



Ministry for the
Environment
Manatū Mō Te Taiao

PROACTIVE RELEASE COVERSHEET

Name of package	Deferral of Climate Change Response Act 2002 reporting obligations for animal farmers	Date to be published	12 March 2025
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List of documents that have been proactively released		
Date	Title	Author
25 September 2023	Regulatory Impact Statement: An Order in Council to defer monitoring and reporting obligations for animal farmers under the New Zealand Emissions Trading Scheme	Ministry for the Environment and Ministry for Primary Industries
2 October 2023	Cabinet Paper: Deferral of Climate Change Response Act 2002 obligations for animals - farmer activities	Ministry for the Environment
2 October 2023	CAB-23-MIN-0457 – Cabinet Minute of Decision	Cabinet Office
Information redacted	NO	

Regulatory Impact Statement: An Order in Council to defer monitoring and reporting obligations for animal farmers under the New Zealand Emissions Trading Scheme.

Coversheet

Purpose of Document	
Decision sought:	The approval of an Order in Council (OiC) to defer obligations for animal farmers under the New Zealand Emissions Trading Scheme (NZ ETS).
Advising agencies:	Ministry for the Environment, Ministry for Primary Industries
Proposing Ministers:	Hon James Shaw, Minister of Climate Change, Hon Damien O'Connor, Minister of Agriculture.
Date finalised:	25 th September 2023
Problem Definition	
<p>Cabinet agreed on 18 September 2023 to establish and implement a farm-level levy system for agricultural emissions [Cab-23-MIN-0439 refers]. This includes mandatory reporting of farm emissions from Q4 2024 and a farm-level, split-gas levy system for agricultural emissions pricing from Q4 2025. However, animal farmers' obligations in the Climate Change Response Act 2002 (CCRA) require eligible participants to register and monitor their on-farm greenhouse gas emissions from 1 January 2024 for reporting, and to surrender units for emissions from the beginning of the second year (1 January 2025). If these obligations are not deferred, it is estimated that over 100,000 farmers will need to comply with the NZ ETS reporting and pricing system for approximately 10 months prior to mandatory reporting commencing. Establishing two parallel reporting systems would duplicate the cost and effort for both government and farmers, without corresponding benefits for the animal farmer obligations in terms of emissions reductions. Cabinet has agreed to amend the CCRA to remove all NZ ETS obligations for agricultural activities in the CCRA, when legislation for the levy system is introduced. In the meantime, action is needed to correct this.</p>	
Executive Summary	
<p><i>Existing NZ ETS backstop</i></p> <p>The Climate Change Response Act 2002 (CCRA) requires reporting and surrendering of units for greenhouse gas emissions from various activities through the NZ ETS.</p> <p>In 2008, agricultural activities were included in the CCRA, with obligations for fertiliser and animal processors to monitor and report their emissions under the NZ ETS from 1 January 2011. In 2020, the CCRA was amended to require animal farmers to register with the Environmental Protection Authority (EPA) and begin monitoring and reporting their emissions from 1 January 2024, ahead of surrender obligations commencing on 1 January 2025. These provisions are frequently referred to as the 'NZ ETS backstop'.</p>	

Progressing an alternative levy system

Following public consultation in late 2022, Ministers made public a report under section 215 of the CCRA outlining details of a farm-level pricing system (alternative levy system) as an alternative to pricing agricultural emissions in the NZ ETS. In August 2023 Cabinet agreed to consult on progressing an Order in Council (OiC) under sections 2A(5D) and 2B of the CCRA to defer animal farmers' obligations under the NZ ETS [CAB-23-MIN-0370 refers]. Subsequently, in September 2023, Cabinet agreed to policy decisions to enable mandatory reporting of farm-level agricultural emissions from Q4 2024 and pricing from Q4 2025 [CAB 23 MIN-0439 refers].

Without the OiC to defer animal farmer obligations an estimated 100,000¹ farmers will need to register and monitor emissions beginning on 1 January 2024. This includes a significant number of small holdings such as lifestyle properties and the minor-emitting livestock sector.² Their obligations would be for approximately 10 months under the NZ ETS leading up to mandatory farm-level reporting from Q4 2024 as agreed by Cabinet as part of the split gas levy. The mandatory farm-level reporting system will capture an estimated 23,000 participants under the thresholds of the farm-level system approved by Cabinet.

Options

In this RIS we assessed the options for addressing animal farmers' obligations in the NZ ETS.

