

Ministry for the Environment
Via email to ZCB.Submissions@mfe.govt.nz

19 July 2018

Re: Submission on the Zero Carbon Bill

Dear Ministry for the Environment,

This submission draws the MfE's attention to six key matters which I consider require further thought, as summarised below (and discussed thereafter):

- The poor title of the Bill (if adopted and / or enacted) may damage NZ's credibility.
- If climate change is today's nuclear free moment, legislate for it.
- The specifics of the target threaten compliance with the letter and spirit of Paris.
- Legislation should have regard for all government commitments re Paris.
- Rushed consultation jeopardises learnings from the Productivity Commission.
- NZ's transition needs to be fair, consistent, transparent, and bold.

1. The poor title of the Bill (if adopted and / or enacted) may damage NZ's credibility

Title of bills and acts are important – common sense says they should properly summarise the legislation and not mislead as to the content. While the content of the bill is not yet known, the discussion document is sufficient to conclude that adopting *Zero Carbon Bill* may damage NZ's credibility. Why? Because the world doesn't readily read NZ literature, but it may see our titles.

'Zero' clearly does not mean zero. It means net zero – in fact all of the options for the answer to question 2 are net zero variants. Adopting 'zero' rather than net zero tells the world we don't know how the world works and it misses the point that we can control the solution.

'Carbon' clearly does not mean carbon. It means emissions of some sort – either CO₂, CO₂e or all GHG emissions. Adopting 'carbon' rather than a reference to emissions tells the world we don't think we should exist (as the human body is made up of approximately 19% carbon).¹

To address this, I recommend a title *Net Zero Greenhouse Gas Emissions Bill* or similar.

2. If climate change is today's nuclear free moment, legislate for it

To draw a parallel between the climate change and the nuclear free moments (as the Prime Minister has done)² should really require us to set aside two exceptions to discover the true intent of the parallelism.

¹

https://ipfs.io/ipfs/QmXoypizjW3WknFiJnKLwHCnL72vedxiQkDDP1mXWo6uco/wiki/Composition_of_the_human_body.html

² <https://www.newshub.co.nz/home/election/2017/08/jacinda-ardern-climate-change-is-my-generation-s-nuclear-free-moment.html>

The exception in relation to the nuclear movement is that NZ is not nuclear free,³ according to the detail (as NZ uses nuclear medicine).⁴ However, the spirit of the movement is that aside from the preservation of life, NZ is nuclear free for all other intents and purposes.

The exception in relation to the climate change movement is that the climate has always changed, thus it is not a new phenomenon. However, the spirit of the movement is that we are now trying to preserve life and livelihood, and so control of the climate is paramount (regardless of how the climate has changed).

The nuclear free movement has strong policy and legislation that is practically immovable which underpins the very psyche of being a Kiwi. It is therefore difficult to imagine how climate change could be compared to the nuclear free movement without legislating a firm 2050 emissions reduction target. Can you imagine a soft target in relation to the nuclear free movement – ‘yeah nah NZ is nuclear free, but not for ships painted grey’?

To address this, I recommend both options to question 1 are pursued – i.e. a 2050 target is legislated for, but the Climate Change Commission is also delegated responsibility to provide advice on the specific budgets or periodic goals.

3. The specifics of the target threaten compliance with the letter and spirit of Paris

Paris requires “the world to keep the increase in global average temperature to well below 2°C above pre-industrial levels ... with an aim to reach peaking of global greenhouse gas emissions as soon as possible and to reach net zero emissions in the second half of the century”.⁵

Assuming that the government will legislate to achieve an outcome by 2050, the answer to question 2 is very easy. To comply with Paris, NZ has to target net zero emissions across all greenhouse gases (commensurate with each compound’s impact). Anything less and we are not doing our bit (however small our bit may be), and we undermine future leadership aspirations in the climate change movement.

But there is a wider issue here because the primary Paris goal is about limiting temperature increases, yet NZ is only proposing to limit emissions from “parts of the economy that are traditionally thought about as emitters – e.g. cars and factories ... minus the emissions removed from the atmosphere through the [human] impact of land use and forestry”.⁶ Global average temperatures clearly correlate to global greenhouse gas emissions – so the question must be asked why only ‘human made’ emissions count when natural emissions from the likes of volcanoes can also emit greenhouse gases?⁷

It is tempting to argue that NZ should, *prima facie*, align with the world and legislate what it can control, or to argue that volcanoes cannot be held to account for their emissions and so should be ignored. But not having this debate means i) the world may be setting itself up to fall short of the Paris targets, and ii) NZ is deprived of the opportunity to innovatively legislate and lead the world in holding all human and natural emitters to account within its borders.

³ The Nuclear-Test-Ban Act 1999 and the New Zealand Nuclear Free Zone, Disarmament, and Arms Control Act 1987 both hint at this – e.g. they are not called ‘Nuclear Free NZ’.

⁴ <http://www.cdhb.health.nz/Hospitals-Services/Specialist-Care/Nuclear-Medicine/Pages/default.aspx>

⁵ Page 16 of the Discussion Document.

⁶ Page 23 of the Discussion Document.

