



Cabinet Environment, Energy and Climate Committee

Minute of Decision

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Proposed Climate Change Bill

Portfolio Climate Change

On 19 December 2018, the Cabinet Environment, Energy and Climate Committee, having been authorised by Cabinet to have Power to Act [CAB-18-MIN-0637]:

- 1 **noted** that on 18 December 2017, Cabinet noted that the Minister for Climate Change intended to introduce a Climate Change Bill (the Bill) (subject to Cabinet approval in 2018) [CAB-17-0547.01] to:
 - 1.1 define a target for reducing greenhouse gas (GHG) emissions by 2050;
 - 1.2 codify the role, powers and functions of an independent Climate Change Commission (the Commission) in law;

SECTION A: The purpose of the Bill and the Target

- 2 **agreed** that the purpose of the Bill be to provide a framework by which New Zealand can develop and implement clear and stable climate change policies that contribute to the collective global effort to limit the increase in global average temperature to 1.5 degrees Celsius above pre-industrial levels;
- 3 **agreed** that the Bill set an Emissions Reduction Target (Target) to achieve:
 - 3.1 net zero emissions for all GHGs except for biogenic methane, by 2050;
 - 3.2 a reduction in emissions of biogenic methane (including, if necessary, to net zero), by 2050;
- 4 4.1 **deferred** consideration of the level of emissions reductions referred to in paragraph 3.2 above;
- 4.2 **invited** the Minister for Climate Change, in consultation with other Ministers as appropriate, to report back to the Cabinet Business Committee on 29 January 2019 with recommendations on biogenic methane target settings for inclusion in the Bill and supporting text;
- 5 **noted** that economic modelling has been undertaken to assess the scale of the potential impacts of the Target on the New Zealand economy, and that these impacts are summarised in paragraph 43 of the paper under ENV-18-SUB-0053 and presented in the Regulatory Impact Statement;

- 6 **agreed** that the Commission must, for the purposes of its review, consider whether it is necessary for biogenic methane to reach net zero by 2050, taking into account any changes as set out in paragraph 12;
- 7 **agreed** that in establishing the Target, sections 224 and 225 of the Climate Change Response Act 2002 (CCRA) can be repealed or amended;
- 8 **noted** that this Target is set in domestic legislation, and does not impact New Zealand's commitment to communicating and achieving Nationally Determined Contributions (NDCs) that contain absolute, economy-wide reductions at the maximum possible level of ambition, and that demonstrate a progression in ambition over previous efforts;
- 9 **noted** that the Minister for Climate Change intends to seek Cabinet approval to revise the purpose of the New Zealand Emissions Trading Scheme (NZ ETS) so that it is consistent with assisting New Zealand to meet the Target and NDCs;

Ability to review the Target

- 10 **agreed** that the Commission must undertake a review of any or all aspects of the Target in conjunction with its advice on successive emissions budgets (i.e., the fourth, fifth, and sixth emissions budgets as per paragraph 21.6);
- 11 **agreed** that the Commission may undertake a review of any or all aspects of the Target at any other time if requested by the government;
- 12 **agreed** that following its review, the Commission may recommend the government amend any or all aspects of the Target where there are significant changes in:
- 12.1 global action;
 - 12.2 scientific understanding of climate change;
 - 12.3 economic or fiscal circumstances;
 - 12.4 international law;
 - 12.5 technological developments;
 - 12.6 distributional impacts and equity implications (including generationally);
- 13 **agreed** that the review could result in advice to change the timeframe for achievement of any or all aspects of the Target, or a change to the level of emission reductions specified;
- 14 **agreed** that, on receiving a recommendation from the Commission to amend any or all aspects of the Target, the responsible Minister must respond to the Commission's advice no later than 12 months from receiving it, and table the response in Parliament;

Crown-Māori partnerships

- 15 **noted** that the Bill give regard to the principles of Te Tiriti o Waitangi through incorporating requirements to:
- 15.1 consult with iwi and Māori, as laid out in paragraphs 47, 124 and 132;
 - 15.2 give consideration to matters of interest to iwi and Māori, as laid out in paragraphs 44, 75, and 120;

SECTION B: Emissions budgets**Establishing an emissions budget framework**

- 16 **agreed** to establish the framework for emissions budgets under the Bill that supports the achievement of the Target as stated in paragraphs 3.1 and 3.2;
- 17 **agreed** that:
- 17.1 a single emissions budget will be established for each budget period, covering all GHGs;
 - 17.2 each emissions budget will state the amount of emissions that will be permitted across each budget period as a net amount of carbon dioxide equivalent;
 - 17.3 emissions budgets will be achieved through domestic emissions reductions and removals (ie, from forestry), and high-integrity international units;
 - 17.4 emissions budgets will be for a period of five years, with the exception of the first emissions budget which will be for a four-year period;
 - 17.5 three emissions budgets should be in place at any one time, and that this means that emissions budgets will be set at least ten years in advance;
- 18 **agreed** that it is the duty of the responsible Minister to set emissions budgets within the timeframes stipulated;
- 19 **agreed** that it is the duty of the responsible Minister to seek to ensure that New Zealand does not exceed the quantity of emissions permitted in a budget period;
- 20 **agreed** that the Commission must provide advice to the responsible Minister on the recommended quantity of emissions allowed over an emissions budget period budget at least 12 months (or 15 months in an election year) before a budget needs to be notified, subject to paragraphs 141 to 146;
- 21 **agreed** that the Commission's advice must include:
- 21.1 the recommended level of an emissions budget;
 - 21.2 the accounting methodologies that will apply;
 - 21.3 plausible pathways for meeting emissions budgets, including price and policy pathways;
 - 21.4 an indication of the proportion of the emissions budget that will comprise each GHGs, removals (ie, from forestry), and high-integrity international units;
 - 21.5 set a cap on the number of international units that can be used to meet the emissions budget, noting that accessing international units is a last resort rather than a first choice;
 - 21.6 an indication of whether the Target remains appropriate or should be revised, but only as part of its advice on the fourth, fifth and sixth emissions budgets;
- 22 **agreed** that in preparing the advice in paragraphs 20 and 21, the Commission must have regard to the matters in paragraph 23;

