

16 July 2019

Councillor Chris Laidlaw
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To Chair Deborah Russell & the Environment Select Committee,

Please find Greater Wellington Regional Council's submission to the Climate Change Response (Zero Carbon) Amendment Bill attached. We thank you for the opportunity to submit and also welcome the opportunity to speak to our submission.

This Bill has the potential to drive the action commensurate with the challenge of climate change, but only if it is ambitious, prompts urgent action, is matched with rapid amendments to aligned legislation, explicitly involves local government, and operates in a way that is inclusive and transparent.

We encourage you to ensure, that through this consultation process, these qualities are reflected in the final version of the Climate Change Response (Zero Carbon) Amendment Bill presented to Parliament.

Nāku noa, nā



Chris Laidlaw
Chair



**Greater Wellington Regional Council submission
To the Environment Select Committee
On the
Climate Change Response (Zero Carbon) Amendment Bill**

Submitted to:

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Opening Statement

Thank you for the opportunity to make this submission on the Climate Change Response (Zero Carbon) Amendment Bill (the Bill).

Greater Wellington Regional Council (GWRC) notes that many of the concerns raised by our submission to the Zero Carbon Bill consultation process (2018) have been addressed in the Bill. Below we offer submissions of support for these provisions and provide additional recommendations to further strengthen the Bill.

There are three themes which provide the basis for our submission. These are:

1. The role of local government

Local government is a primary source of expertise and knowledge in climate change mitigation and adaptation. It is also the level of government that will be required to provide local leadership in relation to compliance with, and implementation and enforcement of the Bill. As it stands, other than clause 5ZV, and possibly clause 5ZD(3)(a), there is no explicit requirement for local government to have any role in this regard. For this reason, GWRC seeks Parliament's reconsideration of local government's role as a crucial participant in achieving the purpose of the Bill and reflect this throughout the Bill. Currently neither the Resource Management Act 1991 (RMA) nor the Land Transport Management Act 2003 (LTMA) explicitly require or enable climate change mitigation to be considered as part of decision making. GWRC seeks a review of the amendments required to other legislation to enable and empower local government to contribute fully to the implementation of the Bill.

2. Transparency and inclusiveness

The success of this piece of legislation relies on a transformational transition to a low-carbon country that is resilient to climate change impacts. This plan will require profound and widespread change, much of which will happen at a city or regional level. No sector, community, institution or individual will be unaffected. In order to support these changes GWRC recommends that principles of transparency and inclusivity sit at the centre of the Bill to enable the breadth of our communities to remain informed and engaged.

3. Urgency and ambition

Legislated emissions reduction targets demand a clear pathway for success. GWRC recommends that these targets are used to drive reduction pathways which reflect urgency and ambition. The pathways will enable a timely and just transition to the stated goal. That same level of urgency and ambition is required to respond to the immediate and long-term challenges of adaptation to climate change effects.

Detailed feedback on the Bill is outlined below.

Our Submissions

Part 1 Section 3 amended (Purpose)

GWRC **supports** the House of Representatives (the House) to act decisively and set a target in primary legislation in order to provide a clear signal regarding the direction of travel, minimise delay and uncertainty, and to give the Climate Change Commission a clear mandate to focus on the steps to achieve the targets.

GWRC strongly **supports** the general intent of the Bill.

However, in order to ensure the targets to keep warming within 1.5° Celsius above pre-industrial levels will be achieved, with least disruption to society while we transition in a just and equitable manner, GWRC seeks amendments to section 3 (Purpose) to:

- ensure the setting of emissions budgets, particularly up until 2030, are accompanied by well researched plans that ensure a timely and just transition while achieving limited or no overshoot of the 1.5° Celsius goal, and,
- to acknowledge the Bill encompasses adaptation.

Recommendation

GWRC **recommends** this amendment to the Purpose:

Before section 3(1)(a), insert:

(aa) provide a framework by which New Zealand can develop and implement clear and stable climate change policies that contribute to the global effort under the Paris Agreement to limit the global average temperature increase to 1.5° Celsius above pre-industrial levels *with limited or no overshoot and to ensure New Zealand addresses climate change risks and adapts in a fair and equitable manner.*

Part 1 - Section 3A amended (Treaty of Waitangi (Te Tiriti o Waitangi))

GWRC **supports** the Climate Change Response Act (2002) 3A statement that “In order to recognise and respect the Crown’s responsibility to give effect to the principles of the Treaty of Waitangi”.

