Independent Reporting Mechanism

Action Plan Review:
New Zealand 2022–2024

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Introduction

In January 2021, the Independent Reporting Mechanism (IRM) rolled out the new products that resulted from the IRM Refresh process.[1] The new approach builds on the lessons learned after more than 350 robust, independent, evidence-based assessments conducted by the IRM and inputs from the OGP community. The IRM seeks to put forth simple, timely, fit for purpose, and results-oriented products that contribute to learning and accountability in key moments of the OGP action plan cycle.

IRM products are:

- **Co-Creation Brief:** Brings in lessons from previous action plans, serves a learning purpose, and informs co-creation planning and design.

- **Action Plan Review:** A quick, independent technical review of the characteristics of the action plan and the strengths and challenges IRM identifies to inform a stronger implementation process.

- **Results Report:** An overall implementation assessment that focuses on policy-level results and how changes happen. It also checks compliance with OGP rules and informs accountability and longer-term learning. This product was rolled out in a transition phase in 2022, beginning with action plans ending implementation on 31 August 2022. Results Reports are delivered up to four months after the end of the implementation cycle.

This product consists of an IRM review of the New Zealand 2022–2024 action plan. The action plan comprises eight commitments. This review emphasises its analysis on the strength of the action plan to contribute to implementation and results. For the commitment-by-commitment data, see Annex 1. For details regarding the methodology and indicators used by the IRM for this Action Plan Review, see Section III.

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[1] IRM Refresh: https://www.opengovpartnership.org/process/accountability/about-the-irm/irm-refresh/.

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Section I: Overview of the 2022–2024 Action Plan

Following an extended co-creation process, New Zealand's fourth action plan includes promising commitments on institutionalising community engagement practices, beneficial ownership transparency, and online public procurement platforms. It also introduces cross-cutting consideration of indigenous Māori implications. As civil society organisations (CSOs) have noted a lack of ambition in the plan, focused efforts on collaboration during implementation can rebuild civil society-government trust and support achievement of better results.

New Zealand's fourth action plan includes eight commitments. Most build on previous plans' progress on anti-corruption, right to information, and public participation. The Public Service Commission | Te Kawa Mataaho (TKM) oversaw the development of the plan in consultation with the Expert Advisory Panel (EAP), a group of six civil society individuals with expertise in public engagement and open government. A new feature of the plan's design is consideration of Te Tiriti o Waitangi (the Treaty of Waitangi)[1] and its implications for how commitments are implemented.

Three of the commitments envision promising reforms on public participation, beneficial ownership transparency, and open procurement. Commitment 5 is New Zealand's first OGP commitment on beneficial ownership transparency, aiming to pass legislation to make beneficial ownership information available through a public register. Building on the previous action plan, Commitment 1 aims to support government agencies to adopt new community engagement practices. Commitment 6, also continuing from the previous plan, would lay groundwork for online platforms to share public procurement information, although significant changes for public access to procurement information will likely depend on continued efforts beyond the implementation period.

While this process met the minimum requirements of the OGP Participation and Co-Creation Standards (see Annex 2),[2] there are divergent views on the extent to which the principles of co-creation were realized. According to TKM, there were many opportunities for civil society groups to have meaningful involvement in the development of the Plan, including at the later stages of finalisation.[3] According to civil society stakeholders, the development process did not provide sufficient transparency or opportunity to meaningfully engage in decision-making on the development of commitments in the final action plan, particularly in the later period. These stakeholders were also dissatisfied with the degree to which public input was incorporated into the action plan. In response, several CSOs withdrew from New Zealand's open government work.[4]

AT A GLANCE

Participating since: 2014
Action plan under review: 2022–2024
IRM product: Action Plan Review
Number of commitments: 8

Overview of commitments:
- Commitments with an open government lens: 8 (100%)
- Commitments with substantial potential for results: 2 (25%)
- Promising commitments: 3

Policy areas carried over from the previous action plans:
- Community Engagement
- Public Service Delivery
- Public Procurement
- Freedom of Information
- Algorithmic Transparency
- Anti-Corruption

Emerging policy areas:
- Beneficial Ownership

Compliance with OGP minimum requirements for co-creation: Yes

An extended co-creation process took place between 2020 and 2022 in four stages: 1) engagement and sourcing of ideas; 2) theming and narrowing ideas to identify potential commitments: 3) refining and prioritising potential commitments; and 4) finalizing commitments and lead government agency support. However, aspirations for co-creation in phases 2-4 were affected by COVID-19-related communication and personnel limitations. In 2020, a public consultation generated 1,500 ideas through meetings with stakeholders around the country.[5] These ideas were synthesised into themes, but the action plan commitments largely emerged from consultation during 2021 and 2022.[6] In late 2021 and 2022, TKM worked with CSOs, EAP, and government officials to draft 19 commitments through focused workshops.[7] These workshops used a framework proposed by the Ministry for Māori Development | Te Puni Kokiri to include consideration of Te Tiriti o Waitangi obligations.[8] After workshops in February 2022,[9] CSOs report that opportunities to meet with lead government agencies and participate in finalising the commitments stalled. In response, in September 2022, 12 CSOs submitted 11 proposed commitments, building off the earlier workshop discussions.[10] TKM crafted the final draft plan, which included two of the eleven CSO proposals (Commitments 1 and 3), and reflected two of the proposals' policy areas in less ambitious commitments (Commitments 7 and 8). Commitment 2 was jointly developed at the workshops in 2022.[11] The final plan also incorporated government proposals (Commitments 4, 5, and 6). Further public input was truncated, and after a public comment period on the draft beginning in November 2022, the action plan was published in December 2022.

Beyond the action plan's promising commitments, the remaining five commitments target important policy areas, but their potential for results could be strengthened. Commitments 2, 4, and 7 could take more ambitious steps on deliberative democracy, anti-corruption strategy, and exemptions to the Official Information Act. For instance, where commitments intend to undertake research or reviews, implementers could further commit to undertaking the policy reforms being explored. Commitments 3 and 8 lack sufficient clarity on intended outputs, as the government leads for these commitments were determined late in the co-creation process. Efforts under these commitments would benefit from setting concrete targets to address algorithmic transparency and provision of government services through offline channels as well as online ones.

Government stakeholders reflected that most commitments undertook discrete reforms that contribute to wider efforts underway. During development of the action plan, government bodies were modest in the scope of their OGP commitments to avoid overlapping existing work programs or requiring significant additional resources.[12] This was a concern to civil society stakeholders who supported progressing new reforms through the OGP platform. From EAP members' perspective, the plan could have gone further to undertake ambitious reforms, sufficiently fund commitments, and institutionalise the open government learning and capacity built through the previous three plans.[13] Beyond the action plan's commitments, civil society stakeholders continue to encourage efforts on the previous plan's unfinished commitment to create an authoritative dataset of government organisations as open data. Some also advocate for a challenge commitment on New Zealand's accession to the UN Convention on Access to Information, Public Participation in Decision-Making, and Access to Justice in Environmental Matters.[14] Notwithstanding a contentious co-creation process, civil society and government stakeholders intend to work together to support implementation of the commitments. To ensure

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achievement of intended results of the plan, EAP and civil society are keen to see more engagement opportunities during implementation.

IRM recommends a focused effort to improve the level of collaboration. Efforts are underway to replace the current EAP at the end of their term, which provides an opportunity to reset future co-creation processes. EAP members have expressed a wish to see a new Multi-Stakeholder Forum established with representation from across government, Te Tiriti partners, and civil society. This body would benefit from equal government-civil society representation and responsibilities for liaising with civil society and approving the co-creation process. In addition, during implementation, TKM could convene a quarterly forum of all stakeholders involved in commitments to share progress, capture institutional learning, and identify synergies across commitments. This greater frequency could help build relationships and trust between government and civil society stakeholders. This process could also offer opportunities for collaboration in related government initiatives taking place outside of commitments. Particularly for commitments that derive from existing government workplans, implementing agencies are encouraged to maintain responsive communication channels for civil society input during implementation in order to fully realise the benefits of co-creation within the open government platform.