Option 1, the status quo,

Option 1 requires animal farmers to register and monitor their emissions from 1 January 2024 and surrender units to cover their emissions from 1 January 2025. When legislation for an alternative system for pricing agricultural emissions is enacted, it is expected the relevant NZ ETS obligations will be repealed in time for the new system of reporting in Q4 2024. However, until mandatory reporting commences in Q4 2024, approximately 100,000 farmers will be required to register and monitor their emissions under the NZ ETS.

Option 2- preferred option

Option 2 would defer the farm-level obligations start date by two years to 1 January 2026. This would allow for the farm-level reporting and pricing system to be legislated and implemented as per the August Cabinet decision.

Option 2 was compared to Option 1, the status quo/counterfactual, and it is considered that Option 2 is the preferred option. This option is preferred because it is:

- more effective as it avoids two different alternative pricing systems (NZ ETS and alternative system);

¹ The analysis reveals approximately 70,000 lifestyle blocks not included in the Statistics New Zealand Agricultural Production Survey, with 50,000 captured. About 80% have sheep or cattle, grazing or rearing for on-sale or meat processing facilities. Estimated commercial GST registered farms include 50,000 and 56,000 non-GST registered blocks qualify.

² The minor-emitting sector, including swine, poultry, goats, horses, alpacas, llamas, mules and asses, account for only 0.5 per cent of Aotearoa New Zealand's agricultural emissions according to the 2023 Greenhouse Gas Inventory. The costs of including these minor sectors would likely outweigh the additional emissions reduction benefits that would arise from including these sectors at this time.

- more practical as it eliminates the need for an interim system;
- more equitable as the obligations under Option 1 will impact more on the participants in sectors who can least afford the costs (e.g., sheep and beef farmers, Māori);
- allows time for the development of the alternative levy system which has been agreed as the desired mechanism for reporting and pricing emission;
- is estimated that the cost of administering the farm-level levy system will be lower than animal farmers monitoring and reporting their farm emissions in the NZ ETS.

Reasons that Option 1 is not preferred.

In light of Cabinet’s August and September decisions on the pricing of agricultural emissions, Option 1 is deemed ineffective, impractical and inequitable to achieve the goals of the CCRA for the following reasons:

- high administration costs for the Crown due to the large number of participants;
- high administration and compliance costs for farmers and short timeframe left for farmers to understand their obligations prior to commencing;
- the expected low compliance, as there is very likely to be significant sector opposition to the policy, little understanding of the system, and little apparent benefit to registering and monitoring with no pricing obligations;
- challenging implementation feasibility given the short timeframe to stand up a system prior to obligations commencing on 1 January 2024 and lack of extension services. Indeed, the EPA has no capacity to implement such a system, particularly in the timeframe now available;
- similar emissions reductions can be achieved from the processor-level backstop, the alternative levy system and the farm-level NZ ETS in the short term;
- the policy to progress with an alternative means that the cost of the existing regulatory pathway outweigh the benefits.

Implementation

The CCRA allows the deferral of NZ ETS obligations for animal farmers, as proposed under Option 2. This will be done through an OiC process, for which public consultation has already been undertaken. Under the CCRA the Governor-General may appoint a later date for the application of Subpart 4 of Part 5 of Schedule 3 (animals-farmer activities). The Minister of Climate Change must have regard to matters as prescribed in the CCRA as follows:

- the need for Environmental Protection Authority (EPA) to verify information contained in emissions returns;
- the likelihood of reduced emissions as a result of animal farmers becoming participants;
- the minimisation of compliance and administration costs to both the participants and the Crown.

The Minister must also consult with interested parties, including iwi and Māori and must be satisfied that any decision made under the CCRA meets the purpose of the Act.

The farm level levy system is being progressed per the August³ and September Cabinet decisions [CAB 23 MIN-0370 and CAB 23 MIN-0439 refers]. It is proposed that MPI, MfE, and Inland Revenue (IR) will be jointly responsible for implementing it. The alternative levy system will be monitored, evaluated, and reviewed through Cabinet decisions and legislative processes.

Limitations and Constraints on Analysis

This analysis is determined to a large extent by the history and policy processes of agricultural emissions pricing, as it has evolved over the years. In this case, Cabinet agreed to progress with decisions for the farm-level levy system before the general election [CAB 23 MIN-0370 and CAB 23 MIN-0439 refers].

As part of this, Cabinet agreed to progress an OiC to defer the animal farmers obligation in the NZ ETS, subject to consultation. We have assumed that the farm-level levy system will go ahead as planned and publicly communicated. This, along with the time constraints, limited the variety of choices and analysis that we could conduct in this RIS. No additional modelling was undertaken specifically for this process. Where relevant, we have relied on other analysis and modelling.