- 23 **agreed** that when determining the emissions budgets, the responsible Minister must give consideration to plausible pathways for meeting the Target and emissions budgets and have regard to the following matters:
- 23.1 projected emissions and removals of greenhouse gases;
 - 23.2 a broad range of domestic and international scientific advice;
 - 23.3 technology and anticipated technological developments, including the costs and benefits of New Zealand adopting these early;
 - 23.4 the need for emissions budgets that are ambitious but technically and economically feasible;
 - 23.5 public expectation as to the level of ambition likely to achieve the Target;
 - 23.6 economic circumstances and, in particular, the likely impact of the government's decision on the economy and the competitiveness of particular sectors of the economy;
 - 23.7 fiscal circumstances and, in particular, the likely impact of the government's decision on taxation, public spending, and public borrowing;
 - 23.8 the distribution of impacts and their equity implications in the capacity to mitigate and adapt to climate change, for example across regional, social, cultural and intergenerational circumstances;
 - 23.9 global responses to the threat of climate change by developed countries that have adopted the Paris Agreement, including New Zealand's NDCs;
- 24 **agreed** that plausible pathways for meeting emissions budgets and the Target will include:
- 24.1 recommended reduction pathways for each GHG within the Target and, where appropriate, proposed revisions to the Target;
 - 24.2 the contribution that removals (ie, from forestry) could make by 2050;
 - 24.3 the likely key opportunities for New Zealand when reducing its emissions, as well as the biggest risks and uncertainties;
- 25 **agreed** that the responsible Minister must table the Commission's advice in Parliament;
- 26 **agreed** that the responsible Minister must notify the emissions budgets at least ten years ahead of the relevant budget period;
- 27 **agreed** that the responsible Minister will be required to respond to the Commission's advice within 12 months of it being tabled in Parliament (extending to 15 months in an election year), and that in preparing the response the Minister must:
- 27.1 develop the emissions budgets;
 - 27.2 in the case that the emissions budgets depart from the Commission's advice, decide whether further consultation with persons and/or sector representatives that are likely to have an interest in the level of an emissions budget is necessary;

27.3 in making the decision in paragraph 27.2, the responsible Minister must consider the scope of the Commission's consultation, and must satisfy his or herself that adequate consultation has occurred;

27.4 provide an explanation of any departures from the Commission's advice and recommendations;

28 **agreed** that emissions budgets will be published by a notice;

29 **agreed** that a copy of the notified emissions budgets will be presented in the House of Representatives;

Review of emissions budgets settings

30 **agreed** that the Commission may recommend that existing emissions budgets be revised when it provides advice and recommendations on future emissions budgets;

31 **agreed** that the Commission may recommend that existing emissions budgets be revised when there have been significant changes that have affected the considerations on which the emissions budgets were originally formulated (paragraph 23), such that they are no longer fit for purpose;

32 **agreed** that the Commission may also recommend that existing emissions budgets be revised in light of methodological improvements in the way that emissions are measured and reported;

33 **agreed** that where the Commission's advice to amend the Target is adopted, the Commission will also advise on any consequential changes to existing emissions budgets that may be necessary;

34 **agreed** that the Commission's advice must be presented in the House of Representatives;

35 **agreed** that, when determining whether to revise an existing emissions budget, the responsible Minister must take the Commission's advice and the considerations required when setting emissions budgets (paragraph 23) into account, and must follow the procedure for setting emissions budgets set out in paragraphs 27 to 29;

36 **agreed** that, except in extraordinary circumstances, there is no ability to revise the settings for the current emissions budget period;

37 **agreed** that the responsible Minister must table an explanation as to why he or she considers it appropriate to revise an existing emissions budget in the House, having regard to the limited circumstances in paragraphs 31 to 33, and in respect of the current budget, in addition, the extraordinary circumstances that has led to the decision to revise the budget;

Banking and borrowing

38 **agreed** that where the emissions budgets for a budget period have been overachieved, a quantity of excess abatement can be carried across (or "banked") to the next emissions budget;

39 **agreed** that where New Zealand has failed to meet the emissions budget for a budget period, up to one per cent of the quantity of emissions permitted in the subsequent budget period can be carried forward (or "borrowed") where this is necessary to ensure a smooth transition between adjacent budget periods;

- 40 **agreed** that the responsible Minister will have the discretion to decide whether banking or borrowing will be permitted across two successive budget periods and the extent to which this will be allowed;
- 41 **agreed** that, in determining whether banking or borrowing will be permitted, the Minister must have regard to the advice and recommendations provided by the Commission;
- 42 **agreed** that the Commission will provide advice and recommendations on the quantity that can be banked or borrowed between two adjacent budget periods in its report on the success of an entire budget period;

