



Nelson Tasman Climate Forum

**Submission on Regulatory Standards Bill
Consultation**

13 January 2025

Nelson Tasman Climate Forum – Who we are

The [Nelson Tasman Climate Forum](#) launched in February 2020 as a community-led climate action initiative open to everyone. The Forum aims to weave the community together around urgent, strategic action to achieve the following goals:

- Rapidly reduce the region’s greenhouse gas emissions, increase carbon sequestration and undertake other climate stabilising initiatives, consistent with the urgency of the situation.
- Adapt to the likely adverse environmental effects of climate change and the resulting social and cultural effects, using inclusive and responsible decision-making to support these desirable outcomes.
- Respond to climate change in a way that recognises the rights of all living organisms, including people, and provides for a just, equitable, and resilient society.

The Forum is volunteer-led, apolitical, and registered as a non-profit partner under the Tasman Environmental Trust. In the almost five years the Forum has been functioning, volunteers have carried out over 30 community projects. These projects range across many climate initiatives and include monthly Repair Cafés in Whakatū Nelson, Motueka and Tākaka, a yearly Climate Action Festival, a climate action campaign called [Take the Jump](#), art events and photography exhibitions, a Climate Action Plan and Book for the region, climate conversations with varied groups across the community, several waste reduction projects, letter writing campaigns, government and council submissions, and the protection and restoration of native habitats.

This submission has been compiled by the [NTCF Submissions Group](#).

Please note: whilst the Nelson City Council and Tasman District Council have both signed the Nelson Tasman Climate Forum Charter, this submission has been prepared completely independently of the Councils. This submission is in no way intended and nor should be construed to represent the views of either Council in any way.

We thank you for the opportunity to present this submission and for your consideration of our contribution.

Submitter Details

1. What is your name?

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2. Are you submitting in a personal capacity, or on behalf of an organisation, iwi, or hapū?
Organisation

3. If you are submitting on behalf of an organisation, iwi, or hapū what is the name of that organisation, iwi or hapū?

Nelson Tasman Climate Forum

4. Where in New Zealand are you primarily based?

Nelson Tasman

5. Please provide us with at least one method of contacting you, in case the Ministry needs to discuss your submission further.

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Why a Regulatory Standards Bill?

6. What are your overall views on the quality of New Zealand's regulation?

Aotearoa NZ has many regulations regarding a host of issues that are designed to protect people and the environment. Overall, our society and environment are safer and healthier with these regulations in place. However, there remain many areas regarding both public health and safety, and environmental protection where more, and/or stronger regulations would be a net benefit to society.

For example we need better environmental laws to protect our waterways/ ground water etc. We need better protection from the damaging impact of greenhouse gas emissions. Better laws, not more lax laws, to protect our environment.

Regulations and governance fundamentally are the means by which humans manage the societal and environmental effects of our individual (including economic) activities, our impacts on Nature Te Taio and other human beings and the complex interrelationships between these. In economic terms, these are 'externalities'. The proposed Bill would significantly increase these externalities.

We go further and advocate Aotearoa New Zealand's regulatory and governance system take full account (relevant to the purpose of the Nelson Tasman Climate Forum) of the costs of climate INACTION alongside the costs of climate ACTION. Internationally the evidence is overwhelming, for example, that the cost of climate finance needed for a 1.5°C scenario is a fraction of the cost of losses and avoided losses under a Business as Usual scenario out to 2100.¹

Such data regrettably does not seem to be widely available for Aotearoa. However, we have seen it in the recent Climate Change Commission report on the NDC2, which estimated benefits from reduced air pollution over the 2031–2035 period (five-year total) of \$2.3 billion (draft LTLS), \$9.3 billion (draft EB4 demonstration path) or \$12.1 billion (draft HTHS).²

We also have seen the principle applied in the NZ Police estimate of the social cost of alcohol harm at about \$7.8 billion a year.³

We believe Aotearoa's regulatory system needs to consistently operate at this level.

7. What are your overall views on the current arrangements in place to promote high quality regulation.

We believe that higher quality regulations could be arranged if greater emphasis was given to experts in relevant fields, and to citizens with no commercial interests in the matters at hand. The current processes do not give enough emphasis to the precautionary principle, and consideration of the long term impacts of weak or absent regulations.

For example: aware of the poor water quality of our rivers, aware of the growing gap between the very rich 1% and the poorest 50% of New Zealanders, we need better regulation to make sure that the quality of our water and our rivers improves, we need better regulation to help people stop smoking, we need better regulations to mitigate greenhouse gas emissions, etc.

8. Do you ever use RISs to find out information about proposed government regulation? If so, how helpful do you find the RISs in helping you make an assessment of the quality of the proposed regulation?