GWRC suggests there should be greater clarity on which Treaty principles the Act refers to. At the very least, we have assumed that the principles of partnership, protection and participation apply.

If this is correct, GWRC considers that none of these Treaty principles separately or together are reflected in 3A(a)–(j) of the original Act, nor in any of the amendments.

To provide greater clarity and consistency, GWRC suggests that in the Act either 3A should be deleted or all of the provisions 3A(a)–(j) be strengthened to reflect the Treaty principles.

Recommendation

GWRC **recommends** 3A(ab) be amended to read:

with respect to clause 5G (which relates to nominations for the Climate Change Commission), that a joint decision is made between the Minister and a Minister responsible for relationships between Māori and the Crown, and that particular attention is required to seeking nominations from iwi and Māori representative organisations.

Part 1A – Climate Change Commission

GWRC considers that climate change mitigation and adaptation practice should be informed by the best scientific and policy advice available. For this reason, GWRC generally supports the establishment of the Climate Change Commission (CCC) in the form proposed by the Bill.

However, a fundamental rationale for establishing a separate body such as the CCC is to ensure as far as possible that the scientific advice informing policy development is protected from political pressure. The Bill proposes that the CCC be established as a Crown Entity under the Crown Entities Act 2004. Section 103 of that Act would require the CCC to give effect to Ministerial directives on policy relating to the CCC's function. For this reason, the CCC may be faced with a conflict between its own advice, based on rigorous scientific assessment, and the assessment underpinning the directive.

GWRC has had the opportunity to read a draft of the submissions made by the New Zealand Society of Local Government Managers (SOLGM). As GWRC is a likely lead implementer of the mechanisms to give effect to the Bill, it is GWRC's preference that the independence of the CCC be supported by legislative means as suggested by SOLGM. This will provide clarity of policy in this area.

To further support the CCC's independence and to drive political consensus in this area, GWRC also suggests that the House considers changing the reporting lines for the CCC from the Minister to the House or a committee of the House. There is a need to support transparency of decision making and to provide local and regional government with clear rationales for a particular policy direction. Precedent legislation designed to support political independence where this mechanism works well is found in the Ombudsman Act 1975.

Clause 5H(1)(b) stipulates that the CCC must include a member who has *experience working in or with local and central government*. GWRC suggests that this could be tightened to ensure appropriate experience is identified.

Recommendations

GWRC **recommends** that:

5B(a) and 5K be amended so the Commission reports to the House or a committee of the House, rather than to the Government.

5H(1)(b) be amended to require that at least one of the CCC have experience as an elected representative of local government or as an officer working in a local authority.

A full explanation for any derivations from the CCC's advice is provided to House of Representatives.

Once the Commission has completed their reports, they are released simultaneously to House of Representatives and publicly.

That clearly defined time limits should be imposed within which a response to any advice from the CCC is provided.

Given the need for continuous and consistent action in this area, this transparency and drive would greatly assist local government in the implementation of the Bill's requirements.

Part 1B – Emissions Reduction

GWRC **supports** the Bill's specified net zero 2050 target for all greenhouse gas emissions including nitrous oxide and fossil methane, and note that the proposed bill has a different target for biogenic methane. Biogenic methane made up 41% of New Zealand's total greenhouse gas emissions in 2017. GWRC notes that the biogenic methane targets of 24% to 47% reduction in gross emissions below 2017 levels by 2050 and the interim target of 10% below 2017 levels by 2030 provide a pathway to reduce absolute emissions from these sources that is consistent with the findings of the IPCC special report on 1.5° Celsius warming.

GWRC **supports** mechanisms within the Bill to strengthen emissions targets and budgets and develop emissions reductions plans. GWRC recommends explicit consideration is provided on the involvement of local authorities in the development of these plans.

GWRC **supports** international carbon units to be allowed and agrees that the Commission advise on the amount and type to ensure the mitigation action is firmly focused on the domestic response and that the units are credible and have environmental integrity.