Developing a plan to meet emissions budgets

- 43 **agreed** that, following the publishing of the budget in paragraph 28, the responsible Minister must prepare and publish a plan that details policies and strategies for how New Zealand will meet the emissions budget before the commencement of the budget period, noting that this can be continually updated so that it remains fit-for-purpose;
- 44 **agreed** that this plan will include:
- 44.1 sector-specific policies to lower emissions and/or increase afforestation;
 - 44.2 a cross-sector strategy to support the transitional shift to lower emissions and climate resilience;
 - 44.3 a strategy to recognise and mitigate impacts on workers, regions, iwi and Māori, and wider communities, including how any action can be funded;
 - 44.4 any other plans and policies that the Minister considers necessary;
- 45 **agreed** that the Commission provide advice on a plan for meeting the subsequent budget period;
- 46 **agreed** that no later than 12 months before the beginning of a budget period;
- 46.1 the Commission must provide the responsible Minister with high-level advice on plan, and supporting policies and strategies, to meet the emissions budgets for that period;
 - 46.2 the advice must include the plan, and supporting policies and strategies outlined in paragraph 44, and must have taken the matters set out in paragraph 23 into account;
 - 46.3 the Commission must consult broadly with New Zealanders, including sector representatives, and affected communities;
- 47 **agreed** that in preparing the plan, and supporting policies and strategies, for a budget period, the responsible Minister must:
- 47.1 consider the Commission's advice on a plan to meet subsequent emissions budgets;
 - 47.2 ensure that New Zealanders, including sector representatives, affected communities, and iwi and Māori have been consulted and undertake further consultation if the responsible Minister considers this is necessary;
 - 47.3 prepare this response following the receipt of the Commission's advice;

- 48 **agreed** that the responsible Minister will recommend a plan and supporting policies and strategies to Cabinet, who will determine which government agencies will be responsible for leading their implementation;
- 49 **agreed** that the plan and supporting policies and strategies for achieving emissions budgets must be published prior to the relevant budget period commencing, and can be updated throughout the budget period to ensure they remain fit-for-purpose;

Aligning NZ ETS settings with emissions budgets

- 50 **agreed** that the NZ ETS will remain a key tool for reducing New Zealand's emissions increasing removals, and meeting the Target established under the Bill;
- 51 **noted** that the Cabinet paper *Amendments to the Climate Change Response Act 2002: Tranche One* [CAB-18-MIN-0606.01] included a proposal to coordinate unit supply settings on an annual five-year rolling basis, including setting the proposed price ceiling (a cost-containment reserve) as well as the number of units to be held in the reserve and its trigger;
- 52 **noted** that any units released into the NZ ETS market as a result of an activation of the cost-containment reserve would not be taken from the emissions budget;
- 53 **noted** that some settings related to unit supply can be set by the making of regulations under the CCRA, subject to statutory requirements including requirements for consultation and matters to be considered;
- 54 **agreed** that, before regulations prescribing unit supply settings are made under the CCRA, the Commission must prepare advice on the unit supply settings of the NZ ETS, and provide the responsible Minister with a report detailing its recommendations for the regulations;
- 55 **agreed** that the Commission's recommendations on the unit supply settings will be prepared consistent with all requirements that apply to the responsible Minister when he or she makes decisions about unit supply settings of the NZ ETS, including but not limited to the relevant requirements of sections 30G and 30GA of the CCRA;
- 56 **agreed** that when the Minister recommends to the Governor-General the making of regulations prescribing unit supply settings under the CCRA, the recommendations must:
- 56.1 give effect to the unit supply settings recommended by the Commission in its report;
or
- 56.2 make alternative unit supply settings, in accordance with the requirements of the CCRA;
- 57 **agreed** that consultation carried out by the Commission will be permitted to satisfy the requirement for consultation with persons likely to be substantially affected, provided the Minister is satisfied that adequate consultation has occurred;
- 58 **agreed** that if the regulations differ to the Commission's recommendations (paragraph 56.2) the responsible Minister must first provide a report giving reasons for any deviation from the Commission's advice, and:
- 58.1 present that report to Parliament;
- 58.2 make that report publicly available;

Monitoring progress towards emissions budgets

- 59 **agreed** that the Commission will monitor progress towards emissions budgets on an ongoing basis, using data and methodologies consistent with the government's international reporting obligations and the New Zealand Greenhouse Gas Inventory to the greatest extent possible;
- 60 **agreed** that the Commission will publish an annual report that includes:
- 60.1 measured emissions and removals (ie, from forestry) for the most recent year(s) of the budget period for which GHG inventory data is available;
 - 60.2 the latest projections for current and future emissions and removals;
 - 60.3 an evaluation of the success of the plan for meeting the emissions budget, including any concerns and new opportunities to reduce emissions;
- 61 **agreed** that the responsible Minister must table a report in Parliament within two months of receiving the Commission's annual report giving the Minister's response to the Commission's annual report, including any recommendations made, and describe progress made in implementing the current plan including any amendments or updates to that plan;
- 62 **agreed** that the Commission will prepare and publish a report evaluating the success of an entire budget period no later than two years after its conclusion;
- 63 **agreed** that the report will evaluate New Zealand's success in meeting the emissions budgets, the success of the plan for meeting the emissions budgets, and include recommendations on banking and borrowing and the number of international units required;
- 64 **agreed** that the responsible Minister must table a report in Parliament within two months of receiving the Commission's evaluation of the full budget period;
- 65 **agreed** that the report will detail the responsible Minister's decisions on banking and borrowing and the number of international units needed to meet the budget (subject to the cap identified by the Commission, noting that accessing international units is a last resort rather than a first choice);
- 66 **agreed** that, where New Zealand has failed to meet the emissions budgets for a set period, the responsible Minister must include an explanation of the reasons for this failure in the report at paragraph 64;
- 67 **noted** that the government will continue to report progress towards its international targets (NDCs) under the United Nations Framework Convention on Climate Change and the Paris Agreement;