¹ B. Buchner et al. 2024. [Global landscape of climate finance 2023.](#)

² He Pou a Rangi Climate Change Commission 2024. [Report on the potential domestic contribution to Aotearoa New Zealand's second nationally determined contribution.](#)

³ Espiner, G. 2024. [Police Commissioner floats tighter alcohol regulation as 'trade off' to reduce estimated \\$7.8b harm from booze.](#)

We have recently recognised the value of Regulatory Impact Statements and now use these when considering submitting on Bills. We appreciate their quality and the fact that the public servants who prepare them have the courage to disagree with the Executive.

For example, the Interim Regulatory Impact Statement for the proposed Regulatory Standards Bill pointedly states that the *‘Ministry considers that an enhanced disclosure statement regime with enhanced obligations, will achieve many of the same benefits (e.g. increasing regulatory quality, ensuring greater accountability and transparency, and more robust arrangements for the stewardship of regulatory systems) ... [and the] Ministry also considers this option would impose fewer compliance costs on government agencies’*.

9. Do you ever use disclosure statements to find out information about a Bill? If so, how helpful do you find the disclosure statements in helping you make an assessment about the quality of the Bill.

We have likewise recently recognised the value of Disclosure Statements and now use these when considering submitting on Bills.

10. What are your views about the effectiveness of the regulatory oversight arrangements currently in place?

We don't agree with Mr Seymour's idea: "Most of New Zealand's problems can be traced to poor productivity, and poor productivity can be traced to poor regulations".

We think this is a worryingly simplistic generalisation. For example, many of New Zealand's problems can be traced to the enormous and growing gap between the very rich 10% of New Zealanders and the poorest 50%. We know that countries with such a big gap like NZ, experience enormous negative effects all over society, a breakdown of the social contract, leading to less well being, more feelings of unsafety, more depression, more anxiety, more violence, more family break-ups etc. (as described in the book "The Spirit Level").

The current regulatory oversight process is too weak in many areas to protect people and the planet, and the consequences of non-compliance are insufficient to deter future breaches. For example, New Zealand taxpayers have had to foot the bill for decommissioning unusable oil rigs in New Zealand waters. Worryingly, we understand the Government is considering continuing to accept such liability in order to attract overseas investment into oil and gas

exploration (which is reckless given there is no need for investment in new fossil fuel supply in the International Energy Agency's global net zero pathway).⁴

11. What are your views on setting out requirements for regulatory quality in legislation? Are there any alternatives that you think should be considered?

It is highly desirable to have quality requirements for regulatory standards. These requirements should focus on desired outcomes in terms of the health and wellbeing of citizens, and the functional health of the ecosystems that are being adversely affected. These requirements should integrate the best available science on the matter, including not only research from the physical sciences, but also from the social sciences.

Any weakening of environmental laws, or weakens Health and Safety laws, or reduces the responsibility for big corporations to prevent/ mitigate or clean up any damage to the environment as a result of their workings (e.g. removing oil rigs after they have become too old to use, or making sure that a gold mine does not cause any pollution now and for the next 8 generations...) is bad for the future health and wellbeing of all New Zealanders and the planet.

Requirements for quality regulations should have a bias in favour of protecting people and the planet as the priority, especially when a new product or process has come into question. Information about the impact of new products is often unavailable, so precaution in risk assessment is more desirable than later attempts to undo the damages caused.

The proposed Bill does the opposite; it favours increasing productivity rather than prioritising health and safety for people and the environment. There is a long history of businesses doing serious damage to both people and the planet in the interest of productivity gains. Making it easier for businesses to return to these practices is counter-productive and retrogressive.

The comments above should not be construed as supporting setting out standards for regulatory quality in legislation through the proposed Bill, but rather through the other means proposed in the Interim Regulatory Impact Statement.

Discussion area one: Setting standards for good regulation

12. What are your views on setting principles out in primary legislation?

⁴ International Energy Agency, 2024. [World Energy Outlook 2024](#).

Using a set of principles around which there is a high degree of scientific and public consensus, to establish regulations by legislation, would be highly desirable. It is essential that such principles have broad public support and are not in the service of vested interests. The focus of such principles must be on the common good, not business interests as the proposed principles clearly are. The proposed Bill ignores a healthy balance between individual and collective rights.

It is critical to get the principles right, as they will be used by the courts to adjudicate concerns arising from the implementation of any regulations.

These comments should not be construed as supporting setting out the proposed principles in legislation through the proposed Bill, but rather that principles for legislation quality generally should be set out through the other means proposed in the Interim Regulatory Impact Statement.

See question 16 below for related comments.