GWRC **supports** flexibility to be allowed in amending the emissions budgets in exceptional circumstances – although this should not be a mechanism to weaken the target.

GWRC **supports** emissions reduction plans to be developed to outline the policies and strategies for achieving the emissions budgets. In addition, the plan should set out the Government's policies and proposals for meeting both current and future emissions budgets and we recommend that the Bill sets a strict timeframe for these plans, at least 5 years before the budget period begins. The plans need to include and mobilise all parties that can meaningfully contribute – including local government.

5ZJ states that courts can only make a declaration of breach in response to a target/budget being breached. This limits the courts' power to judicially review decisions and impose remedies. GWRC **recommends** that the courts should retain the ability to respond on a case-by-case basis.

5ZK states that the targets and budgets are permissive considerations, which allows government bodies to choose to take the targets and budgets into account, but is not a requirement. GWRC believes consideration of the targets and budgets should be mandatory in order to drive an all-of-government response to the urgent, multiple and diverse challenges of climate change.

Recommendations

GWRC **recommends** that:

In 5Z(2)(b)(vii) and (viii) explicit consideration be provided on the involvement of local authorities in the consideration of the distribution and implications of impacts and (ix) in respect of local government finance and expenditure considerations.

A change of the emissions budgets should only be allowed via an Act of Parliament to allow for transparent and full public consultation.

5ZD(3)(b) and (c) should explicitly include "local authorities" contributions. GWRC strongly supports the text in 5ZD(3)(c) that requires the plan to include "the funding for any mitigation action", and recommends the addition "to be provided by central government". 5ZE(3)(a) should add the requirement to consult with "Local Authorities" before or after "affected communities".

5ZJ(1) be removed from the Bill.

5ZK(1) be amended to read, a person *must* take the 2050 target or an emissions budget into account in the exercise or performance of a public body . . .

Part 1C – Adaptation

In the Ministry for the Environment's *Coastal hazards and climate change: Guidance for local government* (2017) it is pointed out that "the avoidance or mitigation of natural hazards is one of local government's core services, to which it must have particular regard when undertaking its functions and performing any of its roles". The guidance also describes the high importance of inclusive decision-making and engagement with local communities. The Bill, in its current form, does not align with this guidance.

GWRC requests that the Bill makes explicit how the National climate change risk assessment (5ZM) and the National adaptation plan (5ZQ) will embed the expertise and knowledge of local government and communities, while also making this mandate feasible for the Commission.

Recommendations

GWRC **recommends** the following amendments or similar wording to the same effect. For example, 5ZN would read:

5ZN(2) In preparing a national climate change risk assessment, the Commission must work in partnership with local government and take into account the following: . . .

5ZN(2)(d) how the assessment aligns or links with any other relevant national risk assessments produced by local and central government entities: . . .

Consequently, 5ZS should be amended to involve local government in the preparation of progress reports:

5ZS(1) For each national adaptation plan, the Commission, in conjunction with local government, must provide the Minister with a progress report that evaluates the implementation of the adaptation plan and its effectiveness...

The lack of consistency between central government Acts such as the RMA, LTMA, Local Government Act 2002 (LGA) and the Building Act 2004, is one of the persistent barriers to coordinated decision making in New Zealand. We have an opportunity to rectify this before it becomes further entrenched in legislation. Consequently, as previously mentioned, Part 1, Section 3 amended (Purpose) needs to specifically mention *adaptation* to link it to Part 1C and set it as an overarching purpose, in the same way that the RMA includes climate change in Part 2(s7). In this way, there is greater consistency between the Acts.

Another ongoing barrier to effective decision-making and implementation of climate change adaptation actions by local government is the lack of a direct requirement. This amendment presents an opportunity to help this situation, by directing local authorities to ‘give effect’ to the National adaptation plan.

Recommendation

GWRC **recommends** this be added to:

5ZQ(2)(c) the time frames and central and local government responsibilities for implementing the strategies, policies, and proposals...

GWRC is concerned about the lack of financing mechanisms available to local government to fund adaptation. Local Government New Zealand submitted a remit at its 2019 AGM recommending the establishment of an independent expert group in order to develop a new funding policy framework for adapting to climate change impacts. The remit attracted 95% support. The New Zealand Productivity Commission draft report, *Local government funding and financing*, released in July 2019, devotes a chapter to the challenge of adapting to climate change and GWRC would encourage the CCC to draw on this work to inform new fit for purpose funding mechanisms.

