

SUBMISSION – Regulatory Standards Bill

Low Carbon Kāpiti Inc.

6 June 2025

Who we are:

Low Carbon Kāpiti (LCK) is a grassroots community organisation made up of local people who want to see more action to reduce the causes of the climate crisis. Established in 2017, we have a current membership of 200, based across the Kāpiti Coast District. Our focus is both national and regional.

Our Concerns:

Low Carbon Kāpiti is very concerned about the Regulatory Standards Bill that is now open for comment. We feel that this Bill could have major negative impacts on New Zealand's ability to respond to the threat of climate change, and on the functioning of government in general.

1. Climate change is happening here and now. Aotearoa New Zealand is already paying for the impacts of our emissions (Cyclone Gabrielle and subsequent flooding in Auckland, Wairoa and elsewhere) and the storms, tidal surges and heavy rainfall are all modelled to become more frequent and worse. The world has just experienced its hottest year on record and global warming has passed 1.5°C according to the E.U. based Copernicus Programme¹. Without massive effort and change, things are going to get worse.

2. The cause of this climate chaos is man-made through the ongoing emission of greenhouse gases. New Zealand has one of the highest per capita rates of carbon emissions in the world. We must take responsibility and do our utmost to reduce our emissions. Simultaneously we must prepare for and adapt to more extreme weather conditions.

3. We note that the present government has rolled back much of the legislation and regulation that was attempting to bring our emissions under control. For example, the Government is promoting more mining for fossil fuels, weakening existing protection for wetlands (key to both effective flood mitigation and carbon sequestration), focusing on large-scale roading projects while reducing spending on public transport, continuing to delay action on reducing agricultural emissions, and more. It has placed an emphasis on economic growth over reducing our climate emissions.

4. Under the Regulatory Standards Bill, this trend will not only continue, but will be reinforced. This Bill requires that all primary and secondary legislation will have to conform to a specific set of principles. Some of these are orthodox (i.e. follow the rule of law) but

¹ <https://climate.copernicus.eu/copernicus-2024-first-year-exceed-15degc-above-pre-industrial-level>

others are not, they are principles based on neo-liberal/libertarian economic theory and values, reflecting ACT party ideology. These include prioritising private property over the broader common good, prioritising individual rights over collective rights, constraining regulation, and limiting taxation resulting in limited government. Once in place, any future regulation will have to conform to these principles. In addition, the courts will have to make decisions that reflect these principles.

5. We note that the Ministry of Regulation has stated that the bill will require regulatory decisions “to be based on principles of economic efficiency.” This will mean short-term economic gains will trump climate and environmental considerations. Enhancing prosperity for New Zealanders is only possible with climate and environmental protection - without this, we are trading short-term gains for long-term catastrophe. There will be no prosperity when the economy is wiped out by storms, floods, fires and rising sea levels taking out our homes and coastal town centres. That will be the outcome if only short-term economic growth is considered when regulation is being considered.

The minister also asserts in the foreword that “Most of New Zealand’s problems can be traced to poor productivity, and poor productivity can be traced to poor regulation”. This assertion, the supposed premise for the bill, has no evidence to support it, which is evidence instead of the ideological motivation for the RSB.

6. By embedding the principle of privileging ‘the enjoyment of private property’ (i.e. existing wealth) over all other principles in law making and the review of existing laws and regulations, it will make it much harder for future governments to change the law to address the causes and effects of climate change. Not only is it attempting to make constitutional changes by stealth, this bill if enacted will slow down the process of law making and reduce the efficiency of government processes.

7. At the moment, the government’s main emissions reduction tool is a market one, the ETS. This aligns with neo-liberal thinking. However, the ETS alone will prove to be totally inadequate in achieving the required emissions reductions. If any government allowed the price of carbon to rise to a level that would start pressuring people to change their behaviour to the degree that is required, they would be voted out at the next election. No government would do this.

8. Therefore, suitable and adequate regulation is essential if we are to have any chance of meeting our climate goals. For example, the regulation of the energy efficiency and emissions of buildings, vehicles and equipment, can deliver benefits at negative costs to consumers even in the narrow financial sense, to say nothing of the reduced costs for government and society as a whole.

9. Furthermore, the bill’s provisions for ‘fair compensation’ to property owners from ‘impairment’ due to regulation, is a total inversion of the polluter pays principle. The attempt to elevate ‘property rights’ as the preeminent principle of law making, is a

breathtakingly brazen attempt to sabotage any future government's efforts to protect the public good.

10. We note that the ACT party has already attempted to introduce a Bill of this nature into Parliament three times, in 2006, 2011 and 2021. It failed on all three occasions. The 2021 version was criticised as 'a dangerous constitutional shift undermining public and collective rights and threatening parliamentary sovereignty.' This version is no different. However, this time, there is every chance that it will become law, as the National Party also supports it.

11. We also note the recent dissent in relation to the Principles of the Treaty of Waitangi Bill. This Bill was not enacted into law as the National Party and New Zealand First opposed it, alongside the three opposition parties. However, by passing this Regulatory Standards Bill, the same results will be achieved, by obliging all primary and secondary legislation to conform to these new regulatory principles rather than the existing Treaty of Waitangi principles. The Treaty of Waitangi and the principles derived from it have, on occasions, played an important role in protecting the environment. This new Bill will facilitate the present government's attack on the environment.

12. We are concerned about the undemocratic nature of the process of consulting on this proposed bill. Thousands of submissions made to the earlier consultation on this bill have been disregarded by the ministry and Minister Seymour, unread.

Out of all submissions, only 0.3% were in support. This should be a clear enough message that the Bill should not proceed, that only a tiny sliver of society stands to benefit, and that vast majority understand they will be negatively impacted. And yet the process rolls on to the Select Committee.

Recommendations:

1. There may be a need for better regulation, but this Bill does not provide it. We recommend that this Bill be thrown out and any future iteration is considered as part of a broader national constitutional conversation along the lines of Matike Mai Aotearoa.
2. Any new principles of law-making should include ones that provide environmental protection, take into account climate change and protect human rights and the more vulnerable groups in our community.
3. There must be wide-ranging, completely open, honest and transparent discussion of the impacts of any new principles and what the intended consequences might be.
4. Many of the stated goals of the bill to promote good law-making can be achieved by properly implementing existing laws. We recommend that the government focus on this instead.