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Coal Action Network Aotearoa

Submission on the Climate Change Response (Zero Carbon) Amendment Bill

Coal Action Network Aotearoa is an Incorporated Society with a goal of no new coal mines in Aotearoa, and to have all coal mines closed down by 2027 (when most of the current permits expire), specifically because of coal's contribution to climate change. It follows that we also support a rapid phase-out of the use of coal in Aotearoa, by latest, 2030, as advocated by the climate scientist James Hansen. This includes for industrial uses, such as coal boilers used by the dairy industry, hospitals and schools.

Introduction

The Climate Change Response (Zero Carbon) Amendment bill ("ZCB") as put to Parliament, is a good start toward getting New Zealand onto the right track in terms of reducing emissions. The goal of aligning our climate policies with the agreed international limit of 1.5°C of warming is important.

We must do our fair share, but we have a lot of catching up to do, as our emissions have been allowed to grow, unchecked, for far too long.

We support the fundamental principles of the Bill that reference the Paris Agreement's 1.5°C warming limit, the setting up of the Climate Change Commission, and its setting of five-yearly carbon budgets.

However, there are some flaws and gaps in the ZCB that could hinder the overall goal of us achieving New Zealand's fair share of global action - indeed there is not even a mention of a "fair share" in the purpose of the Bill. A mere "contribution" is not enough.

It is also very disappointing to us that the amendments to the Emissions Trading Scheme are not being considered at the same time, as what happens under the ETS will be central to New Zealand achieving the targets under the Zero Carbon Bill and those set under the carbon budgets.

Key points on the Zero Carbon Bill

1. The proposed methane target should be 20% below 2017 levels by 2030.

The climate crisis is already here, and the best way to address it is by cutting emissions as soon as possible. The earlier we take strong action, the more likely we are going to be able to avert dangerous climate change, and warming going beyond 1.5°C. There is plenty of evidence showing that reducing cow numbers by an average of ~20% are unlikely to affect a dairy farmer's bottom line, and would reduce inputs, and emissions.

2. The net zero target for all other GHGs must be 2040 not 2050.

The climate is in crisis, already, and we have only experience just over 1°C of warming. The longer we leave taking strong action, the worse off we will be, and the more it will cost everybody: from everyday people to farmers, local and central government. If New Zealand, an industrialised country, does not pull its weight, we will have no platform on which to ask other, bigger emitters, to pull theirs, nor would we be able to face our Pacific neighbours and argue that we did everything we could to avert the far worse climate catastrophe many of them are facing.

3. The act must be legally enforceable, and applicable to all

There is little real enforceability in this bill, indeed it is very weak in terms of who it applies to, and the ramifications of not meeting targets. While it's not possible to prosecute in 2050 if the targets are not met, enforcement can take place at the outset: i.e. if the green light is given to a development that significantly raises emissions and makes it impossible for New Zealand to keep within our carbon budget. The courts should be able to review that decision. (see also point 6 below on the RMA and EEZ legislation).

To that effect, we consider that clause 5ZJ be deleted altogether, and 5ZK should be amended to cover all persons, be "required" not "permissive", especially on Government departments.

4. All of government must be bound by the Act

It makes no sense for the Act to just be a "guide" to other government departments and any projects they may be consenting, or putting forward. This must bind all levels of the State Sector. If the Government itself cannot meet its own targets, there is no imperative for anyone else to either.

5. The purpose must be achievable - and measurable

A goal of limiting warming to 1.5 degrees is a global effort - not in New Zealand's hands. The ZCB's purpose needs to be clear, with no ambiguity. In that regard, to only "contribute to" the global effort means very little - it should be clearly stated that we need to do our fair share, and the Climate Change Commission should work on identifying what that fair share should be.

There are many efforts to identify what that "fair share" might look like, such as that used by the Climate Action Tracker, which draws on [a total of 54 papers on equity](#) to arrive at its conclusions of what is a "fair share."

