strategies to meet emissions budgets by reducing emissions and increasing removals. A new emissions reduction plan must be in place before the beginning of each emissions budget period.
<b>EV</b>	Electric vehicle.
<b>F-gases</b>	Fluorinated gases; mainly used as refrigerants for heating and cooling.
<b>fossil fuels</b>	Natural fuels formed in the geological past from the remains of living organisms, for example, coal and natural gas. When used as fuel, these emit greenhouse gases.
<b>greenhouse gases</b>	Atmospheric gases that trap or absorb heat and contribute to climate change. The gases covered by the Climate Change Response Act 2002 are carbon dioxide (CO <sub>2</sub> ), methane (CH <sub>4</sub> ), nitrous oxide (N <sub>2</sub> O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs) and sulphur hexafluoride (SF <sub>6</sub> ).
<b>gross emissions</b>	New Zealand's total emissions from agriculture, energy, industrial processes and product use (IPPU) and waste sectors as reported in the reports required under the United Nations Framework Convention on Climate Change, the Kyoto Protocol, and the Paris Agreement. While Tokelau's gross emissions are also included in the New Zealand Greenhouse Gas Inventory, they are not included for the purposes of emissions budgets or emissions reduction plans.
<b>hapū</b>	Kinship group, clan, subtribe.
<b>hydrofluorocarbons (HFCs)</b>	A category of human-made greenhouse gases often used in refrigeration, air conditioning and other processes.
<b>iwi</b>	Tribe, large group descended from a common ancestor.



<b>kaitiaki or kaitiakitanga</b>	Guardian or guardianship, stewardship, for example, of natural resources.
<b>linear economy</b>	The predominant economic system globally, following the model of 'take-make-use-dispose'.
<b>low-emissions, low-carbon</b>	An economic and social system that has moved away from the use of fossil fuels and adopted low-emissions energy sources and processes, and consequently produces minimal greenhouse gas emissions.
<b>mātauranga Māori</b>	Māori knowledge systems and worldviews, including traditional concepts.
<b>mitigation</b>	Human actions to reduce emissions by sources or enhance removals by sinks of greenhouse gases. Examples of reducing emissions by sources include walking instead of driving, or replacing a coal boiler with a renewable electric-powered one. Examples of enhancing removals by sinks include growing new trees to absorb carbon, or industrial carbon capture and storage activities.
<b>Mt CO<sub>2</sub>-e</b>	Metric tonnes of carbon dioxide equivalent.
<b>NDC</b>	Nationally determined contribution. Each Party to the Paris Agreement must define its contribution to the long-term temperature goals set out in the agreement, in the form of an NDC.
<b>net emissions</b>	Net emissions are made up of gross emissions combined with emissions and removals from the land use, land use change and forestry (LULUCF) sector, as reported in the reports required under the United Nations Framework Convention on Climate Change, the Kyoto Protocol, and the Paris Agreement. For the purposes of emissions budgets and emissions reduction plans, this excludes Tokelau's emissions.
<b>net zero</b>	A target of completely negating the greenhouse gas emissions produced by human activity. This can be done by balancing emissions and removals or by eliminating the production of emissions in the first place.
<b>NZ ETS</b>	New Zealand Emissions Trading Scheme.
<b>offshore mitigation</b>	Emissions reductions and removals that occur outside New Zealand, or overseas-based incentives to reduce or remove emissions (for example, by the pricing of emissions through participation in an overseas emissions trading scheme).
<b>operational emissions</b>	Emissions from operating a building.

<b>organic waste</b>	Wastes containing carbon compounds that are capable of being readily biologically degraded, including by natural processes, such as paper, food residuals, wood wastes, garden and, plant wastes, but not inorganic materials such as metals and glass or plastic. These, and excluding hazardous substances. Organic wastes can be decomposed by microorganisms into methane, carbon dioxide, nitrous oxide, and simple organic molecules (plastic contains carbon compounds and is theoretically organic in nature, but generally is not readily biodegradable).
<b>Paris Agreement</b>	A legally binding international treaty on climate change mitigation, adaptation and finance, adopted by 196 Parties in Paris and signed in 2016. One of the goals of the Paris Agreement is "holding the increase in global average temperature to 2°C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5°C above pre-industrial levels".
<b>perfluorocarbons (PFCs)</b>	These are organofluorine compounds containing only carbon and fluorine. Some of them are potent greenhouse gases.
<b>product stewardship</b>	A scheme in which a producer, importer, retailer or consumer takes responsibility for reducing a product's environmental impact.
<b>tangata whenua</b>	The people of the land, local indigenous people. Māori are tangata whenua.
<b>taonga</b>	Treasure, anything prized – applied to anything considered to be of value, including socially or culturally valuable objects, resources, phenomenon, ideas and techniques.
<b>Te ao Māori</b>	The Māori world.
<b>Te Tiriti o Waitangi or Te Tiriti</b>	The Treaty of Waitangi. Note: While these terms are used interchangeably, we acknowledge that the English version and te reo Māori translation are separate documents and differ in a number of respects.
<b>transition</b>	The shift to a low-emissions, sustainable economy and way of life.
<b>whānau</b>	Extended family, family group.
<b>Zero Carbon Framework</b>	Introduced by amendments to the Climate Change Response Act 2002 in 2019, this is a legislative framework to enable the transition to a low-emissions and climate-resilient Aotearoa. This includes a statutory 2050 target, provision for emissions budgets and emissions reduction plans, together with national climate change risks assessments and national adaptation plans.