SECTION C: Adaptation

- 68 **noted** that currently New Zealand does not have a coherent framework to address, respond or adapt to the impacts of climate change, with risks, impacts and actions dealt with across a number of different legislative and regulatory regimes;

National Climate Change Risk Assessment (NCCRA)

- 69 **agreed** that the Bill will include provisions requiring NCCRAs to be prepared by the Commission, in accordance with the following objectives;

69.1 to improve New Zealand's understanding of the nature and severity of the risks and opportunities posed by climate change and the likely changes in these risks and opportunities over time;

69.2 to enable the prioritisation of action (articulated through a National Adaptation Plan);

70 **agreed** that, in preparing a NCCRA, the following matters must be taken into account:

70.1 economic, social, health, environmental and cultural impacts of climate change;

70.2 the distribution of these impacts across society, taking particular account of vulnerable groups or sectors;

70.3 any existing obligations of New Zealand under an international agreement;

70.4 alignment and linkages with any other relevant national risk assessments produced by central government;

70.5 long-term climate trends;

70.6 any reports produced under the adaptation reporting power;

70.7 the best available information, including scientific and technical advice;

71 **agreed** that once a NCCRA has been prepared:

71.1 the Commission must provide it to the responsible Minister;

71.2 the Minister must table it in Parliament within three months of receiving it;

71.3 the Commission must make it publicly available, along with any evidence commissioned to support its preparation, but only after the Minister has tabled it in Parliament;

72 **agreed** that subsequent NCCRAs must be tabled in Parliament, and made publicly available no later than six years following publication of the previous NCCRA;

A National Adaptation Plan

73 **agreed** that the Bill will include provisions requiring a National Adaptation Plan to be prepared with the objective to signal the planned approach to improving New Zealand's resilience to the effects of climate change;

74 **agreed** that the responsible Minister must prepare a National Adaptation Plan that sets out matters including;

74.1 the government's objectives for adapting to the effects of climate change;

74.2 the government's strategies, policies and proposals for meeting those objectives;

74.3 the timeframes for implementing the strategies, policies and proposals;

74.4 how the matters in paragraphs 74.1 to 74.3 will address the risks in the most recent NCCRA;

- 74.5 measures and indicators that will enable regular monitoring and reporting on the implementation of the strategies, policies and proposals;
- 75 **agreed** that in the preparation of a National Adaptation Plan, the responsible Minister must take into account matters including:
- 75.1 economic, social, health, environmental and cultural impacts of climate change, including impacts on iwi and Māori;
 - 75.2 the distribution of these impacts across society, taking particular account of vulnerable groups or sectors;
 - 75.3 any existing obligations of New Zealand under an international agreement;
 - 75.4 any reports produced under the reporting power;
 - 75.5 any relevant advice, reports, progress reports, or recommendations from the Commission;
 - 75.6 the capacity and capability of communities or entities to undertake adaptation action, including how any actions may be funded;
 - 75.7 the best available information, including scientific and technical advice;
- 76 **agreed** that in the preparation of an National Adaptation Plan the responsible Minister must:
- 76.1 seek input from any stakeholders the Minister considers relevant;
 - 76.2 undertake public consultation on the draft National Adaptation Plan;
 - 76.3 have regard to any submissions and feedback provided in relation the draft National Adaptation Plan;
- 77 **agreed** that the National Adaptation Plan must be completed no later than two years after the most recent NCCRA has been made publicly available;
- 78 **agreed** that the responsible Minister must table it in Parliament, and make it publicly available;
- 79 **agreed** that the responsible Minister may, at any time, make minor or technical changes to a current National Adaptation Plan, and must make any new version publicly available;
- 80 **noted** that a National Adaptation Plan does not preclude more detailed local level risk assessments or prioritisations being undertaken;

Monitoring the National Adaptation Plan

- 81 **agreed** that the Commission will monitor and report on the implementation of the National Adaptation Plan;
- 82 **agreed** that the Commission will complete a progress report on the implementation of the National Adaptation Plan and submit it to the responsible Minister every two years after the most recent National Adaptation Plan is made publicly available;

- 83 **agreed** that the progress report must include:
- 83.1 an assessment of the progress made towards implementing the strategies, policies and proposals included in the most recent National Adaptation Plan;
 - 83.2 an assessment of the degree to which the objectives have been achieved and the risks posed by climate change are being successfully addressed by the implementation of the most recent National Adaptation Plan;
 - 83.3 an identification of any known barriers to the implementation and effectiveness of the National Adaptation Plan, including recommendations for how those barriers might be addressed or overcome in future;
 - 83.4 any other relevant matters required to support the report;
- 84 **agreed** that once a progress report has been prepared:
- 84.1 the Commission must provide the report to the responsible Minister;
 - 84.2 the Minister must table the report in Parliament within three months of receiving it;
 - 84.3 the Commission must make the report publicly available, but only after the Minister has tabled the report in Parliament;
- 85 **agreed** that the responsible Minister is required to respond to the progress report no later than six months after receiving it;

