

**To:**

Ministry for Regulation  
PO Box 577

Wellington 6140

[RSBconsultation@regulation.govt.nz](mailto:RSBconsultation@regulation.govt.nz)



**Submission on the  
Proposed Regulatory Standards Bill Consultation**

**From:**

Te Tira Whakamātaki  
48 Church Street  
Rangiora 7400  
North Canterbury  
[admin@ttw.nz](mailto:admin@ttw.nz)

Contact: Melanie Mark-Shadbolt – Tumu Whakarae, CE

## **Introduction**

1. Te Tira Whakamātaki is a Māori environmental not for profit and home to the Māori Biosecurity Network and hono: Māori Emergency Management Network.
2. We are committed to upholding the rights of Māori under Te Tiriti o Waitangi, protecting Aotearoa New Zealand's biodiversity, and advocating for Indigenous knowledge and practices in all environmental and social policy domains.
3. We believe that the state of our environment is a direct reflection of the state of our people, hence we are making this submission as it impacts the wellbeing – mana and mauri of our people and our environment.
4. This submission does not address the questions posed in detail, instead it combines our insights with those of key experts, highlighting our concerns regarding the consultation document and proposed Bill. It should not be considered a full and comprehensive account of all our concerns.
5. In our submission we critique the Bill's neoliberal underpinnings, lack of evidence base, and limited capacity to address systemic productivity issues, emphasising its potential to exacerbate inequities and undermine democratic governance
6. We also address concerns about the government's attempts to undermine Te Tiriti via this Bill while concentrating power in small nondemocratic structures.
7. This submission recommends the withdrawal of this proposal, noting we strongly oppose the proposed Regulatory Standards Bill (the Bill).

## **Our Position**

8. We strongly oppose the current proposal and approach to developing and introducing a Regulatory Standards Bill (the Bill), as it stands, we believe it is fundamentally flawed in its assumptions, design, and likely outcomes – like it was when it was previously dismissed the last three times it was proposed, including as recently as 2021.
9. We urge the Government to withdraw the proposed Bill and direct the Ministry to engage with Tangata Whenua on all proposed changes.

## **Key Comments on Proposal**

### **Setting Standards for Good Regulation**

10. The codification of principles for regulatory quality could provide a clearer framework for assessing the effectiveness of regulations. However, the emphasis on aligning with best practices may inadvertently stifle flexibility, innovation, and culturally specific approaches, such as those required to uphold Te Tiriti o Waitangi.

11. The Bill risks embedding a one-size-fits-all approach that prioritises Western legal and economic paradigms, potentially marginalising Māori perspectives and values. The consultation document provides limited evidence of how similar frameworks have succeeded in other jurisdictions.
12. While the intent to align regulations with best practices is theoretically sound, there is insufficient empirical evidence to confirm that codifying principles will improve regulatory outcomes in diverse contexts like Aotearoa New Zealand. Codified standards may streamline regulatory processes and reduce compliance costs, theoretically boosting productivity. However, the lack of adaptability may hinder long-term productivity gains, especially in sectors requiring nuanced regulatory responses (e.g., environment, indigenous rights).

### **Transparency and Accountability**

13. Increased transparency and accountability could foster public trust in regulatory processes, as citizens and businesses gain clearer insights into the rationale behind regulations. However, without robust mechanisms to ensure participation from all stakeholders, particularly marginalised groups, the transparency measures may disproportionately benefit well-resourced entities while sidelining communities with limited capacity to engage e.g., Māori, rural communities and socially disadvantaged groups.
14. The principle of transparency is widely regarded as a cornerstone of good governance, but the Bill does not provide compelling evidence that increased transparency alone will lead to improved regulatory quality or societal outcomes.
15. Historical critiques of similar proposals suggest that enhanced transparency often fails to translate into meaningful accountability. Transparency could marginally enhance productivity by reducing uncertainty for businesses. However, it does not directly address systemic productivity challenges, such as skills shortages, infrastructure gaps, or environmental constraints.

### **Independent Assessment mechanism**

16. Establishing a Regulatory Standards Board to evaluate complaints and issue recommendations could provide an additional and unnecessary layer of oversight, which seems ironic given the intention of this Bill. The non-binding nature of its decisions undermines its effectiveness, particularly if politically motivated decisions are insulated from meaningful scrutiny.
17. There is also a risk that the Board will become a forum for powerful interest groups to influence regulatory outcomes in their favour. The lack of binding authority for the Board raises questions about its potential impact. Evidence from other jurisdictions suggests that advisory mechanisms often struggle to influence entrenched political

or bureaucratic interests without enforceable powers. An independent mechanism might identify regulatory inefficiencies, but its limited mandate makes it unlikely to drive significant productivity improvements.