Analysis has been premised in a farm-level levy system being in place. If a farm-level levy system was not introduced, and NZ ETS obligations were to commence at the animal-farmer level, it is possible that many of the feasibility issues identified under the status quo would apply in future unless modifications are made, or other mitigations put in place.

Responsible Manager(s) (completed by relevant manager)

<p><i>Kara Lok</i> <i>Manager</i> <i>Market Development Team</i> <i>Ministry for the Environment</i></p>  <p>26/09/2023</p>	<p><i>Beth Hampton</i> <i>Acting Manager</i> <i>Climate Change On-Farm Mitigation and Inventory</i> <i>Ministry for Primary Industries</i></p>  <p>26/09/2023</p>
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Quality Assurance (completed by QA panel)

<p>Reviewing Agency:</p>	<p>Ministry for the Environment Ministry for Primary Industries</p>
<p>Panel Assessment & Comment:</p>	<p>The Ministry for the Environment and Ministry for Primary Industries joint Regulatory Impact Analysis panel (the RIA panel) has reviewed the Regulatory Impact Statement “An Order in Council to defer monitoring and reporting obligations for animal farmers under the New Zealand Emissions Trading Scheme”</p>

³ Details provided in paragraph 8.

(RIS). The Panel considers that the RIS meets the quality assessment criteria.

Section 1: Diagnosing the policy problem

What is the context behind the policy problem and how is the status quo expected to develop?

1. Climate change, caused by human activities like fossil fuel use and deforestation, is a pressing global issue affecting the environment, economy, and communities. The Pacific region is particularly vulnerable, with rising sea levels and changing weather patterns. Aotearoa New Zealand is already experiencing adverse effects, including temperature changes, disruptions in weather patterns, and extreme weather events. Farmers and growers are directly exposed to these effects, and must adapt to the changing climate. The agricultural sector contributes roughly 50% of total greenhouse gas emissions and 91% of annual biogenic methane production, making it crucial for Aotearoa New Zealand's efforts to mitigate climate change. A balanced approach is needed to ensure sustainable development and environmental stewardship.
2. The Climate Change Response Act 2002 (CCRA) provides a framework for developing and implementing climate change policies to enable Aotearoa New Zealand to meet its domestic emissions budgets, targets, and international obligations under the Paris Agreement, and our Nationally Determined Contributions (NDCs). To help achieve this, the CCRA requires reporting and surrendering of units for emissions from various activities through the New Zealand Emissions Trading Scheme (NZ ETS).
3. The NZ ETS is the Government's main tool for reducing greenhouse gas emissions. All sectors covered by the NZ ETS must report their annual greenhouse gas emissions to the Government. Surrender obligations mean that NZ ETS participants are required to pay the Government for their emissions. Currently, all sectors apart from the biological emissions from agriculture have surrender obligations (i.e. pay for their emissions through the NZ ETS).
4. In 2008, agricultural activities were included in the CCRA, with obligations for fertiliser and animal processors to monitor and report their agricultural emissions under the NZ ETS from 1 January 2011. In 2020, the CCRA was amended and required fertiliser and animal processors to pay for these emissions through the NZ ETS from 2025. Similarly, from 1 January 2024, the CCRA requires animal farmers to register with the Environmental Protection Authority (EPA) and begin monitoring their emissions from 1 January 2024 in order to begin surrender obligations on 1 January 2025. These provisions are frequently referred to as the 'NZ ETS backstop'.
5. The backstop established a timeframe for the pricing of agricultural emissions. This was done so that if an alternative pricing system was not in place by 2025, agriculture would enter the NZ ETS.
6. In 2022, the Government had an option to switch on the NZ ETS processor-level surrender obligations⁴ if they were not satisfied with the He Waka Eke Noa

⁴ These obligations would require processors to surrender ETS units for the on-farm emissions that they are already reporting on.

Partnership's⁵ progress in developing a system to price agricultural emissions. This did not happen as the Partnership put forward their proposal in May 2022.