[1] Te Tiriti o Waitangi or Treaty of Waitangi, signed in 1840 between indigenous Māori tribal leaders and the representatives of Queen Victoria, is the foundational statement of the basis for government in New Zealand.

[2] "2021 OGP Participation and Co-Creation Standards," Open Government Partnership, https://www.opengovpartnership.org/ogp-participation-co-creation-standards/.

[3] This information was received from TKM during the pre-publication review period (31 May 2023).

[4] The following CSOs withdrew: Hui E!, the Public Service Association, Child Poverty Action Group, and Amnesty International NZ. See Laurence Millar and Julie Haggie, Transparency International New Zealand, interviews by IRM 12 December 2022 and 7 February, 2023; TINZ's submission on the draft plan in Open Government Partnership New Zealand *Part 2. Collation of Public Submissions Received for New Zealand's Fourth National Action Plan Draft (November - December 2022)* (Wellington: Open Government Partnership New Zealand, 2023), https://ogp.org.nz/assets/New-Zealand-Plan/Fourth-National-Action-Plan/Part-2.-Collation-of-public-submissions-received-for-New-Zealands-Fourth-National-Action-Plan-draft-8-March-2023.pdf.

[5] "Ideas for the Fourth National Action Plan," Open Government Partnership New Zealand, https://ogp.org.nz/new-zealands-plan/fourth-national-action-plan/ideas-for-the-fourth-national-action-plan-collected-in-our-workshops/.

[6] Catherine Williams, *Joint Report: Potential Focus Areas for New Zealand's Fourth Open Government Partnership National Action Plan* (Wellington: Public Service Commission | Te Kawa Mataaho, 2021), Joint-Report-Potential-focus-areas-for-New-Zealands-fourth-Open-Government-Partnership-National-Action-Plan.pdf (publicservice.govt.nz).

[7] "6 July and 13 July 2022 - EAP, CSO and Officials Meeting," Open Government Partnership New Zealand, https://ogp.org.nz/open-government-partnership/expert-advisory-panel/6-july-and-13-july-2022-eap-cso-and-officials-meeting/.

[8] Katherine Peet (Network Waitangi Otāutahi), interview by IRM, 14 December 2022; Julie Haggie (CEO Transparency International New Zealand), interview by IRM, 7 February 2023.

[9] Summary of potential commitments emerging from workshop discussions can be seen at Summary-2022-Open-Government-Partnership-NZ-Workshops-on-potential-NAP-4-Commitments.pdf (ogp.org.nz)

[10] The 11 proposed commitments can be seen at https://nzccl.org.nz/wp-content/uploads/CSO_Drafted_Commitments_for_NAP4_combined.pdf

[11] Sara Colcord (Expert Advisory Panel member), interview by IRM, 8 and 10 February 2023; Rachel Roberts (Expert Advisory Panel member), interview by IRM, 6 December 2022 and 8 February 2023; Farib Sos (Expert Advisory Panel member), interview by IRM, 1 December 2022 and 10 February 2023; Sean Audain (Expert Advisory Panel member), interview by IRM, 10 January 2022 and 8 February 2023; Suzanne Snively (Expert Advisory Panel member), interview by IRM, 9 December 2022 and 8 February 2023; Simon Wright (Expert Advisory Panel member), interview by IRM 9 November 2022 and 8 February 2023.

[12] Kate Rockpool (Principal Advisor, Serious Fraud Office), interview by IRM, 17 February 2023; Liz Palmer and Olaf Buhrfein (Ministry of Business, Innovation and Employment team responsible for implementation of Commitment 6),

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interview by IRM, 22 Feb 2023; Wendy Hamilton (GM Data and Systems Capability, Stats NZ) , interview by IRM, 22 February, 2022.

[13] Roberts, interview; Sos, interview; Audain, interview; Snively, interview; Wright, interview.

[14] The Council for Civil Liberties and the Environment and Conservation Organisations of New Zealand Inc support this as a challenge commitment.

Section II: Promising Commitments in New Zealand 2022–2024 Action Plan

The following review looks at the three commitments that the IRM identified as having the potential to realise the most promising results. Promising commitments address a policy area that is important to stakeholders or the national context. They must be verifiable, have a relevant open government lens, and have modest or substantial potential for results. This review also provides an analysis of challenges, opportunities, and recommendations to contribute to the learning and implementation process of this action plan.

Table 1. Promising commitments

Promising Commitments
1. Adopt a Community Engagement Tool: This commitment intends to support all public service agencies' adoption of a tool for community engagement on significant issues. This could strengthen the consistency of community engagement practices across government.
5. Increase Transparency of Beneficial Ownership of Companies and Limited Partnerships: This commitment aims to pass legislation to make previously inaccessible beneficial ownership information available on a public register. It is New Zealand's first OGP commitment on beneficial ownership transparency.
6. Improve Government Procurement Transparency: This commitment would lay groundwork for online platforms to share public procurement information. Significant results in public access to procurement data will likely depend on continued efforts beyond the implementation period.

Commitment 1. Adopt a Community Engagement Tool
For a complete description of the commitment, see Commitment 1 in New Zealand's 2022–2024 Action Plan: https://www.opengovpartnership.org/documents/new-zealand-action-plan-2022-2024-december/.

Context and objectives:
Through this commitment, the Public Services Commission | Te Kawa Mataaho (TKM) aims to support all public service agencies to adopt the Policy Community Engagement Tool for significant issues. The tool was produced under the previous action plan,[1] based on IAP2 principles.[2] This tool was piloted to engage with community groups affected by the terrorist attack on two Christchurch mosques in March 2018,[3] which deepened the tool's usability in contexts wider than policy development. The tool was launched in December 2021 and provides hands-on guidance for policy teams and their agencies on how to conduct inclusive, respectful, and meaningful community engagement.[4] To support public service agencies' adoption of the tool, TKM plans to develop and implement a model standard,[5] and strengthen the relevant community of practice. The commitment was proposed by CSOs eager to see engagement with civil society practiced more widely and consistently across government agencies.[6]

Potential for results: Modest
Currently, public sector agencies use many and varied methods to engage with the public, with different arms of government conducting community engagement in ways that can appear inconsistent.[7] The result is that civil society must frequently adapt to the preferences and

procedures of a particular department.[8] During the years preceding this action plan, a network of environmental organisations noted a substantial contraction in opportunities for public participation in the policy areas of environmental law, resource management, and housing and urban development. Stakeholders also noted that for some ministries, consultations favoured CSOs that were "familiar faces."[9] Overall, policy practitioners, engagement specialists, community members, and organisations surveyed by the Policy Project in 2020 agreed that government needs to improve how it engages.[10]

Implementation of this commitment could address gaps in community engagement by supporting public service agencies to adopt standard practices and approaches for when and how to initiate community engagement. Use of the Policy Community Engagement Tool will be expected for "significant initiatives," although the commitment does not define what constitutes a significant initiative. (According to TKM, this will be defined during the implementation period.)[11] The tool offers guidance on designing, planning, implementing, sharing results, and evaluating community engagement.[12] Through a review, the Department of the Prime Minister and Cabinet intends to incorporate any learning from use of the tool.[13]

This commitment has modest potential to improve community engagement practices, as it does not plan to mandate adoption of this tool by all public sector agencies. Over time, it could be expected that capability to engage effectively will grow both among government agencies and civil society. TKM notes that a small community of practice within government is already experienced in community engagement in the policy and Royal Commission of Inquiry contexts. This commitment will encourage its growth.[14] Members of the EAP expect the commitment to build competence and experience in both civil society and public sector organisations.[15]

Opportunities, challenges, and recommendations during implementation
In the view of the EAP,[16] Trust Democracy NZ, and the Council for Civil Liberties,[17] involvement of civil society in oversight of the implementation of this commitment is key to achieving open government results. So too is monitoring the implementation and use of the tool in ways that encourage an inclusive community of practice to grow and share learning across government agencies and civil society. CSOs encourage progressive reporting of experience with use of the tool to support continued improvement of government community engagement practices.[18] For effective implementation, IRM recommends the following:
- **Systematically include participation** by CSOs in implementation of the commitment. For example, in the planned review of the public engagement tool, TKM can include members of the public and civil society that have been involved in the public engagement exercises and make a report on the review publicly available. Likewise, in formulating the model standard, TKM can provide opportunities for collaboration with the public and civil society stakeholders, including in formulating the definition of "significant initiatives."
- **Encourage public service agencies' uptake of the tool** through setting the expectation of its adoption for all significant initiatives, where failure to do so would be open to scrutiny of the Auditor General. Adoption can also be supported by raising awareness, training, and developing principles for revision of departmental strategies, policies, and practices on community engagement. Encourage voluntary adoption of the tool for all engagement exercises, not just those to be defined as "significant."

