

## What Is A Climate Change Commission?

The 'Zero Carbon Bill' proposes the establishment of a new bureaucracy in the climate space. It does not replace an existing agency, department, quango, committee, or task force but comes *on top of* all the existing bureaucracy. So, what is it for?

### **5B The purposes of the Commission are—**

- (a) to provide independent, expert advice to the Government on mitigating the effects of climate change (including through reducing emissions of greenhouse gases) and adapting to the effects of climate change; and*
- (b) to monitor and review the Government's progress towards its emissions reduction and adaptation goals.*

Advising the Government on climate mitigation and adaptation, and monitoring progress, have long been the responsibility of the Ministry for the Environment. The sole changes here are the adjectives "*independent*" and "*expert*".

### **Advice on What?**

All political parties and MPs agree that all countries should contribute to progressively reducing global GHG emissions "as soon as possible", and also that increasing resilience to weather extremes ought to be built up in a timely manner.

These trite goals have been political common ground for the past quarter-century and will continue to be so for the foreseeable future. No political division is likely to arise and no advice is required in respect of them. Other important aspects are also common ground:

- (i) the Paris Agreement seeks to "*achieve a balance between anthropogenic emissions by sources and removals by sinks of greenhouse gases in the second half of this century*".<sup>1</sup> so as to prevent long-term average temperatures rising by more than 2°C.
- (ii) the sole purpose of New Zealand climate policy is to contribute to this global effort. (Our local emissions, at 0.1% of the global total, can have no detectable effect on future world climates.)
- (iii) reducing New Zealand net emissions unavoidably calls for major sacrifices, and modelling shows that the extent of that 'economic pain'<sup>2</sup> is directly proportional to the *rate of change*.<sup>3</sup>
- (iv) New Zealand's optimal future rate of change cannot be finally determined by quantified cost/benefit analyses or other technocratic means, because the nature and scope of the benefits are debatable and cannot be quantified (i.e., benefit evaluations are unavoidably subjective).

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<sup>1</sup> Article 4.1.

<sup>2</sup> I use the term "economic pain" in the widest sense to include all welfare losses that result from coerced increases in energy prices or losses of foreign earnings.

<sup>3</sup> I use the term 'rate of change' for the speed of induced reductions in NZ net emissions from their reported 2005 levels, e.g., 25% by 2030 (NDC), 80% by 2050 (UK), 100% by 2100, etc.

- (v) The rate of change in any period must be compatible with the Government's other economic, environmental and social objectives<sup>4</sup> for that period.

As none of the above matters are in contention, or likely to be disputed in the future, they obviously would not require advice from a Climate Commission. What will *always* be up for debate is the appropriate Rate of Change from time to time.

Appetites for economic pain<sup>5</sup> vary widely, and for a wide variety of reasons. Because the "correct" level is a mishmash of quantitative and qualitative factors and is ultimately a matter of opinion or intuition, it cannot be calculated by technocratic means and has to be determined politically. In a democracy, of course, that means it must be decided by a majority of the voters, either directly or through their elected representatives.

How can an unelected Commission help with such a political process? Its opinions or biases on such issues can be accorded no more weight than any other group of voters. However, a Commission could certainly offer a major contribution by operating as the independent (i.e., non-political) fact-finder and issue-analyst in respect of the *core elements* that will or should matter to the political decision-makers. Insofar as those elements are quantitative, it can and should play the major role.

If that is to be done, then those *key issues* need to be spelled out in the legislation. This Bill is the opportunity for the whole Parliament to identify the matters that future Ministers will be legally bound to take into account.

### **Review, Advise, Recommend**

The proposed functions of the Commission are set out at **5J**. All of these duties would normally be the responsibility of the Climate Change section of the Ministry, which routinely conducts public and departmental consultations, then services and chairs an officials' committee (including Treasury) which in turn reports to a cabinet committee. That's how the Kyoto and Paris targets were determined by National-led governments in both 2009 and 2015.

**Part 6** of the existing Act requires the Minister to set and review emissions targets, after consulting with interested persons and considering "any matter he thinks relevant." While the legwork for these is done by the Ministry, the responsible Minister can and does seek reports from all manner of ad hoc committees – from "*Doing NZ's Fair Share*" ([Caygill Report](#)) of 2011 to "*Path to a Low Emissions Economy*" ([Productivity Commission](#)) of 2018.

An existing Crown Entity, the [Environmental Protection Authority](#) also has extensive duties under Part 4 of the Act and the [Parliamentary Commissioner for the Environment](#) reports directly to Parliament on climate matters. There is currently an [Interim Climate Change Committee](#), a [Transition Hub](#) and an ETS advisory committee. Wellington is seething with climate change advisers. But they are all quite rightly seen as contractors to the current Minister, delivering *that* Minister's policy, priorities and promises. There may still be room for an *independent voice*.

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<sup>4</sup> A fiscal budget needs to be orchestrated, e.g., rapidly rising diesel prices could potentially torpedo an Administration's whole programme for, say, stimulating employment or reducing poverty.

<sup>5</sup> I will refer to this political issue as "Appetite for Pain". Activists refer to it as "Ambition Level".