The Climate Action Tracker rates New Zealand's [2030 target as "Insufficient"](#), meaning that if all countries were to follow a similar approach, the world would warm between 2-3°C. It rates our policies as "highly insufficient" meaning that if everyone else's policies were as bad as ours, warming could reach over 3°C and up to 4°C.

6. the Zero Carbon Act absolutely must override the provisions in both the RMA and EEZ legislation that [do not allow climate change to be considered when issuing resource consents](#). In the RMA it is

clauses 70A and 104E, and the purpose clauses of the Resource Management (Energy and Climate Change) Amendment Act 2004 (3)(b)(ii):

b) to require local authorities—

- (i) to plan for the effects of climate change; but
- (ii) not to consider the effects on climate change of discharges into air of greenhouse gases.

In the EEZ the clauses S59 (2B)(5)(b) are similar, and must be removed - as soon as possible (in RMA I revisions, not the second tranche).

Repeal of these clauses in the RMA and EEZ Act needs to take place urgently. How can we possibly meet our targets if local and regional governments cannot take climate change into consideration when considering an application for a high-emitting project such as, for example, a coal boiler, a coal mine, or a gas-fired power station? It is at regional level and under the RMA or EPA that such things are decided, and the laws that govern them, along with the Supreme Court decision accompanying them, would undermine the entire purpose of the ZCA.

We cannot simply rely on a price on carbon to curb these emissions, not least because most of our biggest emitters are subsidised by the taxpayer, so have little incentive to reduce them. (This last point is why it is a nonsense that the ETS bill is not being considered at the same time).

7. There must be a limit on offsetting

As the bill stands, all long lived gases (e.g. CO₂) could be entirely offset by planting trees without anyone actually having to reduce emissions - or by buying carbon credits. Right now, New Zealand's emissions are 65% above 1990 levels. If you look at a huge region like the European Union, its 2030 target is "at least 40%" below 1990 levels by 2030, and it looks like it will not only meet this target, it will do more. This is without accounting for Land Use, Land Use Change and Forestry. New Zealand's targets are pitiful in comparison, and we have developed a terrible international reputation for our gross-net "creative accounting."

New Zealand has relied on tree planting to offset virtually all our emissions since 1990, and it's time we stopped. We therefore recommend that offsetting should be a last resort; and have a maximum limit defined in legislation – i.e. not more than 30% of the obligation may be offset with forestry, with this percentage reducing every year. All trees planted as a carbon sink will carry a future liability if they are felled, to pay back the credits, effectively making the land useless for future generations.

To quote the Parliamentary Commissioner for the Environment:

"The fossil carbon dioxide emitted into the atmosphere has a warming effect for centuries to millennia. By contrast, the carbon stored by trees and other terrestrial ecosystems can be quickly released back into the atmosphere in the event of fires, pests or other disturbances. Continuing to emit fossil carbon dioxide on the basis that an equivalent amount of carbon is being sequestered by biological sinks therefore carries significant risks."

"... claiming to have managed the problem by planting forest sinks to cover the rest is a poor alternative. Not only would the sinks need to be maintained in perpetuity, planting would have to continue as long as there were any residual emissions."

We therefore recommend that there is a 30% limit to how much carbon we can offset through planting trees, and this should reduce every year. This would enable the Climate Change Commission to come up with a clear definition of what “net” might be.

Planting permanent native forests must also be a priority over toxic pine plantations. Riparian planting in natives protects waterways, creates a permanent sink, provide for biodiversity and native habitat.

8. Action plans should ensure that emissions reduction should not compromise the protection of indigenous ecosystems.

9. Ocean acidification must be mentioned along with climate change throughout the Zero Carbon Act.

The issue of ocean acidification is as important as climate change, and is the result of CO₂ in the atmosphere. We cannot stress enough how important healthy oceans are to the health of New Zealand’s economy.