An Adaptation Reporting Power

- 86 **noted** that where public services and infrastructure are significant to people and communities it is appropriate to have information about the vulnerability of those public services and infrastructure to climate change impacts, and the proposed plans for adapting;
- 87 **agreed** that the Bill will provide that the Minister may request a report from any central government organisation (including relevant Crown entities), local government and critical infrastructure providers (‘lifeline utilities’ as defined in the Civil Defence Emergency Management Act 2002) (together, ‘Reporting Organisations’);
- 88 **agreed** that the responsible Minister may, at any time, require that a specified Reporting Organisation provide a report, by advising the organisation in writing;
- 89 **agreed** that any report required by the Minister must contain the following information, as a minimum:
- 89.1 an assessment of the current and predicted impact of climate change in relation to the organisation’s functions;
 - 89.2 a statement of the organisation’s proposals and policies for adapting to climate change and the timeframes for introducing those measures;
 - 89.3 an assessment of the progress made by the organisation towards implementing previous proposals and policies;
 - 89.4 any matters specified in regulation;

- 90 **agreed** that the responsible Minister may make regulations that cover any of the following matters:
- 90.1 specific information requirements for the reports, which could be differentiated by sector, class of activity or geographical area;
 - 90.2 deadlines for the submission of reports to the Minister;
 - 90.3 any ongoing or recurring reporting requirements;
 - 90.4 any other administrative matters relating to the reports;
- 91 **agreed** that in preparing the regulations, the responsible Minister must consider:
- 91.1 the ability to tailor the reporting request in relation to the size and capability of the Reporting Organisation;
 - 91.2 the potential extent and significance of climate change impacts on the functions of the Reporting Organisation;
 - 91.3 the avoidance of unnecessary duplication with existing reporting frameworks;
- 92 **agreed** that, before making the regulations, the responsible Minister must consult with the Commission and Reporting Organisations that the Minister considers may be affected by the proposed regulations;
- 93 **agreed** that, if a Reporting Organisation receives a requirement to report, the Reporting Organisation is required to respond to the Minister and fulfil the requirements of the request;
- 94 **agreed** that any reports produced under the Adaptation Reporting Power will be shared with the Commission on a confidential basis as soon as possible after the responsible Minister receives them;

SECTION D: Functions and form of an independent Climate Change Commission

- 95 **agreed** that the Bill establish an independent Commission with the objectives to:
- 95.1 provide independent, expert advice to government climate policy in relation to both emissions reduction and climate resilience;
 - 95.2 monitor and review the government's progress toward its emissions-reduction and climate-resilience goals;

Functions of the Commission in relation to Sections A, B and C

- 96 **noted** that the functions of the Commission so far outlined in these recommendations are summarised as:
- 96.1 Target (see section A):
 - 96.1.1 monitor and review progress towards meeting the Target;
 - 96.1.2 advise on any revisions to the Target (if the criteria in paragraph 12 are met);

- 96.2 Emissions budgets (see Section B):
- 96.2.1 recommend emissions budgets;
 - 96.2.2 advise on any revisions to existing emissions budgets;
 - 96.2.3 advise at a high level on the plan and supporting policies and strategies to meet emissions budgets, including a desirable price path(s);
 - 96.2.4 provide independent recommendations on the settings of the NZ ETS;
 - 96.2.5 monitor and review progress towards meeting the emissions budgets;
 - 96.2.6 advise of the level of ‘banking’ or ‘borrowing’ of abatement between budgets;
- 96.3 Adaptation (see Section C):
- 96.3.1 prepare the National Climate Change Risk Assessment (every six years);
 - 96.3.2 monitor and evaluate implementation of the National Adaptation Plan, publishing a progress report every two years following the approval of the most recent National Adaptation Plan;
- 97 **agreed** that the Commission will also prepare reports and advice from time to time on matters related to emissions reductions and climate resilience, at the request of government, including advising on New Zealand’s NDC under the Paris Agreement;
- 98 **agreed** that the Commission may make recommendations to the government for the commission of reports or advice;
- 99 **agreed** that as part of its advice about Target and emissions budgets, the Commission will describe (and update) plausible pathways along which the New Zealand economy could develop so as to achieve the Target;
- 100 **agreed** that all reports of the Commission will be tabled in Parliament and published within three months of receiving them:
- 100.1 the Minister must table the report in Parliament;
 - 100.2 the Commission must make the report publicly available, but only after the Minister has tabled the report in Parliament;
- 101 **agreed** that in performing its functions, the Commission will consider the following matters:
- 101.1 current available science;
 - 101.2 available technology that can be efficiently adopted, and any early-mover advantages;
 - 101.3 economic impacts;
 - 101.4 social and environmental circumstances, including regional and sector differences at local level;