7. Government consulted over October and November 2022 on a proposed option to price agricultural emissions. This proposal built on the recommendations of the Partnership and the Climate Change Commission, in response to which we received over 21,000 submissions. While there were no comments on the farm-level backstop, the interim processor-level backstop was not supported by most submitters. Following the consultation, Ministers made public a report under section 215 of the CCRA, outlining details of a farm-level pricing system as an alternative to pricing agricultural emissions in the NZ ETS.
8. Cabinet agreed on 14 August 2023 to seek final policy decisions, before the 2023 general election:
 - to enable mandatory reporting of farm level agricultural emissions from Q4 2024;
 - on the establishment and implementation of the farm-level, split-gas levy system (levy system) for agricultural emissions pricing from Q4 2025;
 - to consult on progressing an Order in Council under sections 2A(5D) and 2B of the Climate Change Response Act 2002 in August 2023 to defer animal-farmers becoming NZ ETS participants from 1 January 2024, subject to consultation [CAB-23-MIN-0370 refers].
9. The farm-level levy system components agreed on by Cabinet include:
 - A farm-level split-gas levy for agricultural emissions that would price emissions from biogenic methane and long-lived gases (nitrous oxide and carbon dioxide) separately;
 - Mandatory reporting of farm emissions starting in Quarter Four (Q4) 2024 of the calendar year;
 - Farmers and growers will be priced on their farm's emissions and recognised and rewarded for approved mitigation technology used from Q4 2025 of the calendar year;
 - The legal point of responsibility for reporting and paying for emissions would be IR-registered businesses who meet one or more of the emissions thresholds (equivalent to ~200 tonnes CO₂-e per year);
 - Reporting could be done at either the individual farm level or via a collective;
 - Relatively low, unique prices would be set initially for both biogenic methane and long-lived gases for five years with a review after three years, based on set criteria;
 - On-farm sequestration would be recognised in an interim system in the event there is not adequate provision for the recognition of on-farm sequestration through the Innovation Pathway when the levy system comes into effect;
 - Revenue raised from the levy would be recycled back in the system, in line with a strategy outlining spending priorities to mitigate agricultural emissions

⁵ The Primary Sector Climate Action Partnership (He Waka Eke Noa) was [established](#) to, among other activities, co-design policy processes for an agricultural emissions pricing system that would be effective in reducing agricultural emissions, implementable and workable for the farmers, growers, and industry bodies.

and operate the system. The strategy would include operating costs, incentive and sequestration payments, and a dedicated fund for Māori landowners;

- A non-statutory advisory body (System Oversight Board) will provide advice to the Commission on levy settings and prepare a revenue recycling strategy;
- A System Oversight Board will have skill-based appointments and Māori representation;
- The Commission will seek advice from the System Oversight Board, if in existence, and other affected parties when preparing advice for Government on levy prices;
- Implementation of the pricing system would involve the Ministry for Primary Industries, Ministry for the Environment, and the Inland Revenue Department.

What we heard from consultation.

10. The Ministry for the Environment conducted a public consultation on the proposal to defer animal farm obligation from 18th August – 6th September 2023. We received 1,225 written submissions on the discussion document, and one online meeting was held (thereby totalling 1,226 submissions). Of the total number of submissions received, 1,084 were identical form submissions, which opposed the proposal to defer NZ ETS obligations for animal farmers. We received 141 unique submissions from individuals and organisations (sector, non-sector and Māori submitters).

11. Some common themes that emerged are as follows:

- Sector submitters considered that there would be additional administrative and compliance costs to the Crown if animal farmers entered the NZ ETS. Many of these submitters believed that the additional number of participants entering the NZ ETS would be the primary driver of costs to the Crown. This would be coupled with significant compliance costs exacerbated by the lack of system support prior to the 1 January 2024 commencement date.
- Sector submitters noted the number of regulatory requirements that farmers face. They suggested an approach that invests money to support emissions reductions without compromising food production by way of de-stocking or converting farmland into forest.
- Most submitters who responded to the question about impacts on costs as a result of animal farmers entering the NZ ETS considered that animal farmers entering the NZ ETS would incur additional or significant administration and compliance costs as a result.
- Māori submitters considered that there would be increased administrative costs as a result of animal farmers obligations under the NZ ETS due to the short timeframe before obligations commence and lack of extensions services to provide support.

What is the policy problem or opportunity?

12. Cabinet has agreed to seek final policy decisions on the establishment and implementation of a farm-level split gas system [CAB-23-MIN-0370 refers]. However, the existing obligations for animal farmer activities remain in place as set out in the CCRA and commence from 1 January 2024 with registration and monitoring requirements and surrenders for emissions from 1 January 2025.

13. Cabinet’s decision to progress the farm-level split gas levy system means that work to progress this system will run concurrently with the obligations for animal farmers in the NZ ETS commencing on 1 January 2024, as shown in Table 1 below. The intention is for the farm-level levy system to supersede the CCRA monitoring and reporting requirements for animal farmers. This would duplicate the cost and effort for both the Government and farmers, without corresponding benefits of the animal farmer obligations. Action is needed to correct this.