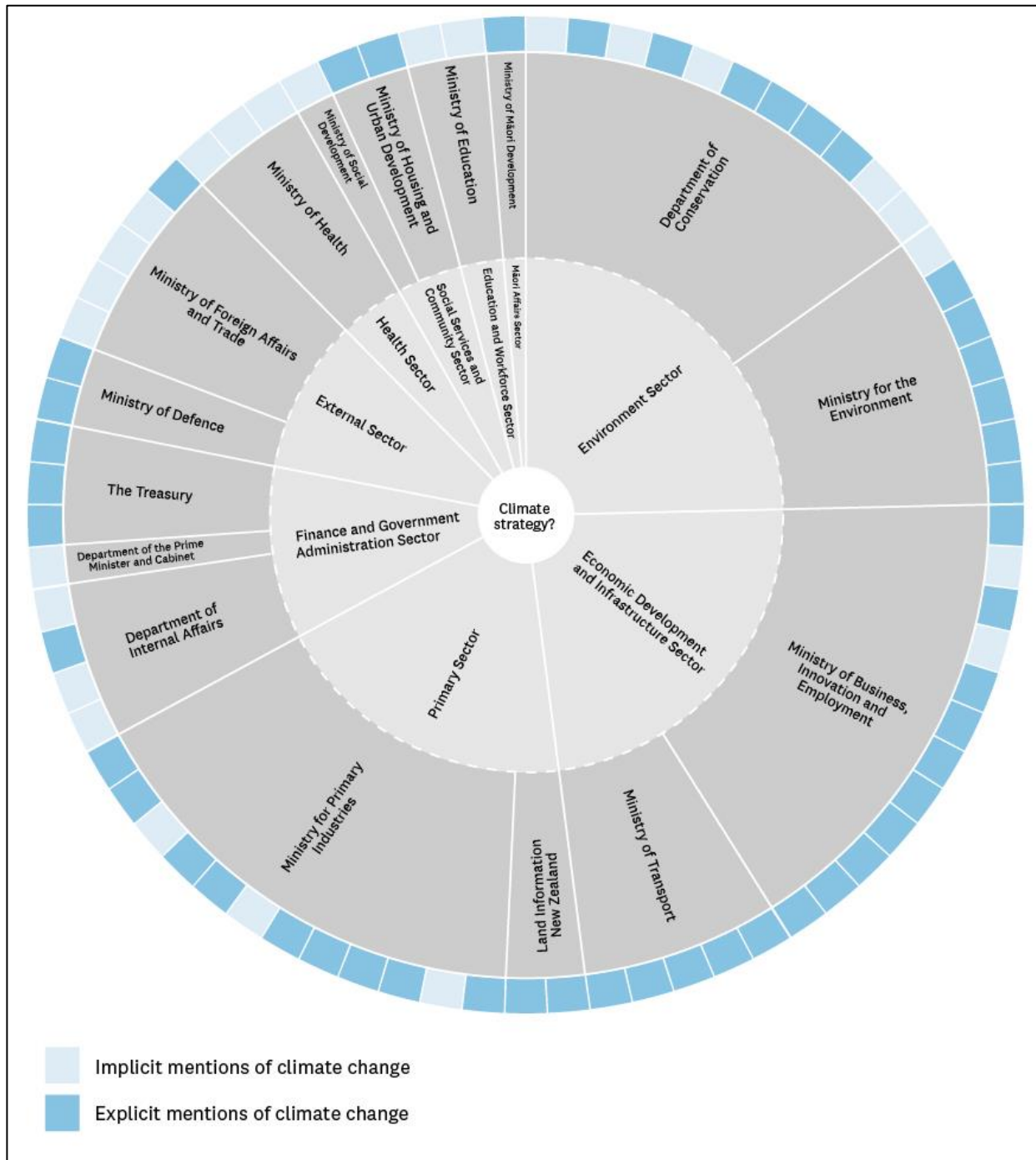


Appendix 6:

**Government department climate change strategies  
in operation as at 31 December 2021**

Appendix 6: Government department strategies that mention ‘climate change’ in operation as at 31 December 2021

Figure 16: Government department strategies that mention ‘climate change’ in operation as at 31 December 2021