### **Oversight by the Ministry for Regulation**

18. A central Ministry for Regulation may enhance coordination and consistency across regulatory frameworks. However, centralisation risks creating bureaucratic bottlenecks and may reduce the capacity for locally tailored or sector-specific solutions. This approach also risks prioritising economic considerations over social, cultural, and environmental outcomes and seems contrary to what the Government has articulated its intentions to be.
19. While centralised oversight has succeeded in some cases, its effectiveness depends heavily on implementation. The absence of detailed evidence supporting the proposed Ministry's capacity to balance competing interests raises concerns.
20. Centralised oversight could streamline processes and reduce duplication, contributing to marginal productivity gains. However, it may not address broader structural challenges that constrain New Zealand's productivity growth.

### **Overall Assessment**

21. The Bill could provide a more consistent framework for evaluating regulations, potentially enhancing transparency and reducing compliance burdens in some cases. However, as it currently stands it risks prioritising economic efficiency over critical social, cultural, and environmental considerations.
22. Its individualistic framing undermines collective responsibilities and Te Tiriti obligations, while its non-binding mechanisms limit its ability to enforce meaningful change.
23. The Bill is not sufficiently supported by evidence demonstrating its effectiveness in improving regulatory quality or addressing systemic productivity issues, and while the Bill may address narrow regulatory inefficiencies, it does not tackle the broader structural issues that hinder productivity in New Zealand.

### **Key points of opposition**

#### **Undermining Te Tiriti o Waitangi**

24. The proposed Bill appears to be based on an individualistic, Western legal framework that fails to recognise the collective rights and obligations central to Te Tiriti o Waitangi. Te Tiriti is not merely a historical document but a living covenant that binds the Crown to uphold the rights, responsibilities, and sovereignty of Māori as tangata whenua. By prioritising individual rights over collective ones, the Bill risks marginalising Māori worldviews, tikanga, and decision-making processes.

25. The Bill's provisions for regulatory impact assessments entrench a monocultural approach to policy, sidelining the holistic and relational frameworks inherent in te ao Māori. There is little evidence that adequate safeguards will be in place to ensure the protection of Māori rights under Te Tiriti. Without explicit requirements for consultation with Māori or mechanisms to uphold partnership obligations, the Bill threatens to exacerbate systemic inequities and violate Te Tiriti.
26. The extensive redactions in the Treaty Impact Assessment are deeply concerning. They hinder voters, stakeholders, and Māori from fully understanding the potential impacts of the proposed legislation, undermining trust in the consultation process and the Government's commitment to Te Tiriti. Without full access to the analysis, it is challenging to hold policymakers accountable for decisions that may affect Māori rights and interests – something this Bill is purporting to do.

### **Neoliberal Underpinnings and Prioritization of Individualism**

27. As Professor Kelsey's submission observes, the Bill reflects neoliberal ideologies that prioritise market efficiency, deregulation, and property rights over collective well-being. This approach undermines public goods and services, including health, education, and environmental stewardship, which require collective action and shared responsibilities.
28. The Bill's emphasis on individual rights, freedoms, and cost-benefit analyses disregards the interconnected nature of communities and ecosystems. It risks exacerbating inequities and marginalising groups that rely on collective protections and public services.

### **Environmental Sustainability and Intergenerational Equity**

29. The Bill's lack of focus on environmental sustainability and intergenerational equity is deeply troubling. The absence of explicit provisions to safeguard the environment and the well-being of future generations reflects a short-sighted approach to policymaking. Climate change, biodiversity loss, and other environmental crises require robust regulatory frameworks, not mechanisms that prioritise deregulation and short-term economic gains.
30. By failing to integrate principles such as kaitiakitanga (guardianship) into its provisions, the Bill risks enabling policies that degrade ecosystems and compromise the rights of future generations. The proposed framework provides no assurance that environmental considerations will receive the attention they deserve in regulatory decision-making processes.
31. Professor Kelsey highlights that the proposed framework provides no assurance that environmental considerations will be adequately addressed in regulatory

decision-making processes. This short-sighted approach threatens Aotearoa New Zealand's capacity to respond to urgent environmental challenges.