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- **Enable processes that ensure learning from each use of the tool** and subsequent updates to the tool to reflect lessons learned. This would create opportunities to ensure that the tool remains fit for purpose as society and the public services changes.
- **Encourage inclusivity in the planned community of practice** on community engagement by including public sector officials alongside members of civil society, academia, the private sector, and the public.
- **Use this tool to support co-creation of the next OGP action plan**, as the development process will run concurrently with this commitment's implementation. Use of the tool can both strengthen the next co-creation process and leverage the next action plan to build on progress and achievements under this commitment.[19]

Commitment 5: Increase Transparency of Beneficial Ownership of Companies and Limited Partnerships

For a complete description of the commitment, see Commitment 5 in New Zealand's 2022–2024 Action Plan: https://www.opengovpartnership.org/documents/new-zealand-action-plan-2022-2024-december/.

Context and objectives:

This commitment, proposed by the Ministry of Business, Innovation & Employment (MBIE), aims to have Parliament pass legislation to make the beneficial ownership information[20] for companies and limited partnerships available through a public register.[21] MBIE carried out preparatory work and public consultation in 2018.[22] Draft legislation was proposed in 2021 and consulted on in 2022.[23] Under the Companies Act 1993 and the Limited Partnerships Act 2008, companies and limited partnerships must provide information to the Registrar of Companies on who runs and owns them. However, disclosure of beneficial ownership information has not previously been a legal obligation. As New Zealand is a member of the Financial Action Task Force (FATF),[24] this commitment would address FATF Recommendation 24. That recommendation requires countries to "ensure that there is adequate, accurate and timely information on the beneficial ownership and control of legal persons that can be obtained or accessed in a timely fashion by competent authorities." This commitment also aligns with the 2020–2025 Transnational Organised Crime strategy.[25]

Potential for results: Substantial

Under the proposal agreed to by Cabinet,[26] legislation would require beneficial owners' information to be recorded with the Registrar of Companies and published on a public register. This register would increase the availability and transparency of public information about the directors and beneficial owners of companies and limited partnerships operating in New Zealand. Opening access to this information would enable civil society and law enforcement agencies to follow the money in financial investigations.

This commitment's intended legislation would require companies and limited partnerships to identify beneficial owners and provide the Registrar of Companies with their information. Shareholders or limited partners would be required to inform their company or limited partnership on whether they are a beneficial owner, and beneficial owners would be mandated to provide required information. An individual would be considered a beneficial owner if they directly or indirectly hold a minimum percentage ownership interest or voting rights in a company or limited partnership; have the right to appoint or remove a majority of the board of directors; or have the right to exercise, or actually exercise, significant influence or control over

a company or limited partnership. The proposed legislation provides 12 months for compliance by existing entities and lists fines for failure to disclose required beneficial ownership information.[27]

Some of this beneficial ownership information would be made publicly available on a register, including full legal name, date of and basis for becoming a beneficial owner or date of appointment, address for service, and chains of beneficial ownership. A unique identifier number would be assigned to all beneficial owners, directors, and general partners of limited partnerships. Other details, such as date of birth, email address, and corporate information of other entities where the person is a beneficial owner, would be on a non-public register. Home addresses would not be publicly listed.[28]

By introducing public access to beneficial ownership information, this commitment could contribute to curbing money laundering in New Zealand. At present, without access to beneficial ownership information, government and civil society monitors cannot establish a complete picture of a company's ownership structure. The Financial Intelligence Unit of the New Zealand Police reports that national vulnerabilities related to money laundering are compounded by difficulties in identifying the beneficial owners of New Zealand companies, charities, and trusts.[29] According to the Ministry of Justice, although New Zealand is not a major international centre for financial crimes, about $1.35 billion proceeds of fraud and illegal drugs are laundered through New Zealand businesses each year.[30] Beneficial owners and shell companies play a role. A 2014–2015 analysis of 57 cases with recovery of high value proceeds from crime found that for approximately one-third of assets recovered, shell companies played a role in the case.[31] The Cabinet paper authorising this work explains that beneficial owners use their anonymity to launder illegally gained funds through their New Zealand entities. This distorts business decisions, heightens risk of business failures, and allows for drug trafficking, smuggling, and other criminal activity.[32] The FATF 2021 mutual evaluation report designated beneficial ownership transparency as a top priority for strengthening New Zealand's anti-money laundering regulatory framework, particularly for limited liability companies and partnerships, and domestic trusts.[33] The former Minister of Commerce and Consumer Affairs adds that the planned transparency measures would address key vulnerabilities exposed by the Pandora and Panama Papers.[34] According to Transparency International NZ (TINZ), a public register will make a substantial contribution to greater transparency of beneficial ownership.[35] This is because it would enable scrutiny by media and researchers, a mechanism which has revealed substantial money laundering and tax avoidance in the past.[36]

Opportunities, challenges, and recommendations during implementation
As New Zealand's government has agreed to legislate for disclosure of beneficial ownership information, the next step is introduction of the proposed legislation to Parliament as a bill, which is planned for 2023.[37] The bill will then be subject to scrutiny by a parliamentary select committee, which would typically include further opportunities for community input before completing its enactment in law. MBIE anticipates that the 12 months the commitment allocates for passage of the legislation will be sufficient.[38] It notes, however, that an election is scheduled for October 2023, and the legislative work programme could be affected by time constraints prior to the election and competing government priorities. A parallel and related policy on creating a register of individuals who are directors of companies and limited partnerships is also being considered and could further amplify the value of the planned beneficial ownership register. New Zealand can draw on the experiences of OGP counterparts in Denmark[39] and the

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Slovak Republic,[40] which developed public registries with strong verification systems, ensuring data is accurate and usable. For effective implementation of this commitment, IRM recommends the following:

- **Include launch of the beneficial ownership register** in the commitment's implementation plan, addressing funding, housing of the register, and technical work. Plan for a verification system associated with the register to ensure the reliability of beneficial ownership information disclosed.
- **Ensure the interoperability of beneficial ownership information disclosed.** Applying common standards such as the Beneficial Ownership Data Standard[41] and linking ownership information with other policy areas will help to track money and assets across sectors and jurisdictions.
- **Systematically include participation by CSOs** in implementation of the commitment, including consultations on the draft bill, design of the beneficial ownership register, and monitoring and accountability. Take steps to encourage utilisation of the beneficial ownership database information by CSOs and the public. In order to realise the full transparency and accountability benefits of the register, accompany the register with regular reports on beneficial ownership information and feedback channels to allow CSOs and individuals ease of scrutiny and to draw the attention of government to issues of concern.

Commitment 6: Improve Government Procurement Transparency
For a complete description of the commitment, see Commitment 6 in New Zealand's 2022–2024 Action Plan: https://www.opengovpartnership.org/documents/new-zealand-action-plan-2022-2024-december/.