Recommendation

GWRC **recommends** that a new measure be added to 5ZQ(2) to request that the national adaptation plan develops and sets out:

A new funding policy framework for adapting to climate change impacts.

With regards to the development of the national climate change risk assessment, it is important that it is properly resourced by the Commission. Moreover, consideration needs to be given to whether the Commission is best placed to undertake this assessment. The experience of local government is that risk assessments can quickly become politicised and it will be important for the Commission to remain politically neutral. In this respect, it may be preferable for a separate risk assessment group or agency to be mandated by the Bill to undertake this work and report to the Commission.

With regards to clauses 5ZV and 5ZW, GWRC submits largely in support of the rationale and stance of Local Government New Zealand's (LGNZ) submission specifically relating to the *Information request provision*.

Recommendations

In summary GWRC **endorses** LGNZ's recommendations:

5ZV be amended to clarify the specific purposes for which the specified adaptation information may be requested from reporting agencies.

Information requests are made by one agency only insofar as possible to avoid duplication of reporting.

The Bill be amended to require that any regulations relating to the adaptation reporting power (or provision of information generally) must specify that the reasonable costs of reporting agencies in meeting requests for information will be met.

Additional commentary – Policy coherence

Previous targets set as part of New Zealand’s participation in the United Nations Framework Convention on Climate Change have been missing the essential, country-wide plan to ensure they are met. Current policy settings lack stability and political consensus, provide inadequate central government leadership and poor policy coherence, and consequently they have not led to adequate emissions reductions previously and nor will they in their current form.

While the stable policy direction in this legislation and emissions pricing are needed, they in themselves will not be sufficient to promote a fair and efficient transition – *“achieving the Paris objectives will require all countries to implement climate policy packages. These packages can include policies that complement carbon pricing and tackle market failures other than the greenhouse gas externality. These failures are related to knowledge spill overs, learning and R&D, information, capital markets, networks, and unpriced co-benefits of climate action (including reducing pollution and protecting ecosystems)¹.*

Changes to rural and urban land use and land transport will be critical contributors to the emissions reduction plans, given that agriculture and transport are New Zealand’s two largest sources of emissions. Local government plays a key role in shaping land use and transport activities. This is through its regulatory roles (e.g., land use regulation through the RMA), funding and investment activities (e.g., management of public transport services and local roads under the LTMA). Mechanisms, such as spatial planning, will need to be encouraged and supported to help identify alignment and misalignment of institutional accountabilities. Currently neither the RMA nor the LTMA explicitly require or enable climate change mitigation to be considered as part of decision making. This is despite community engagement and consultation exercises about land use and transport developments which highlight the importance to communities of addressing climate change and carbon emissions.

As the authority responsible for the protection of the natural environment for the Wellington Region, GWRC will need targets to be explicitly considered in local government plans and policies – for example, our Regional Land Transport Plan (RLTP), supported by the Government Policy Statement on Land Transport.

This is just a snapshot of the cascade of policy changes that will need to rapidly follow the enactment of the new Act, including to the RLTP and the RMA. Concerted, inclusive and urgent effort needs to be made to better align central and local government legislative architecture, while also considering how adaptation and mitigation policies can be complementary and deliver multiple benefits across communities, including water quality outcomes, biodiversity goals and economic prosperity. A clear allocation of responsibilities, including fiscal, is essential if effective pathways to achieving the national targets are to be built.

¹ Stiglitz, J. and Stern, N., *Report of the High Level Commission on Carbon Prices*, 29 May 2017

Recommendations

GWRC **recommends** that *spatial plans should be a standard and mandatory part of the planning hierarchy*².

GWRC **recommends** the urgent and inclusive identification of amendments required to other legislation to enable local government to contribute to the full implementation of the Bill. This will include the LGA and the LTMA, and will address Section 104(e) of the RMA, that excludes the consideration of the future impacts of greenhouse gas emissions.

Additional Commentary – Community engagement

There are diverse technical, social, and moral public understandings about climate change and the success of the Bill will hinge significantly on the engagement of communities.