### **Risks of Concentrated Power and Lack of Accountability**

32. The Bill grants significant discretionary power to a single Minister, raising concerns about accountability and transparency. Such centralisation of authority risks regulatory capture and misuse of power, particularly in politically contentious areas. Without robust checks and balances, the Bill undermines democratic processes and public trust in governance.
33. Additionally, the Bill's proponents have not provided sufficient evidence to justify its sweeping changes. As Professor Kelsey notes, there is little indication that the proposed framework will achieve its stated objectives of improving regulatory quality or enhancing public trust. Instead, it appears likely to erode protections and exacerbate existing inequalities.

### **Structural Risks and Lack of Evidence**

34. The proposed Bill risks privileging well-resourced entities, such as corporations, over marginalised communities. Its reliance on cost-benefit analyses and regulatory impact assessments disproportionately disadvantages groups unable to navigate complex bureaucratic processes or advocate effectively for their interests.
35. Furthermore, the lack of empirical evidence supporting the Bill's effectiveness in achieving its goals is deeply troubling. Policymaking should be grounded in robust data and thorough analysis, particularly when proposing structural changes with far-reaching implications. The absence of such evidence undermines the credibility and viability of the proposed framework.

### **Conclusion and Recommendations**

36. The Regulatory Standards Bill is fundamentally flawed in its assumptions, design, and likely outcomes. Its failure to uphold Te Tiriti o Waitangi, disregard for collective well-being, neglect of environmental sustainability, and risks of power centralisation and inequitable impacts make it unsuitable for addressing the challenges facing Aotearoa New Zealand.
37. Te Tira Whakamātaki urges the Government to:
  - 37.1. Withdraw the proposed Bill and engage in meaningful consultation with Māori and other stakeholders on what if any changes are needed.
  - 37.2. If it is determined changes are needed, develop an alternative framework that upholds Te Tiriti, prioritises collective well-being, and incorporates principles of environmental sustainability and intergenerational equity.

37.3. Ensure robust checks and balances to prevent the misuse of power and enhance accountability in all regulatory systems.

37.4. Ground policymaking in empirical evidence and align it with Aotearoa New Zealand's commitments to human rights, equity, and sustainability.

Thank you for considering this submission. We trust that the Government will recognise the significant risks posed by the Regulatory Standards Bill and act to protect the rights, well-being, and futures of all New Zealanders.

Ngā mihi nui,

Melanie Mark-Shadbolt,

***Tumu Whakarae CEO***

***Te Tira Whakamātaki***

|   | <b>Question</b>  | <b>Brief Response</b>   |
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| 1 | What is your name?   | Te Tira Whakamātaki   |
| 2 | Are you submitting in a personal capacity, or on behalf of an organisation, iwi, or hapū?                                    | On behalf of an organisation  |
| 3 | If you are submitting on behalf of an organisation, iwi, or hapū what is the name of that organisation, iwi or hapū?         | Te Tira Whakamātaki Limited   |
| 4 | Where in New Zealand are you primarily based?  | Canterbury, Aotearoa New Zealand  |
| 5 | Please provide us with at least one method of contacting you, in case the Ministry needs to discuss your submission further. | <a href="mailto:admin@ttw.nz">admin@ttw.nz</a>  |
| 6 | What are your overall views on the quality of New Zealand's regulation?  | Current regulation quality is inconsistent and does not adequately uphold Te Tiriti or address collective well-being. However the gains in the system have been hard fought for by Māori, communities and stakeholders and should not be undermined by policymakers and government officials without evidence and adequate consultation and engagement. |
| 7 | What are your overall views on the current arrangements in place to promote high quality regulation?                         | The arrangements lack sufficient inclusivity and focus on critical issues like environmental sustainability and Māori rights.   |
| 8 | Do you ever use RISs to find out information about proposed  | Yes, but RISs are rarely adequate and often fail to provide comprehensive   |