Context and objectives:
This commitment intends to strengthen government procurement transparency by improving the Government Electronic Tender Service (GETS) and laying the groundwork for a digital data platform that would bring together government procurement data. GETS serves as the national e-procurement system, used by some government agencies to issue tenders, manage questions, accept bids, and publish award information. However, as of 2021, procurement award notices on GETS represented only about 2.5% of the total annual government expenditure.[42] Annually, New Zealand spends approximately NZ$51.5 billion (US$35.8 billion) on goods and services.[43] According to a 2022 OECD case study, New Zealand's procurement expenditure, amounting to 15.1% of GDP, is relatively higher than the OECD average. For the most part, government agencies conduct their own procurement, except for limited categories procured centrally.[44] This commitment builds on the previous action plan, which began publishing the GETS notices as open data in .csv format. It is led by MBIE and forms part of the government's Procurement for the Future Programme, which includes efforts to increase the quality and coverage of public reporting of government procurement information.[45]

Potential for results: Modest
Improvements to online platforms would incrementally open access to public procurement information. Under this commitment, the intended user interface changes to the GETS application would require more structured input from government bodies, involving the use of mandatory fields to submit tender information. According to MBIE, this is expected to increase compliance with contract award information requirements.[46] In addition, the commitment intends to design, develop, and pilot a new digital data platform (or leverage existing platforms)

that will bring together GETS data, All-of-Government panel, and agency procurement data in alignment with the Open Contracting Data Standard. This can address difficulties with combining public procurement data in real time, due to lack of integrated data systems.

As TINZ points out, with around 97.5% of government procurement not reported on GETS, opaque procurement practices allow concerns about bribery, corruption, and fraud to thrive and undermine public trust in government.[47] An OECD report acknowledges a number of reasons for this low rate, which include a low rate of compliance with existing procurement rules, as well as many legitimate exemptions under the rules for significant categories of government procurement.[48] Without easy access to procurement information, currently the public must rely on external monitoring, for instance by the Office of the Auditor General.[49] MBIE has also found that the system is underperforming,[50] an observation echoed by public and private sector organisations concerned by the procurement process.[51]

However, how much new public procurement information this commitment will make available during the implementation period is uncertain. Although the commitment plans to pilot a digital data platform, full implementation of the platform would take place after the action plan period. MBIE expects the platform to be a starting point for iteration and improvement, with 2030 as a potentially realistic timeframe for change.[52] For GETS, specification of new mandatory fields for disclosure have yet to be determined. In terms of compliance, MBIE is not mandated to enforce the Government Procurement Rules. Changes to these rules are out of scope for this commitment.[53] This means that certain procurements would continue to be exempted, such as those through a panel of suppliers (Government Rules of Procurement 57), all-of-government contracts (Rule 58), syndicated contracts (Rule 59), and common capability contracts (Rule 60).[54]

This commitment has modest potential to improve public access to procurement information and is considered part of MBIE's wider effort to improve the transparency and efficacy of public procurement. All EAP members support continuing to leverage the open government platform to further open procurement efforts.[55] TINZ expects this commitment to produce more open and complete information about government procurement in the long run.[56] Because government views this commitment as a component of its strategic work programme,[57] implementation is likely to receive the resources and priority needed to achieve planned milestones.[58] In the long term, according to the OECD, efforts to improve the transparency of New Zealand's procurement transparency through e-procurement systems could provide new visibility on government agencies' spending and allow for monitoring of public procurement's contributions to national policy objectives.[59] Across OGP countries, open procurement has helped governments save money, fight corruption, and expand the number of participating businesses.[60]

Opportunities, challenges, and recommendations during implementation
In the view of Trust Democracy NZ and TINZ, involvement of civil society in oversight of this commitment's implementation is key to achieving results.[61] Civil society's ongoing support could be vital to building cross-party support following the October 2023 election. Publication of the procurement data gathered by the improved system as open data, rather than simply providing access to dashboards, should be made explicit to enable ease of analysis and reuse by CSOs. MBIE anticipates that, as well as building the new data collection system, work is needed to

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ensure compliance by public sector agencies.[62] To help improve effective implementation of this commitment, IRM recommends the following:

- **Systematically include participation by CSOs** in oversight of commitment implementation in areas such as identification of mandatory data fields to be collected by agencies using GETS and the application of open data standards. Identify and consult stakeholders before developing the new contracting platform to understand user demands. Take measures to encourage utilisation of the procurement data collected by CSOs and the public.[63] Establish feedback mechanisms for citizens to act on procurement data, such as through audits, flagging systems, or hotlines. For example, Ukraine launched DoZorro, a public procurement monitoring platform that enables citizens to submit feedback, including alerts of possible irregularities and violations.[64]
- **Publish procurement data gathered in an open data format** that enables easy analysis and use by third parties. Make data interoperable with other systems, such as beneficial ownership registries and government spending data. Finland's e-procurement portal offers an example of a user-friendly design.[65]
- **Consider measures to widen public sector agencies' compliance on publishing procurement information** such as training and technical support and amendment to government procurement rules and related legislation to require the proactive publication of contract related information, in consistency with the Open Contracting Global Principles.[66] New Zealand can draw on Germany's example, which responded to a low publication rate for public tenders by instituting a new ordinance to mandate the collection of procurement information.[67]

Other commitments

Other commitments that the IRM did not identify as promising commitments are discussed below. This review provides recommendations to contribute to the learning and implementation of these commitments.

Commitments 3 and 8 lack sufficient clarity on intended outputs, as the government leads for these commitments were determined late in the co-creation process. Commitment 3 intends to address barriers to accessing online government services when limited alternative options are available for non-digital participation. The Department of Internal Affairs plans to establish a cross-agency, civil society, NGO, and iwi working group to identify solutions to this policy issue.[68] Planning for formation of this group was underway as of February 2023, and may offer constructive opportunities for collaboration.[69] Civil society stakeholders, including the Citizens Advice Bureau, disability groups, and members of the EAP, consider inclusive delivery of government services to be an important policy area in the digital age. However, they note that the commitment does not clarify the scope of intended reforms.[70] The commitment's potential for results would benefit from a stronger open government lens and setting concrete targets. IRM recommends that the working group prioritises establishing measurable milestones for this commitment, which the EAP considers essential to the commitment's ability to make a substantive difference for New Zealanders.[71] Meanwhile, building on the previous plan, Commitment 8 intends to refine existing work on the Algorithm Charter, which sets voluntary standards for public sector agencies' safe and ethical use of algorithms. To further improve the Charter's implementation, this commitment could take measures to ensure that the Chief Data Steward has enforcement power across government, the Charter is being applied consistently across agencies, agencies publish a catalogue of the algorithms they are using, and the

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Charter's implementation support document is published. It could also address consideration of Māori data sovereignty in the charter.

Under Commitment 2, TKM plans to produce research on how deliberative processes for community engagement can be adapted to work well in New Zealand, enabling knowledge transfer from community-based initiatives already underway.[72] Civil society expects this to contribute positively to government and civil society knowledge of community engagement practices. However, the commitment does not include milestones to make system-wide changes during the implementation period. To leverage this research in future reform efforts, IRM encourages a focus on knowledge transfer and building of strong, inclusive communities of practice that can continue to contribute during the next action plan. CSOs recommend that these communities of practice extend beyond government agencies to include civil society and incorporate ways of giving effect to Te Tiriti o Waitangi in working with Māori partners.[73] CSOs also recommend allocating a dedicated fund to support new deliberative democracy initiatives.[74]

According to implementing agencies and CSOs, Commitments 4 and 7 address important policy areas but could also take more ambitious steps to achieve substantial open government results. Commitment 4 focuses on a more strategic approach to fraud and corruption prevention in the public sector, following a related commitment in the first action plan.[75] The Serious Fraud Office, which is the lead implementer, sees this commitment as a necessary first step, building government agencies' awareness of the need for ethical behaviour, the potential for fraud, and the means to detect and prevent it.[76] Although it does not address private sector fraud prevention, noted as a more acute need by TINZ,[77] the lead implementer intends to lay the groundwork for this work in the next action plan.[78] The EAP encourages this commitment to serve as a platform for a future comprehensive national anti-corruption strategy.[79] Continuing from the previous action plan, Commitment 7 plans to review and strengthen guidance to better reflect the presumption of disclosure of government information and the application of the public interest test under the Official Information Act (OIA)—but does not clarify how this guidance will be implemented. Fully addressing OIA exemptions could increase trust in government and respond to civil society concerns on transparency of administration of the OIA and its exemptions.[80] This would require engagement by properly-resourced public officials with sufficient mandate. IRM recommends considering involving independent parties such as the New Zealand Law Commission or the Office of the Ombudsman in the conduct of the review and proactive publication of the use of all OIA exemptions.