13. Do you have any views on how the principles relate to existing legal principles and concepts?

The proposed principles in this Bill collectively are contrary to existing legal principles and concepts that acknowledge the common good, collective rights, and the urgent need for environmental protection. New Zealand is a signatory to various international agreements that the proposed principles would violate or override. These include the United Nations Universal Declaration of Human Rights, which includes a broad range of human rights, including the right to a safe environment.

The narrow libertarian principles proposed in this Bill would be in conflict with this Declaration and other legal precedents.

14. Do you agree with the focus of the principles on: a. rights and liberties? b. good law-making processes? c. good regulatory stewardship?

a. rights and liberties

No, we do not agree with this proposed focus of the principles in the Bill. The proposed principles are much too narrowly focused and do not address the fundamental purpose of regulations in the first place. Regulations are needed because someone or some entity is engaged in activities that result in physical or social harm for other people (endangering their

health, or violating their rights), or that interfere with ecosystem functioning beyond a safe operating limit.

Therefore, the principles that should govern the quality of regulations should ensure that peoples' health and safety is protected, as well as ecosystem functioning.

The currently proposed principles would support narrowly conceived libertarian values that are ideologically driven to prioritise individual or business interests over that of the common good and collective rights. They represent values that are antithetical to quality regulations because they do not prioritise the common good. They wrongly reduce the common good to business interests above all others.

New Zealand society is not simply a collection of individuals, connected to each other only through the market. We are connected to, and dependent on each other for our collective health and wellbeing. Healthy societies require a balance between individual and collective rights. The proposed principles would enshrine individual rights above collective rights. Societies cannot function that way.

The proposed principles are misguided, regressive and inimical to a healthy society. Regulations should protect the majority from individuals doing harm to others and the environment.

b. good law-making processes? Yes we agree

A government needs to be able to make decisions for the health and well being of everyone. We all live in New Zealand and we all have to work together to "make it work", to have the infrastructure, the schools, the roads, the judicial system, the food sector etc. We all have to work together and laws should facilitate that. "No man is an island unto himself".

c. good regulatory stewardship? Yes we agree

New Zealand is a signatory to various international agreements like the United Nations Universal Declaration of Human Rights, which includes a broad range of human rights, including the right to a safe environment.

15. Do you have any comments on the proposed principles themselves?

See above

16. In your view, are there additional principles that should be included?

The following principles should replace (not be added to) the proposed principles in the Bill:

- The rights of Māori under Te Tiriti o Waitangi.
- Prioritise the common good in terms of public health and safety and environmental protection, to ensure ecosystems can continue operating in a sustainable safe space.
- Public health considerations should be broadly conceived as defined by the World Health Organisation, and include social wellbeing as well as physical health.
- Reference should be given to the United Nations Universal Bill of Rights - which enshrines a wide range of personal, collective and environmental rights which must be respected
- Include consideration of the precautionary principle to minimise risks to basic human needs and rights, including the right to a safe environment - especially with respect to impending irreversible climate tipping points.
- With respect to environmental protection issues, clear environmental limits should be specified to ensure that ecosystem functioning is not adversely affected, determined by the best scientific evidence available, not by political authority.
- Include adoption of internationally approved best practice processes to ensure the above principles are adhered to in drafting, implementing, monitoring and improving regulations (the current proposal simply enshrines narrowly conceived ideologically driven values that are oppositional to the above principles).

Discussion area two: Showing whether regulation meets standards

17. Do you agree that there are insufficient processes in place to assess the quality of new and existing regulation in New Zealand? If so, which parts of the process do you think need to be improved?

Any improvements to the existing processes should incorporate or strengthen the principles described above in this submission. The proposed principles would weaken the quality of new and existing regulations and should be abandoned. We would welcome the opportunity to review the Ministry for Regulation's work towards an enhanced disclosure statement regime during the Select Committee process for the Bill.

18. Do you think that the new consistency checks proposed by the Regulatory Standards Bill will improve the quality of regulation? Why or why not?

No, firstly because the proposed principles in this Bill are much too narrow and focus on the wrong issues. Secondly, because the proposed checking guidelines to be prepared by the Minister for Regulation are not identified in the discussion document.

19. Do you have any suggested changes to the consistency mechanisms proposed in this discussion document?

The proposed mechanisms would entrench a high and unhealthy level of power over our regulatory systems in the hands of one Minister, the Minister of Regulation. At the very least, such guidelines should be scrutinised at Select Committee.

20. Which types of regulation (if any) do you think should be exempt from the consistency requirements proposed by the Regulatory Standards Bill (for example, regulation that only has minor impacts on businesses, individuals, and not for-profit entities, legislation that corrects previous drafting errors, or legislation made under a declared state of emergency)?

While we consider the principles of the Bill are deeply flawed and should not be applied to any regulation, an issue at this level of detail should be addressed in improving current processes.

