

The submitter

The NZ Outdoors and Freedom Party is a registered political party under the Electoral Act that promotes respect for the NZ Bill of Rights and for the rights of all New Zealanders.

Background

- A. The government has done an abysmal ad hoc job in recent adverse weather events. Despite government rhetoric and staged photo opportunities, central government has failed to competently support many of the flood damaged communities. In some cases central government has actively blocked or undermined constructive community solutions.
- B. Correspondence obtained under the OIA shows that the NZ Defense Force mobilised itself to assist local communities in Hawkes Bay, but their services were barely called on by Civil Defense or central or local government, despite their availability and the massive scale of damage.
- C. Media reports indicate that public funded civil defense staff were unprepared and in some cases completely unavailable to assist and had no back up, despite at least several days' notice of an imminent extreme weather event.
- D. Time and again it has been proven that motivated local people and local community networks have provided the most effective immediate and short-term support for disaster ravaged communities.

The reasons we oppose this Bill:

1. This Bill was drafted and published yesterday (28 March 2023) on extremely short notice without opportunity for a fully considered Regulatory Impact Statement and allowing only one day for public submissions.
2. We have had many extreme weather events in the past and will inevitably have more in the future. Law for addressing these must be lawful, principled and the result of good process with time for stakeholder engagement and social licence. This Bill achieves none of these criteria.
3. We are strongly opposed to rushed overarching legislation, and particularly the use of delegated powers, that cut across existing laws and rights, except in very confined circumstances and where such action is necessary and justified and where adverse impacts on fundamental rights, freedoms and expectations of our communities have been assessed, understood and provided for with due process.
4. Clause 3 "purposes" goes well beyond the stated purpose of assisting communities and local authorities to respond to and recover from the impacts of severe weather systems. For example:
 - (i) rebuilding of land, infrastructure and other property should be done in a principled and lawful way, rather than through Ministerial orders.

- (ii) This law should not transfer power to a minister to rebuild in areas not affected by the severe weather without due process as this will inevitably adversely impact on existing occupiers and other communities.
5. Clause 4 “department” gives excessive power to the Department of Prime Minister. The DPMP has proven with the Covid response that its focus is on “spin”, rather than law, reason or evidence. We refer for example to the significant sum spent on promoting and marketing misleading “safe and effective” messaging despite the conflict with the findings of the medicines regulator Medsafe that was not satisfied that benefits exceeded risks.
 6. Clause 7 purports to allow a Minister to use delegated legislation (an Order in Council) to override any existing legislation that is included in the schedule. This is unconstitutional and an abuse of process and of delegated power.
 7. Clause 8 provides for this Ministerial overreach where it is considered to be necessary or desirable. This is extremely vague and delegated far too much power to centrally controlled Ministers to the detriment of community led solutions where local people who understand the local issues and priorities local help local people.
 8. Attempted bureaucratic short cuts have frequently caused more problems and grievances than they have resolved. The focus should be on removing unjustified red tape for the benefit of all that are developed by competent stakeholders, rather than poorly thought out ad hoc solutions.
 9. This seems to be yet another example of abuse of power and process by a government that has no respect for due process or constitutional principles.
 10. There is no extreme urgency and no justification for avoiding best practices for law reform.
 11. If the government is planning a snap election, and trying to rush through urgent reform, then that is an improper purpose and justification for such an unconstitutional law. Further the public should be informed of this.
 12. The government was elected to represent the public, and must act on instructions from us to facilitate human rights and the public interest, and must act transparently and in a principled way to inspire trust.
 13. This Bill must be withdrawn.

Supplementary Information:

In general, The NZ Outdoors and Freedom Party promotes ‘localism’ as opposed to ‘centralisation’ and decisions being made for the many by the few, without consultation with people on the ground who are the ones dealing with the situation. We don’t see this Bill achieving anything to reduce risk or harm which is what 1) you’d think Government would want and 2) what people on the ground need and want.

Politicization of emergency responses is not going to improve outcomes. Secrecy of emergency responses is also not going to improve outcomes. Pushing legislation through without adequate time to interpret the wording and time for consultation with communities affected, makes it look like Govt is 'up to something'. This is clear by the very few submissions and oral submissions the select committee has received.

Notes to the Government on its management of severe weather response and this suggested bill:

- 1) You, the "government" don't need legislation to 'do the right thing' – to coordinate efforts and to work with local communities to protect themselves, protect their community, be resilient and sustainable.
- 2) Central and Local Govt's and other PAID groups such as Civil Defense, should do what locals expect them to do – such as keep an eye on weather conditions, keep them informed as to risks, giving them best options for safe routes out of harm, communicate with each other and the communities (and so on). People believe that that job is being done, if it is not, then at least let communities KNOW that Govt departments can't be relied upon and so locals can lower their expectations and make sure they have their own rescue plans in place and create their own local strategies based on their environment and inherent risks.
- 3) Local communities are the ones who should be consulted, and have not been in this document. We do not want more top down control by authors of legislation who don't understand what the needs are on the ground. Each community needs to be fully consulted as they will come up with the solution to their needs. This can not be done with a 'top down' approach.
- 4) The Emergency Response in Hawkes Bay, Tairāwhiti, as well as other places around the motu sounded as if Government departments went out of their way to create obstacles for communities to care for themselves and each other. How does this legislation work to fix that problem? Examples of deficiency of responsibility of Govt departments as follows
 - a) NO warning about the flood, no warning to evacuate in Rissington and Puketapu, Esk Valley and Te Karaka putting all lives at risk and indeed killing some.
 - b) Poor and late coordination of rescue efforts, much left to local 'heros', CAA giving poor advice about legality of flying making pilots to believe they may be prosecuted if they rescued people.
 - c) Pakowhai rohe was not told at all to evacuate even though people were being evacuated from their homes higher up the valley – the flood did not reach Pakowhai until 2-3 hours after people were being helicoptered, jet skied, swam out from Rissington and Puketapu.
 - d) At some point, Pakowhai residents were not allowed to leave the area, police forming cordons telling them to go home as it was unsafe to drive out. People were then stranded on their roofs for several hours in torrential rain, risking hyperthermia and drowning. How did the police get there if it was unsafe to drive out? Why didn't police and CD find a safe exit route?
 - e) Civilians who tried to come in by boat to rescue friends in Pakowhai, were turned back by police. Only hours later when this was escalated – (elderly man, special needs child hypothermic) were they allowed in to rescue their friends.
 - f) Surf Live Saver crews were not told to go to Pakowhai until around 4pm in the afternoon, they had been waiting around all day to be told what to do.

