Parliamentary Commissioner for the Environment
Te Kaitiaki Taiao a Te Whare Pāremata

Submission on the inquiry into banking competition

To Finance and Expenditure Committee

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Submitter details

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The Parliamentary Commissioner for the Environment

The Parliamentary Commissioner for the Environment was established under the Environment Act 1986. As an independent Officer of Parliament, the Commissioner has broad powers to investigate environmental concerns and is wholly independent of the government of the day. The current Parliamentary Commissioner for the Environment is Simon Upton.

Submission

Thank you for the opportunity to provide feedback on Parliament's inquiry into banking competition.

I have chosen to comment on three aspects of the Terms of Reference which have particular relevance to the environment.

In this submission, the relevant portion of the Terms of Reference is italicised followed by our comments.

Key points I would like to emphasise are that:

1. Many of the climate and other environment-related information requirements banks impose are in line with international trends and market requirements. New Zealand needs to keep up or it will fall behind.
2. Banks' sustainability targets generally align well with the Government's climate targets and international trade and climate commitments.
3. Gathering and presenting information about risks does not change the likelihood that the risk will occur. Instead, it allows that risk to be managed through planning and preparation, which in turn could reduce the impact of that eventuality.
4. What private actors do with this information (once generated) is up to them.

The state of competition in banking, including:

- ***The effect of any bank lending policies relating to borrowers' emissions that result in additional lending costs and/or lending restrictions.***

The concern here appears to be related to banks' membership of the Net Zero Banking Alliance.[1] To cast the Net Zero Banking Alliance as anti-competitive misunderstands the nature of both competition policy and collective action problems.

Firstly, according to the Commerce Commission "the Commerce Act prohibits anti-competitive agreements between firms such as agreements to fix prices, allocate markets or restrict output".[2] This instance does not meet this test. Banks have a right to take a view on future risks that they deem material and determine their own strategic direction. If one bank (or indeed any investor) chooses not to lend to a high emissions business that is their right. That choice does not prevent other lenders or investors taking up that opportunity. If other banks feel like they can profit from the transaction, they will no doubt do so.

That being said, in the United States competition law has been used as a political tool by those who wish to delay climate action.[3] For those entering into sustainability collaborations, this creates a risk that antitrust regulations will be used to dismantle such arrangements and quash collective action on climate change. Hopefully this will not be the case here given Minister Watts' statement to business at the Climate Change and Business Conference that "this Government wants to work with you. We need to go harder and faster in terms of emissions reduction."[4]

Internationally, the risk of antitrust regulations being used to impede progress on emissions is being acknowledged and addressed through flexibility in the implementation of existing competition policies,[5] or more substantively through legislative reform.[6] This approach provides a precedent for reducing the risk posed by antitrust regulations, in order to enable collaborations between businesses that are fundamental to our ability to act on climate change.

Secondly, climate change is a collective action problem, and therefore reducing emissions by its very nature requires collaboration. The Net Zero Banking Alliance is part of the Glasgow Financial Alliance for Net Zero (GFANZ), launched at the 26th Conference of the Parties under the United Nations Framework Convention on Climate Change (UNFCCC). It is therefore a direct result of commitments made in the international arena to act in *collaboration* to address the challenges that climate change poses.

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[1] https://newsroom.co.nz/2024/08/19/crackdown-on-banks-colluding-to-favour-climate-ahead-of-farmers/.

[2] https://comcom.govt.nz/business/avoiding-anti-competitive-behaviour.

[3] https://www.esgtoday.com/insurers-exit-net-zero-insurance-alliance-as-u-s-political-pressure-builds/

[4] https://www.nzherald.co.nz/nz/the-day-the-climate-change-minister-fronted-up-to-business-simon-wilson/QBLW4SESCRBXJP2ON25CM57VJI/.

[5] https://sustainability.freshfields.com/post/102i8wl/antitrust-and-sustainability-uk-cma-consults-on-new-guidance-for-businesses-ent; https://assets.publishing.service.gov.uk/media/6526b81b244f8e000d8e742c/Green_agreements_guidance_.pdf.

[6] https://sustainability.freshfields.com/post/102h6wl/amendment-of-austrian-competition-law-strengthens-role-of-sustainability.

The Net Zero Banking Alliance represents an important contribution from the private sector both symbolically and substantively. It aligns with the commitments made by developed countries to achieve net zero greenhouse gas emissions by 2050. Further, post-2030, the time frames outlined in the commitment statements that banks put their signatures to, match precisely with the timeframes for nationally determined contributions made under the Paris Agreement.[7]

The Net Zero Banking Alliance has the same goal as the New Zealand Government. The Government should therefore welcome the alliance and encourage membership. Most New Zealand banks are members of the alliance because of their parent company, indicating the global nature of this issue. New Zealand's Government has no more ability to swim against the current of global capital than it has to question Nestle's scope 3 emissions targets or the system of nationally determined contributions. Doing so would only endanger trade relationships and our international standing.