<b>Department</b>	<b>Government Department Strategy</b>
<b>Department of Conservation</b>	Subantarctic Islands Research Strategy
	Mātauranga Whakauka Taiao – Environmental Education for Sustainability (jointly held between DOC and MfE)
	Sea lion/rāpoka Threat Management Plan 2017-2022 (jointly held between DOC and MPI)
	Government Tourism Strategy (jointly held between DOC and MBIE)
	Predator Free 2050 Strategy
	Te Kaweka Takohaka mō te Hoiho 2019-2029 (jointly held between DOC and MPI)
	Te Mana o te Taiao, Aotearoa New Zealand Biodiversity Strategy 2020
	Critical Ecosystem Pressures on Freshwater Environments (CRESP) 4 year research strategy
	Heritage and Visitor Strategy – He Rautaki Taonga Tuku Iho, Manuhiri Tūārangi hoki
	Digital Strategy 2020: Te pae tawhiti whaia kia tata – Navigating to new horizons
	Hector’s and Māui Dolphin Threat Management Plan 2020
<b>Department of Internal Affairs</b>	Archives 2057 Strategy
	Strategy for a Digital Public Service
	Three Waters Reform Programme
	Regulatory Services Group Strategy 2021-2026
<b>Department of the Prime Minister and Cabinet</b>	Child and Youth Wellbeing Strategy 2019
<b>Land Information New Zealand</b>	Regulatory Stewardship Strategy
	Antarctic and Southern Ocean Research Directions and Priorities 2021-2030 (jointly held between LINZ, MPI, MBIE and MFAT)
<b>Ministry for Primary Industries</b>	Biosecurity Science Strategy for New Zealand – Mahere Rautaki Putaiao Whakamaru
	Harvest Strategy Standard for New Zealand Fisheries
	Aquaculture Strategy and Five-year Action Plan to Support Aquaculture
	Science Strategy – Rautaki Putaiao
	Biosecurity 2025 Direction Statement
	Primary Sector Science Roadmap – Te Ao Tūroa
	Sea lion/rāpoka Threat Management Plan 2017-2022 (jointly held between DOC and MPI)
	Essential Freshwater (jointly held between MPI and MfE)
	Aquaculture Strategy
	Food Safety 2019-2024
	Te Kaweka Takohaka mō te Hoiho 2019-2029 (jointly held between DOC and MPI)
Antarctic and Southern Ocean Research Directions and Priorities 2021-2030 (jointly held with LINZ, MPI, MBIE and MFAT)	



Department	Government Department Strategy
Ministry for the Environment	National Implementation Plan Under the Stockholm Convention on Persistent Organic Pollutants
	Waste Strategy
	Mātauranga Whakauka Taiao – Environmental Education for Sustainability (jointly held between DOC and MfE)
	Our Science Strategy – Rautaki Pūtaiao
	Essential Freshwater (jointly held between MPI and MfE)
	Shared Interests in Freshwater
	Te hau mārohi ki anamata – Transitioning to a low-emissions and climate-resilient future
Ministry of Business, Innovation and Employment	Energy Strategy 2011–2021
	National Statement of Science Investment 2015–2025
	Energy Efficiency and Conservation Strategy 2017–2022
	Health Research Strategy 2017–2027 (jointly held between MoH and MBIE)
	Government Tourism Strategy (jointly held between DOC and MBIE)
	Small Business Strategy
	Our Employment Strategy
	Economic Plan for a Productive, Sustainable and Inclusive Economy
	Responsibly Delivering Value
	Agritech Industry Transformation Plan
	Building for the Future: Building System Regulatory Strategy
	Antarctic and Southern Ocean Research Directions and Priorities 2021–2030 (jointly held with LINZ, MPI, MBIE and MFAT)
Ministry of Defence	Strategic Defence Policy Statement 2018
	Defence Capability Plan 2019
Ministry of Education	International Education Strategy – He Rautaki Mātauranga A Ao 2018–2030
	Action Plan for Pacific Education 2020–2030
Ministry of Foreign Affairs and Trade	Opening Doors to China: New Zealand's 2015 Vision
	Trade Recovery Strategy
	Child & Youth Well-Being Strategic Action Plan 2021–2025
	Human Rights Strategic Action Plan for International Development Cooperation 2021–2025
	Antarctic and Southern Ocean Research Directions and Priorities 2021–2030 (jointly held with LINZ, MPI, MBIE and MFAT)
Ministry of Health	He Korowai Oranga – Māori Health Strategy
	Health Research Strategy 2017–2027 (jointly held between MoH and MBIE)
	Kia Manawanui Aotearoa – Long-term pathway to mental wellbeing
Ministry of Housing and Urban Development	Te Tauākī Kaupapa Here a te Kāwanatanga mō te Whakawhanake Whare, Tāone anō hoki – Government Policy Statement on Housing and Urban Development
	MAIHI Ka Ora – The National Māori Housing Strategy 2021–2051 (jointly held between MHUD and MMD/TPK)
Ministry of Māori Development	MAIHI Ka Ora – The National Māori Housing Strategy 2021–2051 (jointly held between MHUD and MMD/TPK)
Ministry of Social Development	Better Late Life – He Oranga Kaumātua 2019 to 2034 – Super Seniors

