

In Confidence

Office of the Minister for Climate Change

Chair, Cabinet Environment, Energy and Climate Committee

Extending the Climate Change Commission's statutory deadlines

Proposal

- 1 I propose to exercise the power created by recent amendments to the Climate Change Response Act to extend the deadline for the Climate Change Commission to provide its recommendations for the first three emissions budgets and advice on the first emissions reduction plan.
- 2 The current deadline is 1 February 2021 but this is no longer feasible due to the disruption caused by COVID-19. I intend to extend the deadline to 31 May 2021.

Background

- 3 A flexible power to extend the Climate Change Commission's statutory deadlines was recently agreed by Cabinet [ENV-20-MIN-0017 refers] and incorporated into the Climate Change Response (Emissions Trading Reform) Amendment Bill by Supplementary Order Paper. The Bill passed its third reading on 17 June 2020.
- 4 When Cabinet considered the matter in early May the need for an extension was evident, but it was not appropriate to fix the duration as it was still not clear whether the COVID-19 elimination strategy would succeed as rapidly as it has. It was agreed to legislate a power to grant one or more extensions up to a limit of 1 August 2021 (ie, six months in total) to give flexibility to deal with ongoing uncertainty.
- 5 The Commission had earlier written to me suggesting an extension of six months, based on an assumption that the COVID-19 response would be successful but that Alert Level 2 would prevail in most of New Zealand in the near-term.
- 6 Now we have been able to move to Alert Level 1, there is good cause for optimism that the Commission's ability to undertake its analytical and engagement work will not be further disrupted, and the extension can be limited to four months.

Impact on other timeframes

- 7 The extension relates to only the Commission's deadlines. There is no change to the Government's deadline of 31 December 2021 to decide and set the first three emissions budgets and publish its detailed emissions reduction plan. This timeframe could be challenging if, for example, the Government decides to depart significantly from the Commission's recommendations or if further consultation is necessary.

- 8 The Commission has undertaken to issue a draft report on the proposed first three emissions budgets and emissions reduction plan by 1 February 2021 and then consult on that draft report before issuing its final advice by 31 May 2021.
- 9 Officials will be invited as observers in the Commission's consultation process. This will provide insight into what might change in the final report and help safeguard the Government's ability to fulfil its own statutory requirements by 31 December 2021.

Next steps

- 10 The instrument for extending the Commission's statutory deadlines is a notice in the Gazette. With Cabinet's agreement, I propose to issue the notice in short order.

Financial implications

- 11 Extending the Commission's statutory deadlines has no fiscal impact.

Legislative implications

- 12 There are no further legislative requirements.

Impact analysis

Regulatory Impact Statement

- 13 The Ministry for the Environment has determined the proposal to extend the Commission's statutory deadlines does not require an impact statement.

Climate Implications of Policy Assessment

- 14 The Ministry for the Environment has determined that the CIPA requirements do not apply to the proposal.

Te Tiriti o Waitangi

- 15 Extending the Commission's statutory deadlines addresses the impact of COVID-19 restrictions on the Commission's ability to engage with Māori/iwi and will help it satisfy its responsibilities under the Act to consider the Crown-Māori relationship, te ao Māori, and specific effects on iwi and Māori.

Human rights

- 16 The proposals in this paper are consistent with the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993.

Gender implications

- 17 There are no immediate gender implications arising from this paper.

Disability perspective

18 There are no immediate disability implications of the proposals in this paper.

Consultation

19 This paper was prepared by the Ministry for the Environment. The Treasury, Ministry of Business, Innovation and Employment, Ministry for Primary Industries and Ministry of Foreign Affairs and Trade were consulted. The Ministry of Transport, Ministry of Housing and Urban Development and the Department of Prime Minister and Cabinet were informed.

Communications

20 The extension of the statutory deadlines will be announced and publicised on the Ministry for the Environment and/or the Commission's website.

Proactive release

21 I intend to proactively release this paper on the Ministry for the Environment's website.

Recommendations

The Minister for Climate Change recommends that the Committee:

- 1 **note** that Cabinet recently considered the impacts of COVID-19 on the Climate Change Commission's ability to deliver its advice on the first three emissions budgets and the first emissions reduction plan by 1 February 2021, as required under sections 5ZA and 5ZH of the Climate Change Response Act 2002 [ENV-20-MIN-0017 refers]
- 2 **note** the Climate Change Response (Emissions Trading Reform) Amendment Act provides a new flexible power for the Minister of Climate Change to extend the deadline for the Climate Change Commission's advice on the first three emissions budgets and the first emissions reduction plan
- 3 **note** this power can only be exercised by way of notice in the *New Zealand Gazette*
- 4 **agree** to extend the deadlines for the Climate Change Commission's advice on the first three emissions budgets and the first emissions reduction plan by four months to 31 May 2021
- 5 **note** that any risks to the Government's ability to meet its statutory timeframes to notify emissions budgets and publish an emissions reduction plan by 31 December 2021 will be mitigated by the Commission issuing draft advice by 1 February 2021 and inviting Government officials to observe its consultation process on the draft advice.

Authorised for lodgement

Hon James Shaw
Minister for Climate Change