Under the Net Zero Banking Alliance most banks' near-term emissions objectives are in line with the Government's targets. For example, BNZ aims to reduce greenhouse gas emissions *intensity* from dairy farming by 11% by 2030;[8] and Westpac has set a target of a 10% reduction in scope 1 dairy emissions intensity by 2030, and a 9% reduction in scope 1 sheep and beef emissions intensity in the same time period.[9]

The Government has set a target of doubling the value of exports in ten years. The achievement of this ambition is contingent upon New Zealand complying with terms laid out in free trade agreements. Under the New Zealand-European Union Free Trade Agreement, New Zealand has agreed to effectively implement the Paris Agreement, including commitments with regards to New Zealand's nationally determined contribution.[10] Similarly, in ratifying the United Kingdom Free Trade Agreement, New Zealand affirmed a commitment to implement the Paris Agreement and acknowledged that achievement of the Paris Agreement would require collective action. It was also agreed that parties to this agreement would take measures to reduce greenhouse gas emissions from agriculture and promote sustainable agriculture.[11]

As a result, there is alignment between the objectives and practices of New Zealand banks under the Net Zero Banking Alliance, and New Zealand acting in compliance with the terms outlined in critical free trade agreements. It would be difficult to object to the Net Zero Banking Alliance without simultaneously rejecting the terms of these free trade agreements, which would jeopardise the achievement of the Government's ambitious target of doubling the value of exports in ten years.

The only area where alignment with international targets (and those of some international businesses such as Nestlé) is unclear is on the treatment of methane. New Zealand has opted for a split gas target – which is entirely reasonable and an approach adopted by our financial institutions – but most developed countries express their targets in terms of carbon

[7] https://www.unepfi.org/net-zero-banking/commitment/.

[8] https://www.bnz.co.nz/assets/bnz/about-us/PDFs/BNZ-NZBA-target-setting-disclosure-May-2023.pdf?0576114399e5590c1b0cfb7d9ed4dc63a5f3430f.

[9] https://www.westpac.com.au/content/dam/public/wbc/documents/pdf/aw/sustainability/Climate_Change_Position_Statement_and_Action_Plan.pdf.

[10] https://www.mfat.govt.nz/assets/Trade-agreements/EU-NZ-FTA/Chapters/19.-Trade-and-Sustainable-Development.pdf, see article 19.6.

[11] https://www.mfat.govt.nz/assets/Trade-agreements/UK-NZ-FTA/NZ-UK-Free-Trade-Agreement.pdf, see articles 22.6, 22.7 and 22.10.

equivalence. If the Government is concerned about the treatment of methane in international targets as the world transitions to net zero emissions, it should work to educate other jurisdictions about the reasoning behind the split gas approach. Such an education process will be all the more important should the Government change the methane target.

Any possible impact of the regulatory environment on competition and efficient access to lending, including:

- ***Climate related disclosures.***

International capital is already taking climate risks into account in its investing. Businesses with high emissions pose a risk because emissions must be reduced in line with international agreements. Climate related disasters, and the chronic changes brought about by an altered climate also pose varying risks to businesses. No New Zealand government policy can change the fact that these risks exist and will vary across businesses.

For example, agriculture is specifically implicated through its vulnerability to both transitional and physical risks. New Zealand's reputation as a clean green producer of agricultural products is threatened by the development of technologies overseas, which are capable of reducing emissions in barn-fed systems but are currently unsuited to New Zealand's pasture based systems.[12] The primary sector is also particularly at risk from both the impacts of larger, more frequent, extreme weather events and the chronic impacts of climate change. These changes will alter the land and natural resources such as water upon which productivity depends.

All climate related disclosures do is standardise the reporting of these climate related risks and reduce the opportunity for greenwashing. Removing climate related disclosures would reduce transparency and likely lead to a risk premium applied to all New Zealand rural lending by international investors. This would be similar to disregarding International Financial Reporting Standards (IFRS)[13].

According to Chapman Tripp "with 80% of New Zealand's exports by value going to markets that have mandatory ESG [environmental, social, and governance] reporting in force or proposed, businesses who want to proactively manage ESG trade risk would do well to stay attuned to these developments."[14] In other words, pulling back from climate related disclosures would not only risk New Zealand's access to international capital but also our access to export markets. As mentioned above this would place the Government's goal of doubling exports at risk.