## **“Independent”**

Independence is valuable in enhancing public acceptance of the Commissions’ advice – an important consideration in such a highly politicised area. If the unelected Commission is perceived to be usurping the prerogative of the voters, it will inevitably attract constant criticism or opposition, as well as constant efforts to replace the commissioners. As argued above, all clearly political decisions must be taken by elected politicians.

However, the Bill is currently so drafted as to imply that the Commission should also exercise the political calculus on the Rate of Change, even if finally subject to an overrule by the Cabinet. This needs to be tidied up, by focussing the Commission on the specific issues mentioned in **5L** of the Bill. I expand on this in *Writing Budgets and Plans*.

## **“Expert”**

Curiously, the word “*expert*” has been inserted in 5B(a) of the Bill, although it is not defined and does not appear elsewhere in either the Bill or its parent Act. The dictionary meaning is “possessing specialist skill” but it seems clear from 5H, and from the list of functions, that Commissioners will need to be generalists who have a wide range of experience and knowledge.

A committee of experts (say economists) would add little value to the existing advisory functions of the Ministry, which can call upon endless experts for opinions on a wide range of narrow issues. The advantage of independence becomes illusory, because “experts” are by definition loyal only to their discipline and impervious to outside influences and consequences.

In most areas requiring specialist expertise, different schools of thought develop. As all lawyers know, experts are usually available on either side of any contested technical issue, so an outcome can readily be pre-determined by the selection of a sympathetic practitioner (whose views are often clear from published papers). The proper role of that category of persons is in making submissions to a Climate Commission – not sitting as a Commissioner to judge the merits of submissions made by experts from an opposing school of thought.

The adjective “expert” should be excised from 5B.

## **Partisan Role**

The Explanatory Note in the Bill says the Commission “*will help keep successive governments on track to the long-term mitigation and adaptation goals*” – which suggests some sort of watchdog role to ensure future Ministers don’t lose the faith.

That impression is further reinforced by the Bill’s formal [Regulatory Impact Statement](#) which is quite unabashed:

*A Climate Change Commission is a transparency and accountability mechanism to provide independent, expert advice beyond short-term considerations and political cycles. It will hold successive governments to account for progress on reducing emissions and building climate resilience.*

And –

*This is a way of addressing the intergenerational challenge of climate change and ensuring transparency and accountability throughout New Zealand’s transition to a low-emissions and climate-resilient economy.*

All this smacks of an underhanded approach. While the Bill overtly declares an intention to secure sound and credible advice, the *real* purpose is to apply political pressure to future MPs and Ministers for a pre-determined outcome. The Commission is to be just another lobby group!

This won't work. If the public were to discern that the Commission is really Greenpeace in drag, the authority of its recommendations would be heavily discounted by all but the 15-25% tribal group who already have outsize climate pain appetites.

In light of the Ministry's apparent agenda, it seems essential to add a 5B "purpose" that the Commission will strive to balance the rate of reduction of emissions with the ability of the economy to absorb that rate without causing undue hardship, increases in poverty, reductions in the delivery of government services or in the general standard of living<sup>6</sup>.

### **Membership**

If the Commission's role is to be intensely political (which has been opposed above), its make-up would need to reflect the choices of the electorate. Each political party should have the right to appoint members, in proportion to their Parliamentary seats.

If, on the other hand, the RIS is wrong and the Commission's role is to establish all relevant facts and to analyse policy options, then the selection process proposed in the Bill, which allows for consultation, should reduce controversy and enhance the Commission's standing. In the interests of bi-partisan acceptance, 5F should provide for the Minister to consult with other parties on the membership of the nominating committee (in practice, it would help if at least one member should be nominated by the Opposition).

The Explanatory Note explains that:

*Consideration was not given to options where—*

- *The membership of the Commission consisted of stakeholder representatives, as this was considered to jeopardise the ability of the Commission to provide independent advice.*
- *The collective expertise required of the Commission was prescribed in more detail, as this was considered to allow insufficient flexibility for the considerations of the Commission to evolve over time.*

In respect of the mitigation of long-term and short-term gases, the Commission's principal role is to advise the Government on its five-year Budgets/Plans and to monitor their progress. Each Budget will be devised iteratively with its accompanying emissions reduction plan (5ZE) and this task will be dominated by *economics* in both macro and micro (behavioural) disciplines.

Other useful experience would be in finance, accounting, transport logistics, law, electrical engineering and bioscience – but fine-grained technical expertise should be provided by outside consultants and not by Commission insiders.

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<sup>6</sup> As James Shaw is supremely optimistic that emission cuts will be painless, if not stimulatory, he should have little objection to new clauses aimed at limiting downsides.

In a small country, the constant risk of conflicts of interest is often countered by appointing academics to government boards. This should not be contemplated here. The task of designing workable, cost-effective and least-regrets policy instruments affecting the whole economy, and accurately quantifying their effects for six years, demands hard-headed practical judgment.

Obviously, there is no single answer. My dream team would be secondment of a High Court judge (with extensive commercial experience) as chair, two economists, a retired Treasury Secretary or similar, a civil engineer, two experienced business CEOs, one entrepreneur or small business owner, a retired Mayor, and the Maori representative. None should be chosen for their specialist expertise.

Given the budgeting and planning work of the Committee and the high value placed on independence (from the Ministry for the Environment), it would be best if the Commission were serviced by the Treasury.