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|    | government regulation? If so, how helpful do you find RISs in helping you make an assessment about the quality of the proposed regulation?  | assessments, limiting their usefulness. They are also usually impacted by direction from Ministers and Cabinet and or ignored by decision-makers as was evident in the development and passing of the recent Fast Track Bill. |
| 9  | Do you ever use disclosure statements to find out information about a Bill? If so, how helpful do you find disclosure statements in helping you make an assessment about the quality of the Bill? | Disclosure statements are helpful in part, but they are often insufficient in addressing the broader implications of Bills.   |
| 10 | What are your views about the effectiveness of the regulatory oversight arrangements currently in place?  | Existing oversight arrangements are inadequate, with insufficient mechanisms for accountability and consultation.   |
| 11 | What are your views on setting out requirements for regulatory quality in legislation? Are there any alternatives that you think should be considered?  | Legislated requirements for regulatory quality should prioritize equity, inclusivity, and sustainability, with alternative frameworks incorporating Te Tiriti principles.   |
| 12 | What are your views on setting principles out in primary legislation?   | Principles in primary legislation can be useful but must explicitly incorporate collective responsibilities and Māori perspectives.   |
| 13 | Do you have any views on how the principles relate to existing legal principles and concepts?   | The principles should align with Te Tiriti and existing legal obligations to ensure holistic governance.  |
| 14 | Do you agree with the focus of the principles on:<br>rights and liberties?<br>good law-making processes?<br>good regulatory stewardship?  | The focus on rights, good law-making processes, and stewardship is positive but incomplete without explicit attention to collective well-being.   |
| 15 | Do you have any comments on the proposed principles themselves?   | The principles lack explicit recognition of Māori rights and environmental sustainability, which should be central.   |
| 16 | In your view, are there additional principles that should be included?  | Additional principles should include kaitiakitanga, intergenerational equity, and transparency in decision-making processes.  |



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| 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?   | Yes, processes to assess regulation quality are insufficient. Improvements are needed in consultation and evidence-based policy-making.                               |
| 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, the consistency checks are unlikely to improve quality as they lack mechanisms to incorporate diverse perspectives and long-term considerations.                  |
| 19 | Do you have any suggested changes to the consistency mechanisms proposed in this discussion document?  | Consistency mechanisms should include explicit provisions for Māori engagement and environmental impact assessments.  |
| 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)? | Regulations with minor impacts may be exempt, but major legislative changes affecting communities should not be excluded.   |
| 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?  | Existing mechanisms have limited effectiveness due to a lack of transparency and inclusivity.   |
| 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 structure could enhance accountability, provided it is designed to uphold equity and Te Tiriti obligations.  |
| 23 | If a new structure is created specifically to consider complaints about regulation:<br>do you think a Regulatory Standards Board would be the best mechanism to do this?<br>are there any alternatives that you think would be preferable to the proposed Board for investigating complaints about regulation?   | A Regulatory Standards Board could be effective if it includes diverse representation and robust powers. Alternatives include independent Māori-led oversight bodies. |
| 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 operate transparently, with a diverse membership reflecting expertise in Te Tiriti, environmental law, and governance.                               |

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| 25 | In your view, what individual skills or experience should Board members have?  | Board members should have expertise in Te Tiriti, collective governance, and environmental sustainability.                         |
| 26 | Do you support the proposals in this section for strengthened regulatory stewardship expectations on agencies to be set out in a Bill?   | Strengthened stewardship expectations are essential, particularly regarding inclusivity and long-term planning.                    |
| 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? | Situations requiring information gathering should be carefully defined, with clear safeguards to ensure fairness.                  |
| 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?                             | Information gathering powers must be justified, limited, and focused on critical reviews, with safeguards to protect stakeholders. |
| 29 | Do you think the information gathering powers are broad enough to enable the Ministry for Regulation to undertake regulatory reviews effectively and efficiently?  | The powers may be broad enough but require transparency and oversight mechanisms to ensure appropriate use.                        |
| 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?  | Safeguards should include independent oversight, privacy protections, and clear guidelines for information use.                    |
| 31 | Do you support the proposals in this section in relation to the Ministry for Regulations broad oversight role?   | Yes, provided the oversight role prioritizes equity, Māori engagement, and environmental sustainability.                           |
| 32 | Are there any other measures you think a Bill should contain to support the quality of regulation?   | The Bill should also include robust mechanisms for Māori consultation and environmental impact assessments.                        |
| 33 | Do you think the overall proposal will be effective in raising the quality of regulation in New Zealand?   | No, the proposal does not adequately address the underlying issues of equity, inclusivity, and sustainability.                     |
| 34 | Do you think there are other provisions that should be included in the Bill. If so, what would they be?  | Yes, provisions for independent oversight and enhanced consultation processes should be included.                                  |

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| 35 | Would you prefer any alternative options to the Bill, including non-legislative options? | Yes, non-legislative options focusing on capacity-building and partnerships could be more effective. |
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