Overall, to maximise the potential for results for each of these commitments, IRM recommends including civil society partners in all stages of implementation.

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[1] OGP, *Independent Reporting Mechanism (IRM): New Zealand Transitional Results Report 2018–2021* (Washington, DC: Open Government Partnership, 2022), New-Zealand_Transitional-Results-Report_2018-2021.pdf (opengovpartnership.org).

[2] "Community Engagement," Department of the Prime Minister and Cabinet, https://dpmc.govt.nz/our-programmes/policy-project/policy-methods-toolbox/community-engagement.

[3] "Royal Commission of Inquiry into the Terrorist attack on Christchurch Masjidain," Department of the Prime Minister and Cabinet, Royal Commission of Inquiry into the terrorist attack on Christchurch masjidain | Department of the Prime Minister and Cabinet (DPMC).

[4] "Policy Community Engagement Tool," Department of the Prime Minister and Cabinet, https://dpmc.govt.nz/publications/policy-community-engagement-tool.

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[5] A model standard is likely to set out, in some illustrative detail, under what circumstances and how public sector agencies should engage with communities. It would be mandatory for agencies to follow these when they have been promulgated by the Public Service Commissioner under the Public Service Act. "S 17 Public Service Act 2020," New Zealand Legislation, https://www.legislation.govt.nz/act/public/2020/0040/latest/LMS356879.html?search=sw_096be8ed81c8466d_Standards_25_se&p=1&sr=5.

[6] Submission to TKM proposing 11 Commitments CSOs would like to see included in the New Zealand Open Government Plan 4, September 2022. The submission was supported by Transparency International New Zealand, New Zealand Council for Civil Liberties, Environment and Conservation Organisations of Aotearoa New Zealand, InternetNZ, Network Waitangi Ōtautahi, Trust Democracy NZ, Volunteering New Zealand, Hui E! Community Aotearoa, Grey Power, and Citizens Advice Bureau.

[7] Julie Haggie (CEO Transparency International New Zealand), interview by IRM, 7 February 2023; Rachel Roberts (Expert Advisory Panel member), interview by IRM, 6 December 2022 and 8 February 2023.

[8] Roberts, interview; Farib Sos (Expert Advisory Panel member), interview by IRM, 1 December 2022 and 10 February 2023; Sean Audain (Expert Advisory Panel member), interview by IRM, 10 January 2022 and 8 February 2023; Suzanne Snively (Expert Advisory Panel member), interview by IRM, 9 December 2022 and 8 February 2023; Simon Wright (Expert Advisory Panel member), interview by IRM, 9 November 2022 and 8 February 2023.

[9] IRM received this information from the Environment and Conservation Organisations of New Zealand Inc. during the pre-publication period (23 December 2021) and the New Zealand Council for Civil Liberties during the public comment period (24 February 2022) for the IRM New Zealand Transitional Results Report 2018–2021.

[10] The Policy Project, Survey Results: Community Engagement in Government Policy Making (Wellington: Department of the Prime Minister and Cabinet, 2021), https://dpmc.govt.nz/sites/default/files/2021-07/survey-results-community-engagement-jul21.pdf.

[11] Dean Rosson and Tula Garry (Public Service Commission team responsible for Commitment 1 implementation), interview by IRM, 8 Feb 2023.

[12] "Policy Community Engagement Tool," Department of the Prime Minister.

[13] "Improving Community Engagement," Department of the Prime Minister and Cabinet (12 September 2022), https://www.dpmc.govt.nz/our-programmes/national-security/royal-commission-inquiry-terrorist-attack-christchurch-masjidain/improving-engagement

[14] Rosson and Garry, interview.

[15] Colcord, interview; Roberts, interview; Sos, interview; Audain, interview; Snively, interview; Wright, interview.

[16] Colcord, interview; Roberts, interview; Sos, interview; Audain, interview; Snively, interview; Wright, interview.

[17] See submissions on the Draft NAP by Trust Democracy NZ (https://trustdemocracy.nz/wp-content/uploads/2022/12/Trust-Democracy-Submission-on-draft-NAP4-.pdf) and Council for Civil Liberties (https://nzccl.org.nz/comments-on-aotearoas-4th-open-government-partnership-national-action-plan/).

[18] See, for example, TINZ's submission on the draft plan in Open Government Partnership New Zealand, Part 2. Collation of Public Submissions Received for New Zealand's Fourth National Action Plan Draft (November - December 2022) (Wellington: Open Government Partnership New Zealand, 2023), https://ogp.org.nz/assets/New-Zealand-Plan/Fourth-National-Action-Plan/Part-2.-Collation-of-public-submissions-received-for-New-Zealands-Fourth-National-Action-Plan-draft-8-March-2023.pdf.

[19] Andrew Ecclestone (Council for Civil Liberties), interview by IRM, 6 October 2022 and 2 March 2023; Wright, interview.

[20] Beneficial owners are the in the individuals who ultimately control or profit from a business.

[21] For a complete description, see Commitment 5 in Open Government Partnership New Zealand, New Zealand's Fourth National Action Plan 2023–2024 (Wellington: Open Government Partnership New Zealand, 2022) NZs-Fourth-National-Action-Plan-2023-2024-.pdf (ogp.org.nz).

[22] Ministry of Business, Innovation & Employment, Discussion Document: Increasing the Transparency of the Beneficial Ownership of New Zealand Companies and Limited Partnerships (Wellington: Ministry of Business, Innovation & Employment, 2018), https://www.mbie.govt.nz/dmsdocument/2905-increasing-the-transparency-of-the-beneficial-ownership-of-new-zealand-companies-and-limited-partnerships-pdf.

[23] "Supporting the Integrity of the Corporate Governance System," Ministry of Business, Innovation & Employment, https://www.mbie.govt.nz/business-and-employment/business/regulating-entities/supporting-the-integrity-of-the-corporate-governance-system/.

[24] FATF is an intergovernmental body set up to counter international criminal activity and money laundering. It sets most of the international standards on beneficial ownership information.

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[25] David Clark, *Better Visibility of Individuals Who Control Companies and Limited Partnerships* (Wellington: Ministry of Business, Innovation & Employment, 2022), https://www.mbie.govt.nz/dmsdocument/18885-better-visibility-of-individuals-who-control-companies-and-limited-partnerships-proactiverelease-pdf.

[26] David Clark, *Regulatory Impact Statement: Beneficial Ownership Information* (Wellington: Ministry of Business, Innovation & Employment, 2022), https://www.mbie.govt.nz/dmsdocument/18891-beneficial-ownership-information-regulatory-impact-statement-proactiverelease-pdf; Michael Webster, *Cabinet Minute of Decision: Better Visibility of Individuals Who Control Companies and Limited Partnerships* (Wellington: Ministry of Business, Innovation & Employment, 2022), https://www.mbie.govt.nz/dmsdocument/18888-better-visibility-of-individuals-who-control-companies-and-limited-partnerships-minute-of-decision-proactiverelease-pdf.

[27] Ministry of Business, "Supporting Integrity."

[28] "Industry News: New Zealand Publishes Beneficial Ownership Registry Proposals," STEP, March 28, 2022, https://www.step.org/industry-news/new-zealand-publishes-beneficial-ownership-registry-proposals.

[29] Financial Intelligence Unit, *National Risk Assessment of Money Laundering and Terrorism Financing* (Wellington: New Zealand Police, 2019), https://www.police.govt.nz/sites/default/files/publications/fiu-nra-2019.pdf.

[30] "Tackling Money Laundering and Terrorist Financing," New Zealand Ministry of Justice, https://www.justice.govt.nz/justice-sector-policy/key-initiatives/aml-cft/.