Department	Government Department Strategy
<b>Ministry of Transport</b>	Framework for Shaping our Transport System
	Transport Evidence Base Strategy
	Government Policy Statement on Land Transport 2021/22–2030/31
	Maritime Security Strategy
	Rail Plan
<b>The Treasury</b>	Thirty Year New Zealand Infrastructure Plan
	He Puna Hao Pātiki – 2018 Investment Statement: Investing for Wellbeing
	He Tirohanga Mokoopuna 2021

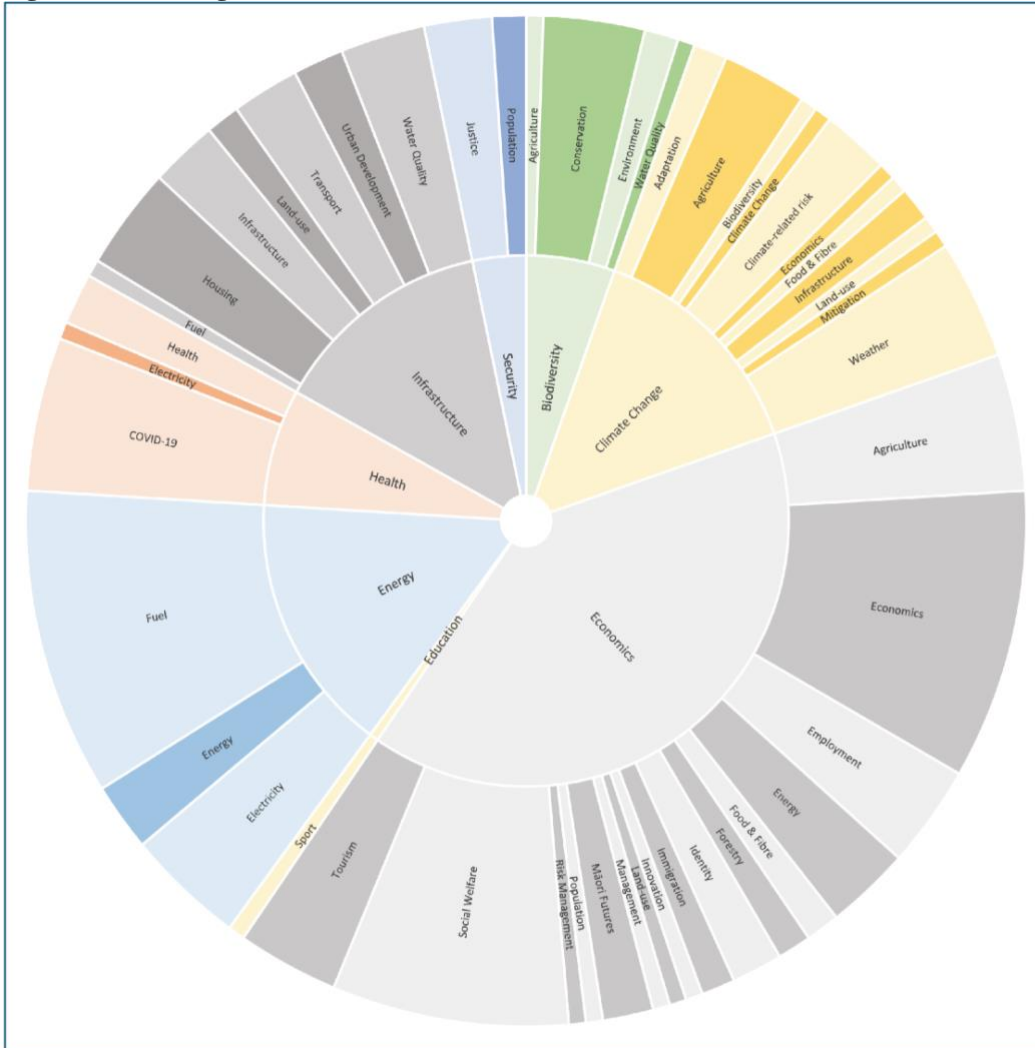
Appendix 7:

**Figures from *Working Paper: 2021/10: Analysis of Existing Scenarios in Aotearoa New Zealand***

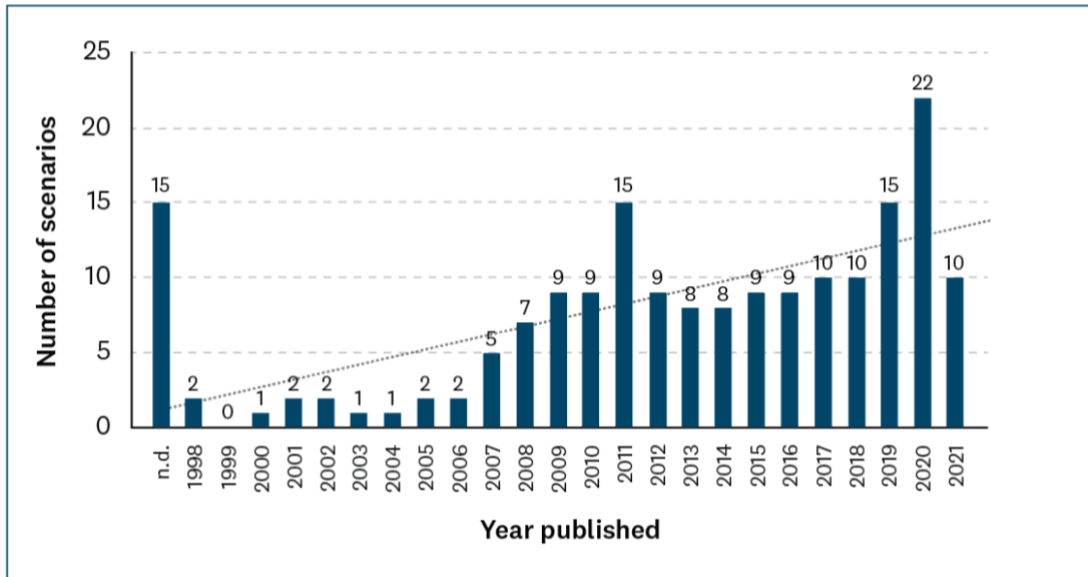


**Appendix 7: Figures from Working Paper: 2021/10: Analysis of Existing Scenarios in Aotearoa New Zealand**

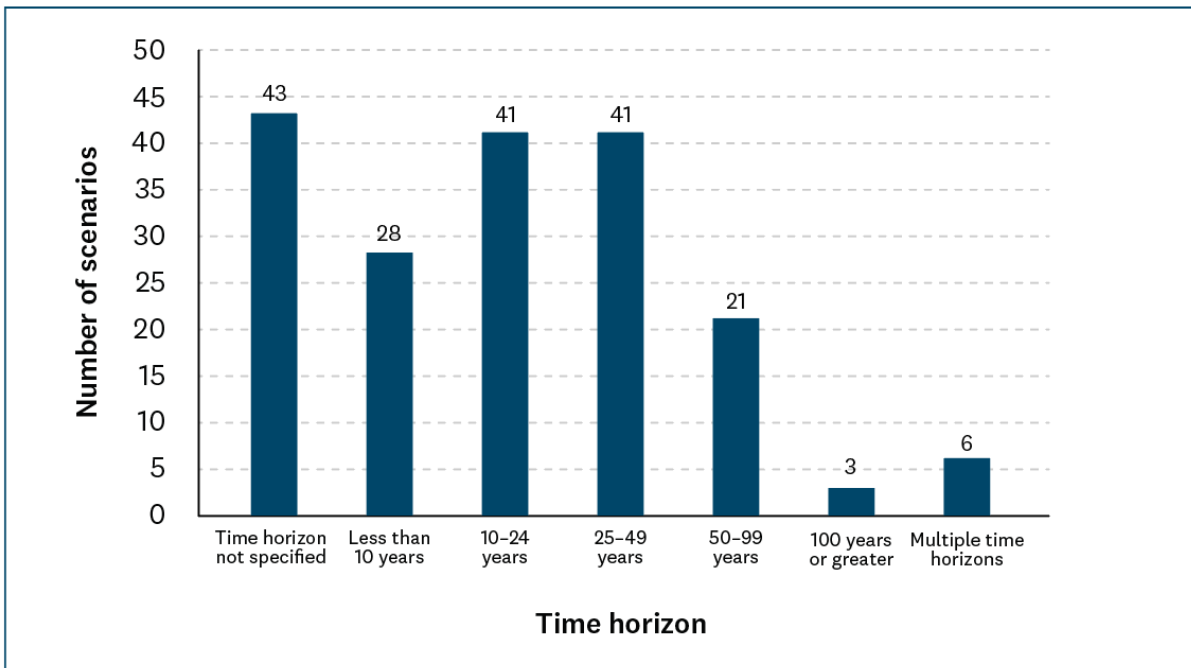
**Figure 17: Existing Scenarios in Aotearoa New Zealand**