Discussion area three: Enabling people to seek independent assessment of whether regulation meets standards

21. Have you used any of the existing mechanisms described above to raise issues or bring complaints about the quality of regulation to the Government? If so, did you find them effective?

No.

22. Do you think that New Zealand needs a new structure or organisation to consider complaints about the quality of regulation? Why or why not?

Yes, a new approach is needed to ensure common good and collective rights are paramount in establishing and managing quality regulations. We recommend a Citizens Assembly to periodically review regulation quality and impact, and make proposals to the government to improve both.

23. If a new structure is created specifically to consider complaints about regulation:
a. do you think a Regulatory Standards Board would be the best mechanism to do this?

Definitely not. Such a Board is too susceptible to political influence and should not be implemented. It would create more bureaucracy of highly paid officials wasting our hard earned tax dollars.

b. are there any alternatives that you think would be preferable to the proposed Board for investigating complaints about regulation?

Yes, a periodic Citizens Assembly would be far more effective and less expensive to ensure the entire regulatory process prioritises the common good rather than special interests, as does the current proposal.

24. Do you have any views on the detailed design of the proposed Board, including how it would operate and the proposed number of members?

The Board should not be implemented.

25. In your view, what individual skills or experience should Board members have?

Not applicable.

Discussion area four: Supporting the Ministry for Regulation to have oversight of regulatory performance

26. Do you support the proposals in this section for strengthened regulatory stewardship expectations on agencies to be set out in a Bill?

Not as proposed in this Bill. It focuses on the wrong and dangerous objective of minimising impact on productivity. The Bill should focus on human and environmental health and well being as the priority. The current Bill totally misses the mark and is not fit for purpose.

We suggest Section 12 of the Public Service Act could be amended to strengthen the stewardship obligation for the legislation administered by agencies.

27. Do you agree that there may be some situations where a power for the Chief Executive of the Ministry for Regulation to obtain information will be required to help decide whether a regulatory review is warranted and to inform regulatory reviews?

No, this process is too open to political interference. There could be an independent panel of experts, appointed by a cross-party committee, available for such a decision should one be required.

28. Do you agree that the proposed information gathering powers are justified for the purpose of informing regulatory reviews? Do you think the powers should apply to all the types of entities listed above, or only some?

No, see above

29. Do you think the information gathering powers are broad enough to enable the Ministry for Regulation to undertake regulatory reviews effectively and efficiently?

No, an independent panel of experts as above should take on this function as required.

30. Do you think any safeguards or procedures should be applied to limit how the information gathering powers are used by the Ministry for Regulation? What safeguards do you think should be put in place?

The independent committee should have broad information gathering powers to ensure an effective decision.

31. Do you support the proposals in this section in relation to the Ministry for Regulation's broad oversight role?

No. The role of an independent committee of experts as proposed above will provide a more expert and constructive solution to issues that arise.

32. Are there any other measures you think a Bill should contain to support the quality of regulation?

We do NOT support this Bill based on the current proposals as it is regressive, ill-conceived and dangerous. Changing the previous Bill along the lines proposed is totally unacceptable. We recommend that the proposed revisions of the old Bill be abandoned. The Bill has already been rejected by Parliament and needs major revisions.

The submissions of Jonathan Boston and Jane Kelsey regarding the current consultation process provide considerable background and ideas for revision should the government deem there is a need for improving the regulatory process at this time.

Any other comments?

33. Do you think the overall proposal will be effective in raising the quality of regulation in New Zealand?

No

34. Do you think there are other provisions that should be included in the Bill? If yes, what would they be?

If there would be a bill then it should be a completely different bill: as Professor Boston, Emeritus Professor of Public Policy, states: Among the principles relevant to good lawmaking (whether in the context of Aotearoa NZ or more generally), that the proposed Bill ignores are:

- a. the principles of te Tiriti o Waitangi
- b. the public harm principle
- c. widely accepted principles of distributive justice (e.g. meeting the basic needs of all people)
- d. protecting the right to a clean, healthy, and sustainable environment
- e. protecting the interests of future generations
- f. the precautionary principle
- g. the requirement for governments to comply with their obligations in international law
- h. the requirement for elected and appointed officials to exercise the powers conferred on them in good faith, etc.

35. Would you prefer alternative options to the Bill, including non-legislative options?

Yes.

We note Professor Boston's point that the discussion document does not outline, let alone rigorously assess, the policy options that are available to tackle the identified problems. We see merit in the Ministry for Regulation's preferred approach in their Interim Regulatory Impact Statement to work towards an enhanced disclosure statement regime, and if any additional recourse mechanism is preferred, a mechanism situated in either the Parliamentary or Executive branches of Government.