[31] Financial Intelligence Unit, Quarterly Typology Report Second Quarter (Q2) 2014/2015 (Wellington: New Zealand Police, 2015), https://www.police.govt.nz/sites/default/files/publications/fiu-qtr-q2-2014-15-abuse-of-shell-companies.pdf.

[32] Ministry of Business, *Regulatory Impact Statement*.

[33] "New Zealand's Measures to Combat Money Laundering and Terrorist Financing," Financial Action Task Force, https://www.fatf-gafi.org/en/publications/mutualevaluations/documents/mer-new-zealand-2021.html.

[34] David Clark, "Govt Cracks Down on Misuse of NZ Companies, Beehive.govt.nz, 22 March 2022, https://www.beehive.govt.nz/release/govt-cracks-down-misuse-nz-companies.

[35] Haggie, interview.

[36] "Submission: New Zealand's 4th Open Government Partnership National Action Plan," Transparency International New Zealand, https://www.transparency.org.nz/blog/submission-new-zealands-4th-open-government-partnership-national-action-plan.

[37] Clark, *Better Visibility of Individuals Who Control Companies and Limited Partnerships.*

[38] Thomas Abernathy (Ministry of Business, Innovation and Employment), interview by IRM, 20 February 2023.

[39] Christian Hattens, *Beneficial Ownership: Experiences from the Danish implementation of an Beneficial Ownership Register* (Frederiksberg: Transparency International Denmark, 2022), https://transparency.dk/wp-content/uploads/2022/08/TI-Beneficial-Owners-Conference-report-Experiences-from-Denmark.pdf.

[40] Open Government Partnership, "Using Slovakia's Beneficial Ownership Register for Impact," Open Government Partnership, 29 May 2019, https://www.opengovpartnership.org/stories/lessons-from-reformers-using-slovakias-beneficial-ownership-register-for-impact/.

[41] "Beneficial Ownership Data Standard," Open Ownership, https://www.openownership.org/en/topics/beneficial-ownership-data-standard/.

[42] Laurence Millar, "Better Government Procurement in 2021," Transparency International New Zealand, 20 January 2021, https://www.transparency.org.nz/blog/better-government-procurement-in-2021.

[43] Andrew Allen, "How New Zealand Plans to Overhaul Public Procurement," *Supply Management*, 15 August 2022, https://www.cips.org/supply-management/news/2022/august/how-new-zealand-plans-to-overhaul-public-procurement/.

[44] OECD, *Procuring for Broader Outcomes: A Case Study of New Zealand: Measuring the Impact of Government Procurement on Productivity and Well-Being*, OECD Public Governance Policy Papers no. 15 (Paris: OECD iLibrary, 2022), 19–20, https://www.oecd-ilibrary.org/docserver/29643cc1-en.pdf?expires=1677379340&id=id&accname=oid006392&checksum=6E2EE6BE1E218AA64A0E1ED709424296.

[45] "Procurement for the Future," New Zealand Government Procurement, https://www.procurement.govt.nz/procurement-for-the-future/.

[46] Liz Palmer (Ministry of Business, Innovation & Employment), correspondence with IRM, 6 April 2023.

[47] Laurence Millar, "Urgent Advice to Parliament: Increase Procurement Transparency," Transparency International New Zealand, 16 November 2020, https://www.transparency.org.nz/blog/advice-parliament-government-procurement-urgently-needs-greater-transparency.

[48] OECD, *Procuring for Broader Outcomes*, 38.

[49] For example, John Ryan, "The Ministry of Health's Procurement of a National Immunisation System," Controller and Attorney General, 28 October 2021, https://oag.parliament.nz/media/2021/orion-health; John Ryan, "Response

to the Ministry of Health," Controller and Attorney General, 10 Nov. 2021, https://oag.parliament.nz/media/2021/saliva-testing/ministry-of-health.

50 Stuart Nash, *Government Procurement: Refreshing Strategic Priorities*, (Wellington: Ministry of Business, Innovation & Employment, 2022), https://www.mbie.govt.nz/dmsdocument/18660-government-procurement-refreshing-strategic-priorities-proactiverelease-pdf.

51 See, for example, Nikki Mandow, "'Nobody's Cracked It'—Govt Struggles to Fix Poor Procurement," Newsroom, 10 November 2022, https://www.newsroom.co.nz/govt-struggles-to-fix-poor-procurement; Nikki Mandow, "Opaque, Inefficient, Unfair: Govt's $42b Procurement Regime Report Card," Newsroom, 8 February 2022, https://www.newsroom.co.nz/govts-opaque-42b-procurement.

52 Mandow, "Nobody's Cracked It."

53 Palmer, correspondence.

54 "Government Procurement Rules," New Zealand Government Procurement, https://www.procurement.govt.nz/procurement/principles-charter-and-rules/government-procurement-rules/.

55 Colcord, interview; Roberts, interview; Sos, interview; Audain, interview; Snively, interview; Wright, interview.

56 Haggie, interview.

57 Nash, *Government Procurement*.

58 Palmer, correspondence.

59 OECD, *Procuring for Broader Outcomes*, 42.

60 "Open Contracting and Public Procurement," Open Government Partnership, https://www.opengovpartnership.org/policy-area/open-contracting/.

61 Open Government Partnership New Zealand, *Part 2*.

62 Liz Palmer and Olaf Buhrfein (Ministry of Business, Innovation and Employment team responsible for implementation of Commitment 6), interview by IRM, 22 Feb 2023.

63 Haggie, interview.

64 Open Government Partnership, "Through The Power of the People: Empowering Citizen Watchdogs," OpenStories, 21 September 2021, https://www.ogpstories.org/through-the-power-of-the-people-empowering-citizen-watchdogs/.

65 "Explore Public Spending," OpenProcurement.fi, https://openprocurement.fi/.

66 "Global Principles," Open Contracting Partnership, https://www.open-contracting.org/what-is-open-contracting/global-principles/.

67 Verordnung zur Statistik über die Vergabe öffentlicher Aufräge und Konzessionen (Vergabestatistikverordnung—VergStatVO" [in German], Bundesministerium der Justiz, Bundesamt für Justiz, https://www.gesetze-im-internet.de/vergstatvo/BJNR069100016.html.

68 Iwi refers to a large Māori kinship grouping that elsewhere might be referred to as a tribe. It is generally made up of several hapū that are all descended from a common ancestor. Hapū are clusters of whānau where the whānau is usually an extended family grouping consisting of children, parents, grandparents, and other closely related kin.

69 Sacha Green (Citizens Advice Bureau), interview by IRM, 23 Feb 2023; Tessa Houghton (Department of Internal Affairs), interview by IRM, 27 Feb 2023.

70 Open Government Partnership New Zealand, *Part 2*; Green, interview.

71 This information was received from the Expert Advisory Panel during the pre-publication review period (7 June 2023).

72 Examples under consideration for inclusion in the research include:
- Ngati Toa Talanoa. See Justin Wong, "Ngāti Toa launches Te Tiriti-Based Citizens Assembly to Discuss Porirua Issues," Stuff, 22 July 2022, https://www.stuff.co.nz/dominion-post/news/wellington/129295850/ngti-toa-launches-te-tiritibased-citizens-assembly-to-discuss-porirua-issues.
- Watercare process evaluated by Australia's Ann Bardsley. Watercare to ran a citizens' assembly over four weekends from late July to early September 2022. The citizens' assembly process builds on the concepts and tools of deliberative democracy. It was used here to help a group of Aucklanders navigate complex conversations and make decisions together about the long-term future of Auckland's water supply.
- Waaka Kotahi process on Road user charges. Te Manatū Waka Ministry of Transport, in conjunction with Koi Tū: The Centre for Informed Futures and Public Engagement Projects, is running an innovative public conversation forum that allows the Ministry to listen to a wide range of people and understand different perspectives about "who should pay for what" as the demands and expectations on New Zealand's transport system change, using the Polis software. It's part of a long-term project about how Aotearoa New Zealand pays for its land transport system in the future.