- g) Curiously though, we know a police crew did go in and rescue one their own, earlier in the day, a policewoman with two young children, who had to swim out of her home.
 - h) There is NO support from Council/Government in terms of helping people clean up their properties - all the work is being done by unpaid volunteers, one property at a time. This is going to take decades at this rate.
 - i) Silt is left to accumulate instead of being taken away, which will block drains and increase the risk of more flood damage.
- 5) Anecdote from a policeman's wife – at a social event the night before the flood, the police were laughing at the cyclone – saying “ the meteorologists always say there is going to be rain, but it always misses us” so they had already ‘gone to sleep on the job’ and written off the potential for problems. I can only imagine Civil Defence did the same thing, as they did not appear to be keeping ‘a weather eye’.
 - 6) This has happened before, it's not like New Zealand is not used to floods! So why were these organizations so blasé?
 - 7) All through the motu the whenua is horribly susceptible to erosion – the council and the government have been derelict in their duty to provide enforcement to ensure safety downstream, by a) saying that pines are good for erosion prevention when they patently are not b) allowing pines plantations on hillsides that are ridiculously steep c) allowing slash to accumulate d) allowing dragging trees to destroy the top soil in the valleys e) allowing complete deforestation of hillsides, instead of selective logging, which will increase speed and rate of erosion in high rainfall f) encouraging the use of pine for carbon credits g) planting pines above vital highways
 - 8) The rivers are not being maintained – stock banks do NOT get rid of the need to dredge rivers as the river bed raises as you increase the stock banks. From what the locals say, the rivers are not being cleared the way they need to be to prevent stock banks blowing out.

Conclusion:

During severe weather events in the past few months/years, essentially people were on their own – Central and Local Government and Civil Defense appeared to be inadequate in their actions to support people in severe weather events. They didn't have a plan in place that could be swung in to action in a moments notice or if they did, it was not fully functional in all locations. People assume that Govt is in charge of that. Central and local government have not moved to mitigate the known negative effects of extreme rain in erosion prone areas in relation to pine plantations. Central and local government have not managed infrastructure to the first world standard that we expect in this country. We know we have erosion and slip prone land – we expect to constantly have to rebuild roads and infrastructure but if vital infrastructure is mismanaged and that puts peoples lives at risk, strategies need to be put in place to make sure this doesn't happen again.

Recommendations:

- 1) Slow the passage of this bill down, and rewrite to make it a functional document that is open and transparent and meaningful
- 2) Bring back the Department of Public Works who will hold the institutionalized knowledge of how to manage our infrastructure.

- 3) Have local communities consult and create a risk management strategy and rescue plan for their own role, in coordination with a local government/community protection/Police/a regional Defence Force representative (i.e. someone in the Army/Navy/Air Force who knows the role and understands the specifics of that environment), health organizations, and have this plan available to the local community via the District Council with clearly roles and responsibilities.
- 4) In consultation – such as a Citizens Assembly – with each local community, create a plan to manage environmental risks long term, i.e. decisions about how where to build, where to farm and how to farm, discussion on the risks locals are prepared to take and how to stay in place safely, and how new communities may be created elsewhere in safer places. Make sure this long term vision becomes part of local council planning documents so land that really shouldn't be built on, can't be 'manipulated' to be built on. One example of new town builds that takes into account community, environmental and societal needs can be seen here at www.7G.nz
- 5) Review pine plantations role in erosion and slips, and create a new plan to prevent large scale erosion events, and begin to implement that as quickly as possible to protect life and property.
- 6) Reinstate the Forestry Service to research and manage our tree plantations.
- 7) Create a board within the EPA that investigates how to reduce and prevent harm from toxicological stressors and ensures chemical runoff from rubbish dumps, factories, chemical dumps, farms (industrial, agricultural and urban) will not endanger safety of people, animals – domestic and wild, land etc, down stream in extreme weather events.

14) <https://www.nzherald.co.nz/nz/cyclone-gabrielle-10-of-the-worst-tropical-cyclones-to-hit-nz/V6WTION7HFCIXFA4TGQT27YQS4/> It's not like it hasn't happened before....

16) <https://www.facebook.com/zebjacksonlive/videos/590424679329639> Proof that jet boats were sent in and turned back, only allowed in once police were told vulnerable people were at risk