*“Understanding the challenges of communicating climate change impacts and adaptation when the global problem comes “home” is a matter of successfully navigating the political and emotional terrain of people facing inevitable change and loss”*³.

The minimal progress on the reduction of emissions and adaptation to the effects of climate change to date reflects a community not yet enabled or empowered to face these changes. The scale of change required demands an informed community of citizens which in turn requires consistent, co-ordinated, meaningful and place-based engagement and action campaigns around New Zealand.

Recommendation

GWRC **recommends** that a national community engagement and action campaign quickly follows the enactment of the Act.

Additional Commentary – Case Study

Transport is a significant contributor to greenhouse gas emissions in the Wellington Region. In order to reach the net zero carbon by 2050 target, and enable our communities to adapt to the impacts of climate change, significant mode shift to public transport and transition to an electrified public transport fleet will be crucial. GWRC currently has 83 two-car Matangi electric trains running rail services. Through an agreement with Transit Wellington under the Public Transport Operating Model (PTOM), Metlink has enabled the introduction of 10 electric double-decker buses to Wellington, with a commitment to introduce another 10 in 2020 and a further 12 in 2021. GWRC has also reached in-principle agreement with NZ Bus to provide 51 new electric buses. East-by-West ferries are also building a new electric ferry. These changes (once confirmed and brought into service) will represent a significant improvement in the region’s transport emissions and a significant step towards GWRC’s goal of an all-electric public transport fleet.

² Page 9, New Zealand Productivity Commission. (2016). Better Urban Planning Draft Report. Available from www.productivity.govt.nz/inquiry-content/urban-planning

³ Moser, S. C., Navigating the Political and Emotional Terrain of Adaptation: Community Engagement When Climate Change Comes Home (2012)

The operating model, ownership structure of the bus fleet, and cost and impact on the electricity network are complex constraining issues to work through. Buses are purchased by private operators to meet contractual requirements set by GWRC and New Zealand Transport Authority (NZTA) under the current operating model. While GWRC can specify a contractual requirement for an electric fleet this will likely result in an increase in contract costs, particularly if done as a variation to current contracts that mean operators need to replace existing buses before the end of their economic life. Currently the cost of running public transport is split between fare paying passengers, GWRC ratepayers and the National Land Transport Fund (NLTF). An increase in costs will mean that more money will be needed from a combination of these sources.

GWRC is under pressure to keep fare and rate increases to a minimum. The NLTF is administered by NZTA under the LTMA. The purpose of the LTMA is to contribute to an effective, efficient and safe land transport system. Environmental considerations such as mitigation of carbon emissions, and adaption to the impacts of climate change do not have a strong focus in the LTMA. The current Government Policy Statement (GPS) on Land Transport 2018-28 does include an environmental priority, with an objective around reducing carbon emissions. The GPS is developed under the LTMA, so embedding the consideration of climate change in the LTMA would ensure that future GPSs reflect the intent of the Climate Change Response (Carbon Zero) Bill. While the NZTA must give effect to the GPS in allocating money from the NLTF and approving procurement policies, it must also contribute to the purpose of the LTMA and achieve best value for money. Current assessments suggest that varying contracts to enable a faster uptake of electric buses may not be considered best value for money. Consideration of trade-offs is important. For example, in terms of reducing emissions and getting people out of cars, the value proposition for increasing capacity and levels of service via traditional motive power might outweigh the additional costs to move to electric. The NZTA has also indicated that at the current time funding available from the NLTF is constrained and this is impacting on other key public transport projects needed to enable mode shift and patronage growth.

By way of example, in Part 2 of the Bill, a consequential amendment recommended by GWRC would be:

Recommendations

GWRC recommends:

Amendment of the purpose in S3 of the LTMA and the functions of the NZTA in s 95(1)(a) to include consideration of climate change mitigation.

Amendment of clauses 14 (c), 19B(b), 20(3)(a), 67(1)(b), and 124(c) of the LTMA to require any emissions reduction plan developed under the Bill to be taken into account when developing land transport policy statements, plans, funding decisions and programmes.

Conclusion

GWRC supports the overall intent of the Bill. It considers that the Bill will be enhanced by addressing the matters raised in this submission.

GWRC wishes to be heard in relation to this submission.

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