- 101.5 global responses, noting that decisions must consider the global response and as such any actions must be proportional to that global response;
- 101.6 any other matter required by the Bill in relation to specific functions;
- 102 **agreed** that in relation to plausible pathways, the Commission will assess:
- 102.1 options for the plausible pathways and the challenges, opportunities and benefits, and costs of each pathway;
- 102.2 the implications of these options for the feasibility of achieving the Target by domestic reductions;
- 102.3 at a high level, policy measures that would achieve a particular target or emissions budget, such as emission pricing and other regulatory interventions
- 102.4 efficient and cost-effective emissions-reduction opportunities such as through technological change and structural economic adjustment;
- 102.5 broader economic objectives for increasing wellbeing and achieving higher living standards, including sustainability, economic growth (including productivity growth), improving equity, social cohesion, and resilience to risk;
- 103 **agreed** that in giving advice on New Zealand's NDC under the Paris Agreement, the Commission will consider, among other things;
- 103.1 the contributions of other developed-country Parties;
- 103.2 carbon market developments;
- 103.3 foreign policy objectives;

Institutional form of the Climate Change Commission

Provisions for the entity

- 104 **agreed** that the Commission be established as an independent Crown entity for the purposes of section 7 of the Crown Entities Act 2004 (Crown Entities Act);
- 105 **agreed** that the Crown Entities Act will apply to the Commission except to the extent that the Bill provides otherwise;
- 106 **agreed** that except as expressly provided in primary legislation, the Commission must act independently in performing its functions and duties;
- 107 **agreed** that the Bill will provide for the responsible Minister to direct the Commission to have regard to government policy, for the purpose of recommending unit supply settings of the NZ ETS (paragraphs 54 to 56) and for the purpose of giving advice on New Zealand's NDC under the Paris Agreement;
- 108 **noted** that under section 115 of the Crown Entities Act, as soon as it is practicable after giving the direction described at paragraph 107, the responsible Minister will be required to publish the direction in the Gazette and present a copy of it to Parliament;
- 109 **agreed** that in order to carry out its functions, the Commission will require access to certain information held by government agencies;

- 110 **agreed** that the Commission will share certain information with government agencies;
- 111 **authorised** officials to work out a way for the Bill to balance access to and sharing of this information with the need to safeguard the information;
- 112 **agreed** that the Commission will have access to information under the CCRA, specifically that:
- 112.1 for the purposes of the information-sharing provisions of the CCRA, the Commission shall have access to any information necessary for the performance of any of its functions;
 - 112.2 in respect of information obtained under the CCRA, the Commission will be subject to obligations of confidentiality equivalent to those applying to an administering agency under the CCRA;
- 113 **noted** that, consistent with paragraph 112.2, the penalties for breaching obligations under the CCRA will apply to the Commission, these penalties being that a person who knowingly acts in contravention of the obligations of confidentiality under section 99 of the CCRA commits an offence and is liable on conviction to:
- 113.1 imprisonment for a term not exceeding six months; or
 - 113.2 a fine not exceeding \$15,000; or
 - 113.3 both;
- 114 **agreed** that the Commission may consult broadly in carrying out its functions, including, if the Commission deems it necessary to do so, by publishing and inviting submissions on discussion papers and draft reports;
- 115 **agreed** that the Commission must undertake consultation before doing any of the following:
- 115.1 recommending an emissions budget or revised emissions budget; and
 - 115.2 giving advice about plans and policies for meeting an emissions budget;
- 116 **agreed** that (without limiting the power of the Commission to consult broadly in preparing any of its advice) in order to satisfy the consultation requirement described at paragraph 115, the Commission must:
- 116.1 consult with persons the Commission considers are likely to be substantially affected by any decisions made in accordance with the advice;
 - 116.2 consider matters raised in consultation;
- 117 **noted** that, consistent with paragraph 104, the Commission will be added to the lists of entities in:
- 117.1 Part 3 of Schedule 1 of the Crown Entities Act (Independent Crown Entities);
 - 117.2 Part 2 of Schedule 1 of the Ombudsmen Act 1975 (Organisations other than local organisations);

- 118 **agreed** that the Ministry for the Environment is the monitoring department for the Commission, supporting the responsible Minister to undertake its duties in regards to the Commission;

Composition of the Commission

- 119 **agreed** that the members of the Commission are a board for the purposes of the Crown Entities Act, and that:
- 119.1 the board has seven members (including the chairperson);
 - 119.2 members hold office for five years or any shorter period stated in the notice of appointment;
 - 119.3 appointments are made such that no more than two appointments expire in the same year;
 - 119.4 the board is comprised of experts in relevant fields, rather than of representatives of stakeholders or sectors;
- 120 **agreed** that before recommending appointments, the responsible Minister must have regard to the following matters:
- 120.1 the need for the Commission to have:
 - 120.1.1 an understanding of climate change mitigation and adaptation, including the effects and implications of any responses to climate change;
 - 120.1.2 experience working in or with government at national and subnational levels;
 - 120.1.3 knowledge of broad public and regulatory policy direction;
 - 120.2 the need for the Commission to include technical and professional skills, experience, expertise and innovative approaches relevant to:
 - 120.2.1 the environmental, social, economic and distributional impacts of climate change, including regional and sector differences at a local level, and climate change policy interventions;
 - 120.2.2 Te Tiriti o Waitangi, te reo me ona tikanga Māori, te ōhanga Māori, mātauranga Māori, and other Māori interests;
 - 120.2.3 a range of sectors and industries, regions and people;
- 121 **agreed** that, in addition to the restrictions in section 29 of the Crown Entities Act, the responsible Minister may only recommend for appointment as a member of the Commission a person who has been nominated by a nominating committee;
- 122 **agreed** that the nominating committee (paragraph 121):
- 122.1 must be established by the responsible Minister to nominate candidates for appointment as members of the Commission;