73 See, for example, Open Government Partnership New Zealand, *Part 2*.

[74] Ecclestone, interview; Colcord, interview; Roberts, interview; Sos, interview; Audain, interview; Snively, interview; Wright, interview.

[75] Serious Fraud Office, *Statement of Strategic Intentions 2020–2024* (Auckland: Serious Fraud Office, 220), 17, Stategic-Intentions-web-v2.pdf (sfo.govt.nz).

[76] Kate Rockpool (Principal Advisor, Serious Fraud Office), interview by IRM, 17 February 2023.

[77] Haggie, interview.

[78] Rockpool, interview.

[79] This information was received from the Expert Advisory Panel during the pre-publication review period (7 June 2023).

[80] Robert Jordan and Lucy Hewson (Ministry of Justice), interview by IRM 9 Feb 2023; Max Rashbrooke, "Chief Ombudsman's OIA inquiry another pointer to govt's lack of transparency," RNZ News 7 December 2022, https://www.rnz.co.nz/news/on-the-inside/480307/chief-ombudsman-s-oia-inquiry-another-pointer-to-govt-s-lack-of-transparency; Ombudsman New Zealand, "Ombudsman's OIA Probe Uncovers Significant Gaps," media release, 28 September 2022, https://www.ombudsman.parliament.nz/news/ombudsmans-oia-probe-uncovers-significant-gaps; Peter Boshier, "Ready or Not? OIA Compliance and Practice in 2022," Ombudsman New Zealand, 28 September 2022, https://www.ombudsman.parliament.nz/resources/oia-compliance-and-practice-ready-or-not-2022; Open Government Partnership New Zealand, *Part 2.*

Section III. Methodology and IRM Indicators

The purpose of this review is not an evaluation. It is intended as a quick, independent, technical review of the characteristics of the action plan and the strengths and challenges the IRM identifies to inform a stronger implementation process. The IRM highlights commitments that have the highest potential for results, a high priority for country stakeholders, a priority in the national open government context, or a combination of these factors.

The IRM follows a filtering and clustering process to identify promising reforms or commitments:

> **Step 1:** Determine what is reviewable based on the <u>verifiability</u> of the commitment as written in the action plan.
> **Step 2:** Determine if the commitment has an <u>open government lens</u>. Is it relevant to OGP values?
> **Step 3:** Review commitments that are verifiable and have an open government lens to identify if certain commitments need to be clustered. Commitments that have a common policy objective or contribute to the same reform or policy issue should be clustered. The potential for results of clustered commitments should be reviewed as a whole. IRM staff follow these steps to cluster commitments:
> > a. Determine overarching themes. If the action plan is not already grouped by themes, IRM staff may use OGP's thematic tagging as reference.
> > b. Review commitment objectives to identify commitments that address the same policy issue or contribute to the same broader policy or government reform.
> > c. Organise commitments into clusters as needed. Commitments may already be organised in the action plan under specific policy or government reforms.
> **Step 4:** Assess the <u>potential for results</u> of the clustered or standalone commitment.

Filtering is an internal process. Data for individual commitments is available in Annex 1. In addition, during the internal review process of this product, the IRM verifies the accuracy of findings and collects further input through peer review, OGP Support Unit feedback as needed, interviews and validation with country stakeholders, an external expert review, and oversight by IRM's International Experts Panel (IEP).

As described earlier, IRM relies on **three key indicators** for this review:

I. Verifiability
- **Yes, specific enough to review:** As written in the action plan, the stated objectives and proposed actions are sufficiently clear and include objectively verifiable activities to assess implementation.
- **No, not specific enough to review:** As written in the action plan, the stated objectives and proposed actions lack clarity and do not include explicitly verifiable activities to assess implementation.
- Commitments that are not verifiable will be considered not reviewable, and further assessment will not be carried out.

II. Open government lens

This indicator determines if the commitment relates to the open government values of transparency, civic participation, or public accountability as defined by the Open Government Declaration and the OGP Articles of Governance by responding to the following guiding questions. Based on a close reading of the commitment text, the IRM first determines whether the commitment has an open government lens:

- **Yes/No:** Does the commitment set out to make a policy area, institution, or decision-making process more transparent, participatory, or accountable to the public?

The IRM uses the OGP values as defined in the Articles of Governance. In addition, the following questions for each OGP value may be used as a reference to identify the specific open government lens in commitment analysis:

- **Transparency:** Will the government disclose more information, improve the legal or institutional frameworks to guarantee the right to information, improve the quality of the information disclosed to the public, or improve the transparency of government decision-making processes or institutions?
- **Civic Participation:** Will the government create or improve opportunities, processes, or mechanisms for the public to inform or influence decisions? Will the government create, enable, or improve participatory mechanisms for minorities or underrepresented groups? Will the government enable a legal environment to guarantee freedoms of assembly, association, and peaceful protest?
- **Public Accountability:** Will the government create or improve opportunities to hold officials answerable for their actions? Will the government enable legal, policy, or institutional frameworks to foster accountability of public officials?

III. Potential for results

The IRM adjusted this indicator—formerly known as the "potential impact" indicator—to take into account the feedback from the IRM Refresh consultation process with the OGP community. With the new results-oriented strategic focus of IRM products, the IRM modified this indicator to lay out the expected results and potential that would be verified in the IRM Results Report after implementation. Given the purpose of this Action Plan Review, the assessment of potential for results is only an early indication of the possibility the commitment has to yield meaningful results based on its articulation in the action plan in contrast with the state of play in the respective policy area.

The scale of the indicator is defined as:

- **Unclear:** The commitment is aimed at continuing ongoing practices in line with existing legislation, requirements, or policies without indication of the added value or enhanced open government approach in contrast with existing practice.
- **Modest:** A positive but standalone initiative or change to processes, practices, or policies. The commitment does not generate binding or institutionalised changes across government or institutions that govern a policy area. Examples are tools (e.g., websites) or data release, training, or pilot projects.
- **Substantial:** A possible game changer for practices, policies, or institutions that govern a policy area, public sector, or the relationship between citizens and state. The commitment generates binding and institutionalised changes across government.

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This review was prepared by the IRM in collaboration with Dr. Elizabeth Eppel and was externally expert reviewed by Andy McDevitt. The IRM methodology, quality of IRM products, and review process are overseen by IRM's IEP. For more information, see the IRM Overview section of the OGP website.[1]

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[1] IRM Overview: https://www.opengovpartnership.org/irm-guidance-overview/.

Annex 1. Commitment by Commitment Data

Commitment 1: Adopt a Community Engagement Tool
- Verifiable: Yes
- Does it have an open government lens? Yes
- Potential for results: Substantial

Commitment 2: Research Deliberative Processes for Community Engagement
- Verifiable: Yes
- Does it have an open government lens? Yes
- Potential for results: Modest

Commitment 3: Establish an Inclusive, Multi-Channel Approach to the Delivery of Government Information and Services
- Verifiable: No
- Does it have an open government lens? Yes
- Potential for results: Unclear

Commitment 4: Design and Implement a National Counter Fraud and Corruption Strategy
- Verifiable: Yes
- Does it have an open government lens? Yes
- Potential for results: Modest

Commitment 5: Increase Transparency of Beneficial Ownership of Companies and Limited Partnerships
- Verifiable: Yes
- Does it have an open government lens? Yes
- Potential for results: Substantial

Commitment 6: Improve Government Procurement Transparency
- Verifiable: Yes
- Does it have an open government lens? Yes
- Potential for results: Modest

Commitment 7: Strengthen Scrutiny of Official Information Act Exemption Clauses
- Verifiable: Yes
- Does it have an open government lens? Yes
- Potential for results: Modest

Commitment 8: Improve Transparency and Accountability of Algorithm Use Across Government
- Verifiable: Yes
- Does it have an open government lens? Yes
- Potential for results: Modest

Annex 2: Action Plan Co-Creation

OGP member countries are encouraged to aim for the full ambition of the updated OGP Participation and Co-Creation Standards that came into force on 1 January 2022.[1] IRM assesses all countries that submitted action plans from 2022 onwards under the updated standards. OGP instituted a 24-month grace period to ensure a fair and transparent transition to the updated standards. During this time, IRM will assess countries' alignment with the standards and compliance with their minimum requirements.[2] However, countries will only be found to be acting contrary to the OGP process if they do not meet the minimum requirements, starting with action plans submitted to begin in 2024 and onwards. Table 2 outlines the extent to which the countries' participation and co-creation practices meet the minimum requirements that apply during development of the action plan.