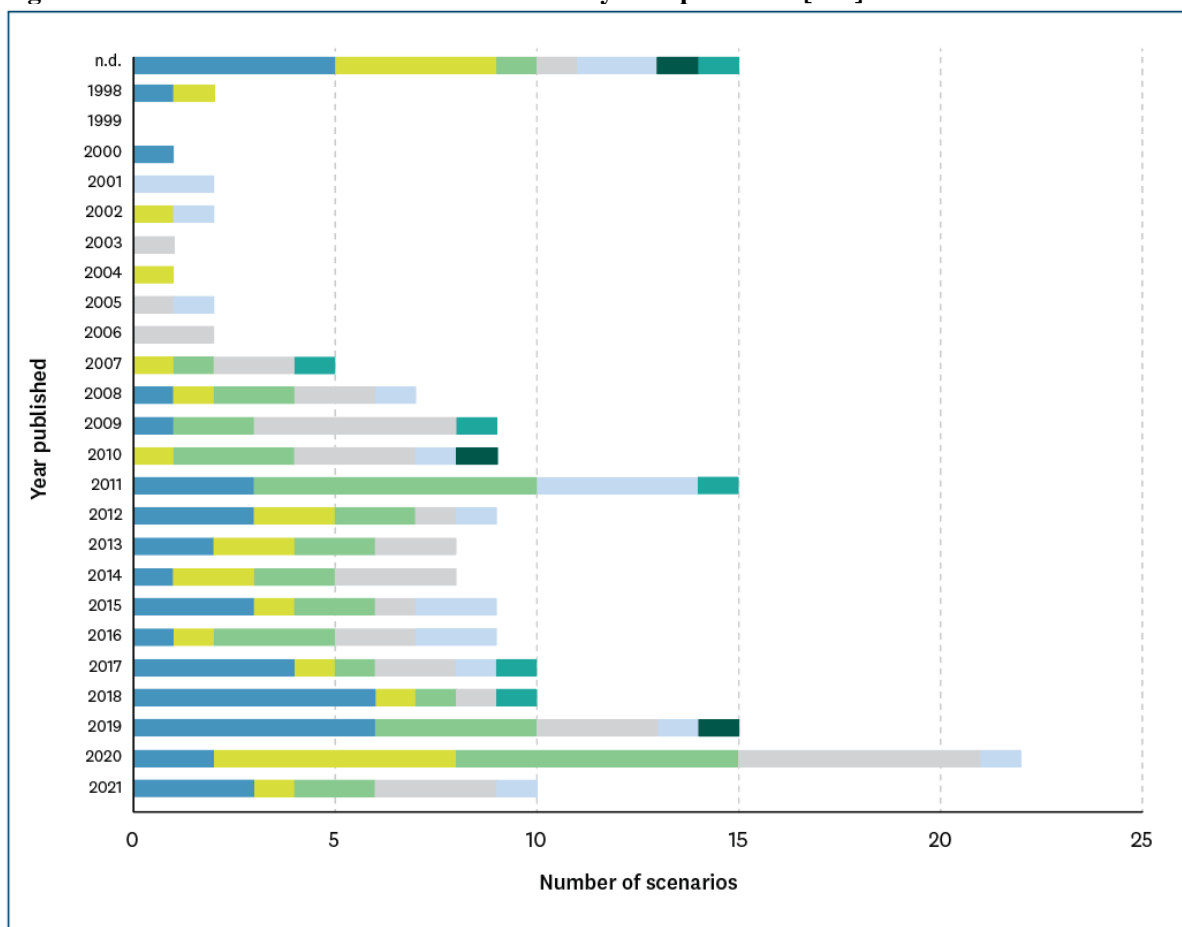
**Figure 18: National scenarios published annually [183]**



**Figure 19: National spread of time horizons [183]**



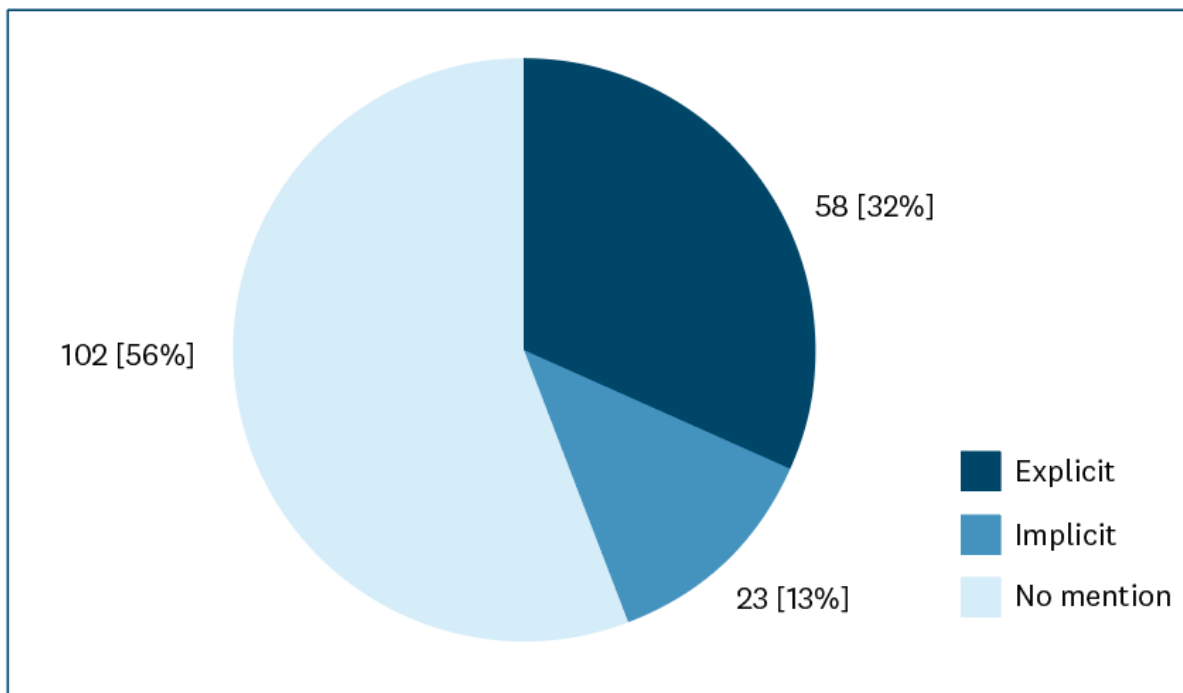
**Figure 20: National breakdown of time horizons by date published [183]**