- 122.2 will comprise no fewer than five persons with proven skills or relevant work experience that will enable them to identify candidates for appointment to the Commission who are suitably qualified;
- 122.3 shall include the chairperson of the Commission (unless that position is vacant);
- 123 **agreed** that the responsible Minister must notify the nominating committee of persons who the Minister considers to have an interest in appointments to the Commission, and the nominating committee must consult with those persons or representatives of those persons;
- 124 **agreed** that, in addition to paragraph 123, the nominating committee will also:
- 124.1 publicly seek nominations for potential Commission members;
- 124.2 seek nominations from iwi and Māori representative organisations, and others who might have an interest;
- 124.3 collate and advise the Minister on a list of potential candidates;
- 125 **agreed** that before recommending that the Governor-General appoints a person as a member of the Commission (including as chairperson or deputy chairperson of the Commission), the responsible Minister must consult with representatives of other political parties in Parliament;

Review of Commission's effectiveness

- 126 **directed** the Ministry for the Environment to initiate an independent review of the effectiveness of the Commission seven years after the Commission becomes operational, which could include the effectiveness of the Ministry in its monitoring department capacity;
- 127 **agreed** that on completion of the review the Ministry for the Environment will publish a review report;

SECTION E: Transitional provisions

- 128 **agreed** that implementation of the Climate Change framework will require one-off arrangements to operationalise the framework to provide certainty and allow businesses, households and individuals to start taking action to reduce their emissions, minimise the costs while maximising the benefits, and understand the risks we face due to historic levels of emissions;
- 129 **agreed** that the statutory timeframes established in the Act (and any subsequent regulations) will apply to the provision of Commission advice and requirements to respond once the framework is fully operational;
- 130 **noted** that following the implementation requirements and timeframes provided in paragraphs 131 to 150, the Minister for Climate Change anticipates the framework to be fully operational by the end of 2021;

Establishing the Climate Change Commission

- 131 **agreed** that the Bill will allow the first appointments to be made without a statutory nominating committee;

- 132 **agreed** that the first appointment process be supported by officials, and require officials to:
- 132.1 publicly seek nominations for potential Commission members;
 - 132.2 seek nominations from iwi and Māori, and others who might have an interest;
 - 132.3 collate and advise the Minister for Climate Change on a list of potential candidates;
- 133 **agreed** that the Minister for Climate Change will then undertake consultation on the list of potential candidates with representatives of other parties in Parliament following the process set out in the Bill;
- 134 **noted** that the Minister for Climate Change intends to then recommend appointment through the Cabinet Appointments and Honours Committee shortly after the Bill is passed;
- 135 **directed** the Ministry for the Environment to convene an establishment team to undertake preparatory work prior to the Commission taking office, in order to stand up the Commission and its operations as soon as possible after the Bill is passed;
- 136 **agreed** the work of the establishment team can include, but is not limited to:
- 136.1 undertaking the appointment process in paragraph 132 to identify a list of potential candidates for the Commission members;
 - 136.2 initiating the process for appointing the chief executive – so the Commission can consider candidates and make an appointment immediately on taking office;
 - 136.3 working with the Interim Committee and its Secretariat to design a process for the transfer of analysis, evidence and necessary staff, and investigate operational matters such as premises, office equipment;
 - 136.4 preparing potential organisational structures and processes for the Commission based on the functions being proposed;

Implementation provisions to establish the first three emissions budgets

- 137 **agreed** that the government must signal its commitment to transition to a low emissions and climate-resilient New Zealand as soon as possible to provide the confidence that businesses need to invest in low emissions technologies and forestry;
- 138 **agreed** that to signal New Zealand's transition pathway, officials develop a provisional emissions allowance for 2020-2025 by late-2019;
- 139 **agreed** that the responsible Minister return to Cabinet in late-2019 seeking approval for a provisional emissions allowance;
- 140 **agreed** that the responsible Minister return to Cabinet in late-2019 seeking approval to set annual unit supply volumes for the NZ ETS in line with the provisional emissions allowance, noting that these decisions need to be made ahead of the first emissions budget entering into force (2022-2025);
- 141 **agreed** that the responsible Minister must establish the first three emissions budgets as soon as possible to provide certainty to businesses and communities, and begin to drive action to reduce emissions;

- 142 **agreed** that the Commission provides advice and recommendations on the first three emissions budgets (2022-2025, 2026-2030, 2031-2035) in line with the considerations in recommendation 23, and the high level plans and policies for meeting the first emissions budget (2022-2025), by February 2021;
- 143 **agreed** that, should circumstances prevent the Commission from recommending the first three emissions budgets within the timeframes set out in paragraph 142, then officials will provide the advice to the Minister in line with the same considerations by February 2021;
- 144 **agreed** that in the case of officials providing advice, that the Commission review the emissions budgets as soon as practicable after it has been stood up;
- 145 **agreed** that the responsible Minister must determine the first three emissions budgets through the parliamentary process, and notify these by 31 December 2021;
- 146 **agreed** that the responsible Minister must publish plans and policies to meet the first budget period no later than 31 December 2021;

Preparing the first National Climate Change Risk Assessment (NCCRA)