Table 2. Compliance with minimum requirements

Minimum requirement	Met during co-creation?	Met during implementation?
1.1 Space for dialogue: The Public Service Commission | Te Kawa Mataaho (TKM) developed the plan in consultation with its Expert Advisory Panel (EAP) of six civil society individuals appointed by TKM. TKM is the chair of EAP, which does not include any other government bodies.[3] Its terms of reference are available on the New Zealand OGP website.[4] TKM, government agencies, and EAP met at least every six weeks over the plan's development in 2020–2022. In the view of the EAP members, they were consulted in an advisory capacity only and did not have a decision-making role.[5]	Yes	*To be assessed in the Results Report*
2.1 OGP website: The dedicated Open Government New Zealand website (ogp.org.nz) invites the public to participate in the OGP process. It outlines the process, including advance notice of opportunities to participate, and holds a record of past events and progress on implementation. It also contains the latest action plan.	Yes	*To be assessed in the Results Report*
2.2 Repository: The New Zealand OGP website contains a repository of information on the co-creation process. According to the TKM, materials were published in as timely a manner as possible, given the required processes to advise their Minister's office in advance of publication.[6] However, civil society stakeholders noted delays in availability of materials. For future action plan cycles, TKM could consider measures to improve the navigability, completeness, and reliability of the repository for users.	Yes	*To be assessed in the Results Report*
3.1 Advanced notice: More than two weeks advance notice of the plan's initial co-creation timeline was given in December 2019 on the New Zealand OGP website, with the first public consultation beginning in early 2020.[7]	Yes	Not applicable
3.2 Outreach: Outreach efforts were publicised on the OGP website. In 2020, the initial process used to generate ideas for the plan included meetings with civil society stakeholders from a wide range of communities around the country.[8]	Yes	Not applicable
3.3 Feedback mechanism: During the co-creation period, mechanisms were in place to gather inputs from a range of stakeholders for an appropriate period, in accordance with the minimum	Yes	Not applicable

requirements. In 2020, a public call for ideas and online platform for input was accompanied by the series of meetings with civil society stakeholders around the country, generating 1,500 ideas.[9] These ideas were synthesised into themes and used as a starting point for the development of commitments in workshops in 2021–2022.[10] During this period, TKM worked with CSOs, EAP, and government officials to draft an initial 19 commitments through focused workshops open to all.[11] In September 2022, 12 CSOs submitted 11 proposed commitments based on these earlier discussions.[12] TKM drafted the final draft plan, which directly included two of the eleven proposals (Commitments 1 and 3), and reflected two of the proposals' policy areas in less ambitious commitments (Commitments 7 and 8). Commitment 2 was jointly developed at the workshops in 2022.[13] It also incorporated government proposals (Commitments 4, 5, and 6). Further public input was truncated, and after a two-week public comment period on the draft beginning in November 2022, the action plan was published in December 2022. According to civil society stakeholders, the latter period of the development process did not provide sufficient opportunity to meaningfully engage in decision-making on the final action plan.[14]		
4.1 Reasoned response: Most stakeholder contributions were recorded and published,[15] although the 2022 civil society submission of 11 proposed commitments was not published. Feedback to participating government agencies, EAP, CSOs, and individuals was provided through the Open Government website and in face-to-face workshops held in 2021. In the later part of 2021 and 2022, feedback was offered to stakeholders separately, rather than to the full group of participants in the co-creation process. Civil society and government agencies interviewed by IRM said this practice may have contributed to misunderstandings between government and civil society participants.[16] A summary of feedback submitted by stakeholders and of government response was published in December 2022. CSOs perceived the response as offering limited action.[17]	Yes	Not applicable
5.1 Open implementation: IRM will assess whether meetings were held with civil society stakeholders to present implementation results and enable civil society to provide comments in the Results Report.	Not applicable	*To be assessed in the Results Report*

[1] 2021 OGP Participation and Co-Creation Standards: https://www.opengovpartnership.org/ogp-participation-co-creation-standards/.

[2] IRM Guidelines for the Assessment of Minimum Requirements: IRM Guidelines for the Assessment of Minimum Requirements (opengovpartnership.org).

[3] The published Terms of Reference for the EAP describe their role as providing expert advice to TKM on the plan's creation: "Expert Advisory Panel," Open Government Partnership, https://ogp.org.nz/open-government-partnership/expert-advisory-panel/.

[4] Open Government Partnership New Zealand, *New Zealand Open Government Partnership Expert Advisory Panel Terms of Reference* (Wellington: Open Government Partnership New Zealand, 2018), https://ogp.org.nz/assets/Resources/eap/expert-advisory-panel-terms-of-reference-1.pdf.

[5] Sara Colcord (Expert Advisory Panel member), interview by IRM, 8 and 10 February 2023; Rachel Roberts (Expert Advisory Panel member), interview by IRM, 6 December 2022 and 8 February 2023; Farib Sos (Expert Advisory Panel member), interview by IRM, 1 December 2022 and 10 February 2023; Sean Audain (Expert Advisory Panel member), interview by IRM, 10 January 2022 and 8 February 2023; Suzanne Snively (Expert Advisory Panel member), interview by IRM, 9 December 2022 and 8 February 2023; Simon Wright (Expert Advisory Panel member), interview by IRM, 9 November 2022 and 8 February 2023.

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[6] Dean Rosson and Christine Lloyd (TKM), interview by IRM, 2 March 2023.

[7] "Check Progress," Open Government Partnership New Zealand, https://ogp.org.nz/check-progress/#2019.

[8] "Ideas for the Fourth National Action Plan," Open Government Partnership New Zealand, https://ogp.org.nz/new-zealands-plan/fourth-national-action-plan/ideas-for-the-fourth-national-action-plan-collected-in-our-workshops/.

[9] Open Government Partnership New Zealand, "Ideas."

[10] Catherine Williams, *Joint Report: Potential focus areas for New Zealand's fourth Open Government Partnership National Action Plan* (Wellington: Public Service Commission | Te Kawa Mataaho, 2021), https://www.publicservice.govt.nz/assets/DirectoryFile/Joint-Report-Potential-focus-areas-for-New-Zealands-fourth-Open-Government-Partnership-National-Action-Plan.pdf.

[11] "6 July and 13 July 2022 - EAP, CSO and Officials Meeting," Open Government Partnership New Zealand, https://ogp.org.nz/open-government-partnership/expert-advisory-panel/6-july-and-13-july-2022-eap-cso-and-officials-meeting/.

[12] Williams, *Joint Report*.

[13] Colcord, interview; Roberts, interview; Sos, interview; Audain, interview; Snively, interview; Wright, interview.

[14] Open Government Partnership New Zealand, *Part 2. Collation of Public Submissions Received for New Zealand's Fourth National Action Plan Draft (November - December 2022)* (Wellington: Open Government Partnership New Zealand, 2023), https://ogp.org.nz/assets/New-Zealand-Plan/Fourth-National-Action-Plan/Part-2.-Collation-of-public-submissions-received-for-New-Zealands-Fourth-National-Action-Plan-draft-8-March-2023.pdf.

[15] See, for example, Open Government Partnership New Zealand, "Ideas."

[16] Andrew Ecclestone (Council for Civil Liberties), interview by IRM, 6 October 2022 and 2 March 2023.

[17] See, for example, Open Government Partnership New Zealand, *Appendix B: Summary of Key Feedback Received on NAP4* (Wellington: Open Government Partnership New Zealand, n.d.), https://ogp.org.nz/assets/New-Zealand-Plan/Fourth-National-Action-Plan/Appendix-B-Summary-of-Feedback-on-NAP4-FINAL.pdf.