SUGGESTED TEXTUAL AMENDMENTS

(suggestion changes in **red bold**)

4 Section 3 amended (Purpose)

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

(aa) provide a framework by which New Zealand ~~will~~ ~~can~~ develop and implement clear, ~~and~~ **stable and effective** climate change policies to **make a fair/equitable contribution** ~~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; and

50: Target for 2050

(1) The target for emissions reduction (the 2050 target) requires that—

(a) net emissions of greenhouse gases in a calendar year, ~~other than biogenic methane~~, are zero by the calendar year beginning on 1 January **2040** and for each subsequent calendar year; and **(aa) No more than 30% of the 2040 target may be met through removals/sinks**

(b) gross emissions of biogenic methane in a calendar year—

(i) are **at least 20%** less than 2017 emissions by the calendar year beginning on 1 January 2030; and

(ii) are at least **30% to 50%** less than 2017 emissions by the calendar year beginning on 1 January **2040** and for each subsequent calendar year.

(2) In this section, 2017 emissions means the gross emissions of biogenic methane for the calendar year beginning on 1 January 2017.

We also have some suggested changes around the changing of the target.

5Q Recommendations to amend **2040** target

(1) As a result of a review, the Commission may recommend a change to—

(a) the time frame for achievement of the **2040** target (or part of the target); or

(b) the levels of emission reductions required by the **2040** target (or part of the target).

- (2) The Commission may recommend a change to the 2040 target only if—
- (a) **in the view of the Commission** a significant change has occurred since the commencement of this section to 1 or more of the following, as they relate to climate change:
 - (i) global action:
 - (ii) scientific understanding of climate change:
 - (iii) New Zealand’s economic or fiscal circumstances:
 - (iv) New Zealand’s obligations under relevant international agreements:
 - (v) technological developments:
 - (vi) distributional impacts: **or**
 - (vii) equity implications (including generational equity); and
 - (b) the Commission is satisfied that the significant change justifies the change to the target; **and**
 - (c) **the Commission has consulted on the proposed change and**
 - (d) **the Minister certifies that the proposed change is not inconsistent with New Zealand’s international obligations**

Subpart 5—Effect of 2050 target and emissions budgets

We suggest removing 5ZJ altogether. It is a get-out clause, and goes against the stated goals and principles of the bill. This bill needs teeth, and this whole clause appears to be specifically designed to limit its effectiveness.

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~~5ZJ Effect of failure to meet 2050 target and emissions budgets~~

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~~(1) No remedy or relief is available for failure to meet the 2050 target or an emissions budget, and the 2050 target and emissions budgets are not enforceable in a court of law, except as set out in this section [Act].~~

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~~(2) If the 2050 target or an emissions budget is not met, a court may make a declaration to that effect, together with an award of costs.~~

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~~(3) If a declaration is made and becomes final after all appeals or rights of appeal expire or are disposed of, the Minister must, as soon as practicable, present to the House of Representatives a document that—~~

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~~(a) brings the declaration to the attention of the House of Representatives; and~~

~~(b) contains advice on the Government’s response to the declaration.~~

5ZK 2050 target and emissions budget are ~~permissive~~**required** considerations

(1) ~~A~~ Every person or body **may, if they think fit, shall** take the 2050 target or an emissions budget into account in the exercise or performance of a public function, power, or duty conferred on that person or body by or under law. ~~{subject to other requirements that apply by or under law}.~~

~~(2) However, a failure by any person or body to take the 2050 target, an emissions budget, or guidance issued under section 5ZL into account does not invalidate anything done by that person or body.~~

5ZL Guidance for departments

(1) The responsible Minister may issue guidance for departments **and local authorities** on how to take the 2050 target or an emissions budget into account in the performance of their functions, powers, and duties (or classes of those functions, powers, and duties).

(2) The responsible Minister must, as soon as practicable after issuing the guidance, make it publicly available.

(3) the Minister shall report on guidance issued under this section.

5ZL bis The Minister must identify and report annually on impediments to meeting budgets and identify methods of mitigating or removing those impediments.