- 147 **agreed** that the responsible Minister will prepare the first NCCRA to allow it to be completed without delay;
- 148 **agreed** that the responsible Minister will prepare the first NCCRA in accordance with the requirements in paragraph 70;
- 149 **agreed** that once the first NCCRA has been prepared, the Minister must;
- 149.1 table it in Parliament;
- 149.2 make it publicly available in an appropriate manner, along with any evidence commissioned to support its preparation;
- 150 **agreed** that the first NCCRA must be tabled and made publicly available no later than one year after the Bill comes into force;

SECTION F: Consultation and implications

- 151 **invited** the Minister for Climate Change to issue drafting instructions to the Parliamentary Counsel Office (PCO) to implement the proposals set out in the above recommendations through a Climate Change Bill in consultation with relevant portfolio Ministers where appropriate;
- 152 **agreed** that the Minister for Climate Change, in consultation with relevant portfolio Ministers, can make any technical and administrative changes required to finalise the Bill prior to its submission to the Cabinet Legislation Committee;
- 153 **authorised** the Minister for Climate Change to issue drafting instructions to the PCO to make consequential amendments to the Climate Change Response Act 2002, Crown Entities Act 2004, and other affected statutes, and regulations to give effect to Cabinet decisions on the contents of the Bill to ensure workability of the agreed amendments;
- 154 **agreed** that mitigations for new avenues to legal challenge of executive action as a result of the Bill will be considered during the drafting process;

- 155 **authorised** the Minister for Climate Change to release an exposure draft of the Bill for targeted consultation with key stakeholders and Māori on the proposed legislation;
- 156 **authorised** the Minister for Climate Change to develop commencement, transitional and any savings provisions with PCO, through the legislative drafting process;
- 157 **invited** the Minister for Climate Change to report back to Cabinet Legislative Committee, by May 2019, with a draft Climate Change Bill for introduction into the House;
- 158 **noted** that the timeframes for progressing this Bill are tighter than usual timeframes for legislative drafting;
- 159 **agreed** that the Minister for Climate Change may make the paper under ENV-18-SUB-0053 and accompanying RIS publicly available, subject to appropriate redactions, no later than when the draft Bill is introduced into the House;

Financial implications

- 160 **noted** that the contingency “Establishment of the Independent Climate Change Commission” of \$2.207 million operating and \$0.150 million capital was established as part of Budget 2018 [CAB-18-MIN-0158.10];
- 161 **agreed** to establish the following new appropriation:

Vote	Appropriation Minister	Title	Type	Scope
Vote Environment	Minister for Climate Change	Independent Climate Change Commission Set Up Costs	Departmental Output Expense	This appropriation is limited to the set up costs for an independent Climate Change Commission

- 162 **approved** the following changes to appropriations to produce a National Climate Change Risk Assessment, with a corresponding impact on the operating balance:

Vote Environment Minister for Climate Change	\$m – increase/(decrease)				
	2018/19	2019/20	2020/21	2021/22	2022/23 & Outyears
Multi-Category Expenses and Capital Expenditure: Climate Change MCA					
Departmental Output Expense: Domestic Climate Change Programme Policy Advice (unded by Revenue Crown)	1.391	0.300	-	-	-

- 163 **agreed** that the change to appropriations for 2018/19 above be included in the 2018/19 Supplementary Estimates and that, in the interim, the increase be met from Imprest Supply;
- 164 **agreed** that the expenses incurred under paragraph 162 be a charge against the Establishment of an Independent Climate Change Commission tagged contingency, established as part of Budget 2018;

165 **approved** the following changes to appropriations to enable the Ministry for the Environment to undertake necessary work to facilitate the creation of the Climate Change Commission, as agreed to in paragraph 95, with a corresponding impact on the operating and capital balances:

Vote Environment Minister for Climate Change	\$m – increase/(decrease)				
	2018/19	2019/20	2020/21	2021/22	2022/23 & Outyears
Departmental Output Expense:	0.516	-	-	-	-
Independent Climate Change Commission Set Up Costs (funded by revenue Crown)					
Ministry for the Environment: Capital Injection	0.150	-	-	-	-
Total Operating	0.516	-	-	-	-
Total Capital	0.150	-	-	-	-

166 **agreed** that the changes to appropriations and capital injection for 2018/19 above be included in the 2018/19 Supplementary Estimates and that, in the interim, the increase be met from Imprest Supply;

167 **agreed** that the expenses and capital injection incurred under paragraph 165 above be a charge against the Establishment of an Independent Climate Change Commission tagged contingency, established as part of Budget 2018;

168 **noted** that funding for the establishment and ongoing operation of the Climate Change Commission and for the government to respond to the Commission’s advice and develop new policy will be sought through Budget 2019.

Vivien Meek
Committee Secretary

Secretary’s note: This revised minute amends number references in paragraphs 15 and 20 and clarifies financial recommendations in paragraphs 165-167.

Present:

Rt Hon Jacinda Ardern
Rt Hon Winston Peters
Hon Grant Robertson
Hon Phil Twyford
Hon Dr Megan Woods
Hon David Parker (Chair)
Hon Stuart Nash
Hon Damien O’Connor
Hon Ron Mark
Hon Shane Jones
Hon Eugenie Sage

Officials present from:

Office of the Prime Minister
Officials Committee for ENV

Hard-copy distribution:

Minister for Climate Change