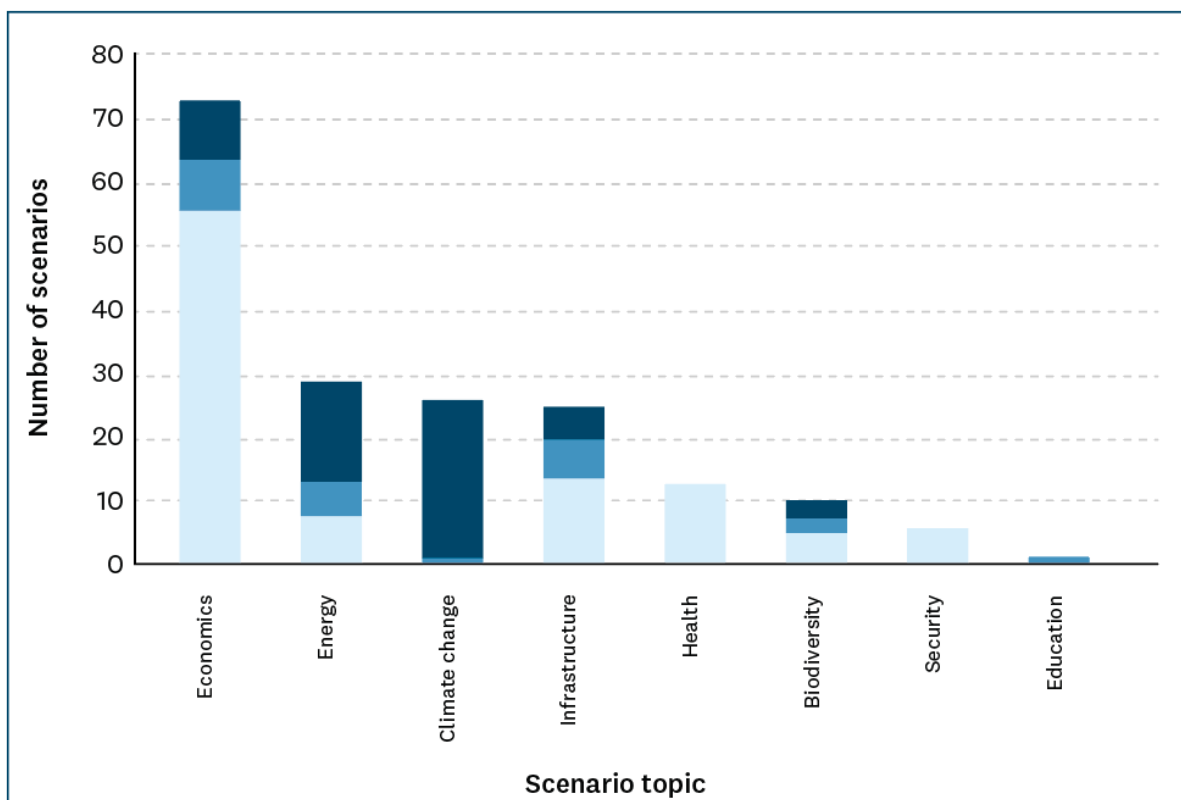
	2021	2020	2019	2018	2017	2016	2015	2014	2013	2012	2011	2010	2009	2008	2007	2006	2005	2004	2003	2002	2001	2000	1999	1998	n.d.
Time horizon not specified	3	2	6	6	4	1	3	1	2	3	3	0	1	1	0	0	0	0	0	0	0	1	0	1	5
Less than 10 years	1	6	0	1	1	1	1	2	2	2	0	1	0	1	1	0	0	1	0	1	0	0	0	1	4
10-24 years	2	7	4	1	1	3	2	2	2	2	7	3	2	2	1	0	0	0	0	0	0	0	0	0	1
25-49 years	3	6	3	1	2	2	1	3	2	1	0	3	5	2	2	2	1	0	1	0	0	0	0	0	1
50-99 years	1	1	1	0	1	2	2	0	0	1	4	1	0	1	0	0	1	0	0	1	2	0	0	0	2
100 years or greater	0	0	1	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	1
Multiple time horizons	0	0	0	1	1	0	0	0	0	0	1	0	1	0	1	0	0	0	0	0	0	0	0	0	1