⁷ <https://www.climate.gov/news-features/climate-ga/which-emits-more-carbon-dioxide-volcanoes-or-human-activities>

If we made the Whanganui River a legal person,⁸ then we can account for emissions from volcanoes and the like in our emissions management system. All it would take is the government, as proxy for the commons of nature, to take responsibility for these emissions maybe by way of requiring adjustments to targets (to go below net zero or to reset what net zero means) to offset nature's emissions. But the big win would be whole-of-system accountability, measurement, consistency, and international leadership.

It may even link nicely into other related emissions fields like ocean acidity and physical land-based emissions which also affect life and our livelihood even though the impact is not in the atmosphere.

This does not fit neatly into a rapid consultation process with, potentially, subconscious bias towards a particular big picture. But if nothing else it adds weight to the argument that emissions across all [human made] greenhouse gases should reduce to net zero as that should be the framework that best correlates emissions accountability with temperature reductions.

4. Legislation should have regard for all government commitments re Paris

As a signatory to Paris, the government is actually committed to a number of other things⁹ which do not appear to be very prominent in the Discussion Document, e.g. public reporting, a transparency and accountability system, and strengthening societies' ability to deal with the impacts of climate change. If these are our Paris obligations, they should either be legislated for or policies should be progressed contemporaneously with the current suite of legislative changes.

The biggest other commitment is "to undertake rapid reductions thereafter in accordance with the best available science". 'Thereafter' assumes we have reached our primary goals and thus should be interpreted as beyond 2050. It is tempting to see net zero as the end-game, but if we are at net-zero and global temperatures are not where we want them to be and the international community is also doing its bit, then the second half of the century may be characterised by negative net emissions.

This is for the future. However, we can also do something about this now. Subject to the paragraph above and lawyers finding a workaround to prevent amending the act to remove the clause, NZ could legislate for post-2050 targets to be set a number of years in advance that are materially better (vis-à-vis compliance with Paris or subsequent agreements) than the previous targets or require post-2050 targets to be a continuing obligation (e.g. not a one-off target to meet again in 2100 having had net pollution for the preceding 40 years).

5. Rushed consultation jeopardises learnings from the Productivity Commission

The Discussion Document was published in June 2018, the same month as submissions on the Productivity Commissions' 'Low-Emissions Economy Draft Report' were due. It appears that the former has had regard, in part, for the latter.

However, this process could lead to sub-optimal outcomes. First, the government would not necessarily be able to learn from the Productivity Commissions' final report (or it is being presumptuous that there will be no changes between the draft and final reports). Second, the government may not have had regard for NZ's submissions on the Productivity Commissions' draft report when creating the Discussion Document on the Zero Carbon Bill. In both cases this is not a symptom of generative discussion and it risks things being missed.

⁸ <https://www.parliament.nz/en/get-involved/features/innovative-bill-protects-whanganui-river-with-legal-personhood/>

⁹ https://ec.europa.eu/clima/policies/international/negotiations/paris_en

To fix this, given where we are, I recommend the MfE ensures it reads all submissions on the Productivity Commissions' draft report and incorporates those submissions as submissions on the Zero Carbon Bill where relevant. Further, the government should acknowledge that if there are changes between the draft and final Productivity Commission reports then it should either adapt its thinking on the Zero Carbon Bill or re-consult with the public depending on the materiality.

6. NZ's transition needs to be fair, consistent, transparent, and bold

There are a number of statements in the Discussion Document that seem to miss the point, e.g.:

- “[The government] is absolutely committed that [the climate change] transition will be planned, gradual and carefully phased in”. However this is questionable due to point 5. above and the sub-optimal process related to the banning offshore oil and gas exploration.¹⁰
- “Taking action now means that we can gain an economic advantage as an early mover in emerging markets”. The former is true, but both NZ and climate change are not emerging markets.
- “Taking action now means that we can get the most from wider benefits like cleaner air and water and better health”. This is only true if we physically achieve the targets in NZ rather than rely on international markets – otherwise we do not reap the benefits but make others' backyards cleaner and healthier.
- “It may be worth NZ considering buying international emissions reductions ... to meet a portion of its target”. This is a debate that needs to be had. But the odd sentence here and there on such a material decision hardly feels very robust.
- “As a small country, our influence lies in holding ourselves and other countries to account ... [which] helps give us a mandate to encourage other countries to do the same.” Yes – but the Discussion Document seems to seriously consider not holding ourselves to account or be dismissive towards international leadership (refer to points 1 through 5 above).

The issues above overlap partly with some of the issues with the Productivity Commission's draft report. For example, I think that report would benefit from adopting a four pillar strategy to carbon mitigation options – with forestry unbundled before it falls away, and with a massively increased focus on technology, particularly sequestration.

Failure to be bold with the mitigation strategies carries massive financial risk to future generations in NZ. This is where striving not to rely on international markets has real merit – however uncomfortable this position might be – because it forces us to adapt our economy and achieve our own targets, rather than to let it (and our livelihood and health) be at the whim of other countries.

Conclusion

Legislation and its generative creation should be done properly to front up to the issues. Taking short-cuts on either risks damaging domestic and international credibility and not meeting our Paris commitments.

¹⁰ <https://www.stuff.co.nz/business/104447116/no-cabinet-paper-created-in-path-to-decision-to-ban-offshore-oil-exploration>

I am happy for the MfE to contact me to discuss the points raised. If possible please redact my address prior to publication of my submission.

Yours sincerely

Chris Boxall

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