Most of the major banks in New Zealand are listed on the New Zealand Stock Exchange (NZX). In 2021 the Financial Markets Conduct Act 2013 (FMCA) was amended with a requirement that *large* listed issuers, registered banks, licenced insurers, credit unions and building societies disclose their climate related risks.[15] For smaller entities it is not mandatory that they disclose

[12] https://www.farmersweekly.co.nz/news/nestle-cautions-nz-dairy-farmers-to-improve-efficiency/.

[13] Note that IFRS require companies to consider climate-related matters in their statements when the effects represent material information for investors https://www.ifrs.org/news-and-events/news/2023/03/connectivity-in-practice-the-iasbs-new-project-on-climate-related-risks-in-the-financial-statements/.

[14] https://www.theaotearoacircle.nz/reports-resources/protecting-new-zealands-competitive-advantage.

[15] https://www.parliament.nz/en/pb/bills-and-laws/bills-digests/document/53PLLaw26421/financial-sector-climate-related-disclosures-and-other. The meaning of large in relation to a listed issuer is defined under section 461P. The meaning of large in relation to registered banks, licensed insurers, credit unions, and building societies is defined under section 461Q.

their climate related risks For large registered banks on the NZX, meeting their climate reporting obligations under the FMCA is a condition of their listing - as well as being a legal requirement. To this end NZX has prepared a guidance note tailored to the needs of entities with environmental, social and governance reporting requirements.[16]

The adoption by banks of policies that limit their exposure to climate related risks is thus unsurprising. They are simply keeping step with improvements in knowledge, and mandated progress in transparency and accountability. To cease reporting would threaten a bank's publicly listed status and associated access to capital, as well as breaching the law under the FMCA. As mentioned earlier, banks' action on climate is in alignment with the broader direction of travel internationally. For example, Australia has recently put in place its own climate reporting legislation, with sustainability reporting standards approved by the Australian Accounting Standards Board[17], and the United Kingdom[18] and European Union[19] both have climate related reporting requirements.

Rural banking:

- ***Ascertain whether the RBNZ's approach to greenhouse gas emissions risk, including risk of government policy, has and is likely to result in further increases in lending rates to the agriculture and horticulture sectors.***
- ***Ascertain whether bank environmental and sustainability policies have or are likely to result in further increases in lending rates to the agriculture and horticulture sectors.***

Reserve Bank stress tests were put in place to explore worst-case scenarios around the impacts of emissions reductions policies and/or climate related disasters. Like any futures thinking this is not an attempt to predict the future but simply a means of ensuring that our banking system would be resilient if these scenarios were to occur. This sort of information gathering and analysis is core to the functions of the Reserve Bank, particularly given the scale of the challenges posed by a warming world and the transition to a low carbon economy. Once gathered, it is up to banks how they use this information.[20] It is, quite simply, a private business decision.

Reserve Bank regulations already assign greater risk to business loans, including agribusiness, than home loans. This is based on the Reserve Bank's risk modelling, so is entirely appropriate. If the select committee wants to make an apples with apples comparison it should compare agribusiness lending rates with general business lending rates (particularly those in capital intensive sectors).

Bank environmental and sustainability policies exist, in part, because banks see these as key risks for the future performance of the businesses they lend to. This is not simply because of the

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[16] https://assets.ctfassets.net/m5mydry9e35f/2TOOD0240AvI300ihor3pi/2ed38d137e9d56fafb287d90b92fc17f/NZX_ESG_Guidance_Note_-_24_May_2024.pdf.

[17] https://www.aasb.gov.au/news/australian-sustainability-reporting-standards-approved-by-aasb-board/.

[18] https://www.gov.uk/government/publications/climate-related-financial-disclosures-for-companies-and-limited-liability-partnerships-llps.

[19] https://finance.ec.europa.eu/capital-markets-union-and-financial-markets/company-reporting-and-auditing/company-reporting/corporate-sustainability-reporting_en.

[20] https://www.rbnz.govt.nz/-/media/project/sites/rbnz/files/regulation-and-supervision/climate/guidance-managing-climate-related-risks.pdf.

threat of government regulation. It is also because markets are increasingly demanding that the businesses they buy from will deliver on these basic standards. As noted above, climate risk disclosures are a share market requirement. In short, this is the market overcoming information failures to function better. Market forces that can work alongside government policy to reduce emissions should be welcomed.

Instead of swimming against the tide of these international trends in capital and goods markets, New Zealand should look to solidify its reputation as a global leader in the production of high value food and fibre. Our goal should be to set the standard for environmental regulation so that our industry is future proofed. The reporting we do as a result can then provide an objective measure of that leadership and help command a premium on international markets.

Rt Hon Simon Upton

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