**Figure 21: National scenarios, by mentions of climate change [183]**

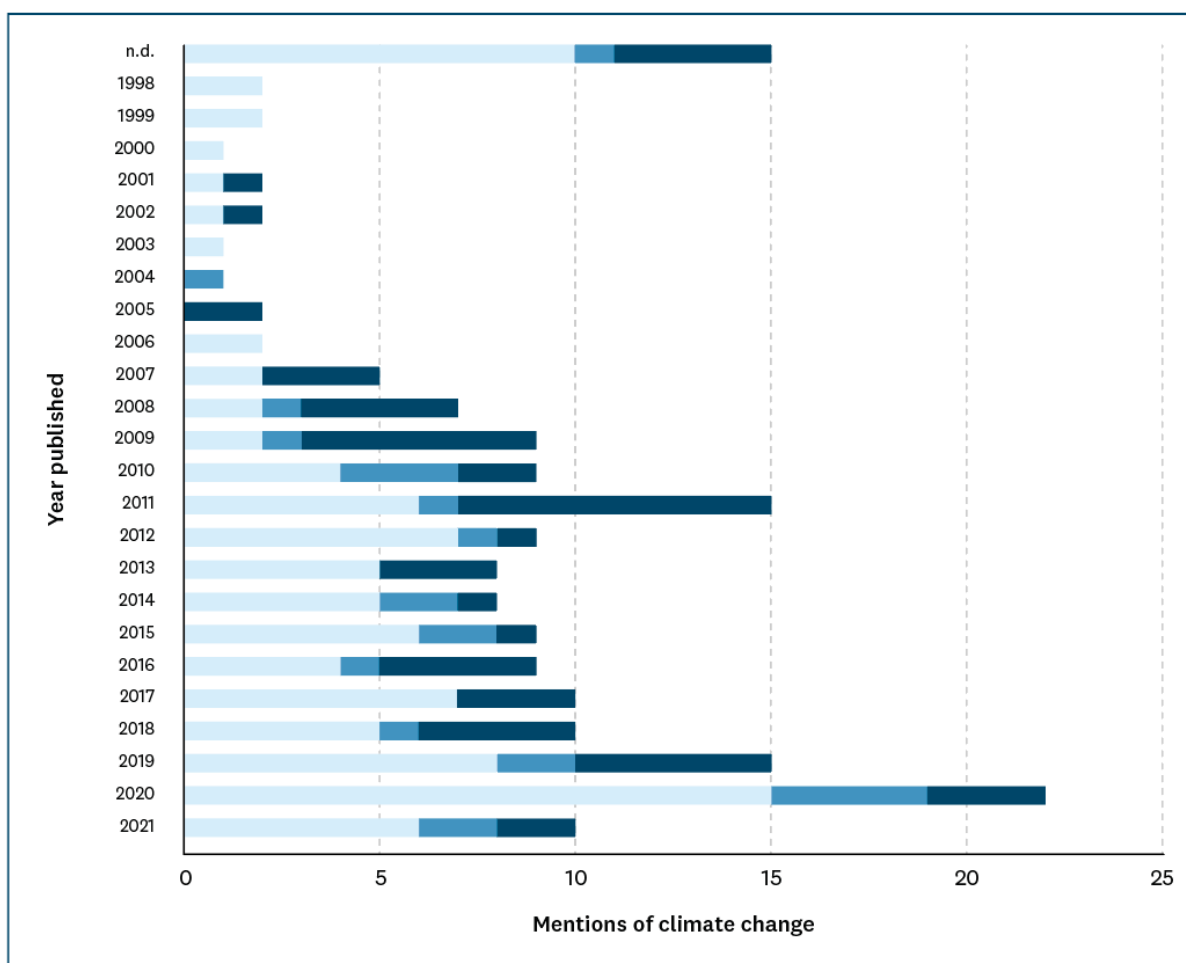


**Figure 22: National Scenarios by breakdown of climate change mentions, by topic [183]**



	Economics	Energy	Climate change	Infrastructure	Health	Biodiversity	Security	Education
Explicit	9	16	25	5	0	3	0	0
Implicit	8	5	1	6	0	2	0	1
No mention	56	8	0	14	13	5	6	0

**Figure 23: National Scenarios by breakdown of climate change mentions, by date published [183]**



	2021	2020	2019	2018	2017	2016	2015	2014	2013	2012	2011	2010	2009	2008	2007	2006	2005	2004	2003	2002	2001	2000	1999	1998	n.d.
Explicit	2	4	2	1	0	1	2	2	0	1	1	3	1	1	0	0	0	1	0	0	0	0	0	0	1
Implicit	6	15	8	5	7	4	6	5	5	7	6	4	2	2	2	2	0	0	1	1	1	1	0	2	10
No mention	2	3	5	4	3	4	1	1	3	1	8	2	6	4	3	0	2	0	0	1	1	0	0	0	4

## Endnotes

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<sup>1</sup> See Financial Service Providers (Registration and Dispute Resolution) Act 2008, s 35. Retrieved 27 May 2022

from <https://www.legislation.govt.nz/act/public/2008/0097/latest/DLM1109541.html#DLM1109541>

<sup>2</sup> See McGuinness Institute. (28 May 2021). *Financial Sector (Climate-related Disclosures and Other Matters) Amendment Bill*. Submission. Retrieved 27 May 2022 from

<https://www.mcguinnessinstitute.org/publications/submissions>