Table 1: Timeline for farm-level reporting and pricing and animal farmer obligations

	Q1 2024	Q2 2024	Q3 2024	Q4 2024	Q1 2025	Q2 2025	Q3 2025	Q4 2025
Animals-Farmer obligation in the CCRA	Reporting requirement							Farm level levy pricing
Farm-level levy system				Mandatory reporting				

What objectives are sought in relation to the policy problem?

14. The consideration of objectives for addressing this policy problem is closely intertwined with the wider agricultural emissions pricing objectives as legislated and mandated by Cabinet. These considerations include achieving:
- The emissions reduction targets legislated in the CCRA, including a 10% reduction in biogenic methane by 2030, a 24-47% reduction in biogenic methane by 2050 and a net zero target for long-lived gases by 2050;
 - The first three emissions budgets (2022–2025, 290 Mt CO₂-e; 2026–2030, 305 Mt CO₂-e; 2031–2035, 240 Mt CO₂-e) published in May 2022 and the policies and strategies set out for meeting them;
 - Our international obligation under the Paris Agreement stated in our Nationally Determined Contributions (NDC).
15. The objective of policy in this area is that it should **effectively** contribute to meeting New Zealand’s international obligations, emissions targets and budget, or at least should not undermine our ability to achieve them.
16. The policy should be **practical** to implement, minimising cost and the duplication of effort.
17. The policy should be **equitable** among agriculture sub-sectors, by minimising disproportionate losses in production and economic impacts.
18. In the next section, the criteria of effectiveness, practicality and equitability will be defined and the options for addressing this policy problem will be assessed against the criteria.

Section 2: Deciding upon an option to address the policy problem

What criteria will be used to compare options to the status quo?

19. If animal farmers enter the NZ ETS, as per Section 2A(5D) of the CCRA, it is estimated that over 100,000 farmers will be required to register with the EPA as participants in the NZ ETS and begin monitoring their emissions from January 2024 for reporting, and subsequently begin surrendering units for emissions from 1 January 2025. Cabinet's decision on 18 September 2023 to develop and implement a farm-level pricing system means that its progression will run concurrently with the animal farmer reporting and surrender obligations in the NZ ETS [CAB-23-MIN-0370 refers].
20. Whilst legislation for the farm-level levy system is still to be developed and legislated, this will occur in the coming months. In the meantime, the processor-level NZ ETS backstop remains in place as set out in the CCRA. When legislation for an alternative levy system is enacted, it is expected the relevant NZ ETS obligations would be repealed.
21. The impact of the status quo, under which animal farmers would enter the NZ ETS, is that a registration system would need to be developed to allow around 100,000 farmers to register and monitor emissions with the future intent of reporting and surrender obligations. Given Cabinet's decision to develop and implement a farm-level levy system, the impact of setting up an interim system for animal farmers to participate in the NZ ETS has high administrative costs for no or very limited emissions reduction benefit.

Criteria

22. Following the objectives outlined above, the criteria below will be used to assess the options:
 - a. **Effective at reducing emissions** – in line with domestic and international climate change targets and emissions budgets, and by having independent, robust, and transparent policy setting and adjustment processes;
 - b. **Practical** – by being simple and easy to understand and participate in, by being as low cost as possible to implement in 2025, audit, and verify, and by being adaptable, enabling changes to be incorporated over time;
 - c. **Equitable** – across agriculture sub-sectors, for example by minimising disproportionate costs in some sectors.
23. The cost/benefit considerations lie in the options being both effective and practical, i.e., are effective in reducing emissions at a reasonable cost.
24. Assessment against these criteria will use a scoring system with a tick (or double tick), neutral, or cross (or double cross) to show whether each pricing system scores as exceeding/meeting the criterion, neutral against/partially meeting the criterion, or not meeting/failing by a significant margin to meet the criterion.

What scope will options be considered within?

25. Much of the scope and scale of this policy is determined by the historical policy process and by the legislated or Cabinet-mandated pathways. In summary, the options analysed here fall within the following constraints and settings that have been agreed by Cabinet:

- a. The form of policy intervention is an economic instrument (pricing system), which applies to the producer (whether farmer or processor) not the consumer;
- b. Agricultural emissions in this context refer to biological emissions from agricultural activities, including any methane, nitrous oxide, and carbon dioxide⁶ from livestock and fertiliser use, but not including emissions such as transport, electricity, industrial heat processing, etc.;
- c. A backstop through the NZ ETS could come into effect prior to 2025 (if recommended by the Minister), and will come into effect from 2025 if no other system is put in place or it is determined by Ministers that farmers are not ready to comply with farm-level pricing;
- d. No system considered places the full 'market' price on agricultural emissions, as the NZ ETS options include a 95% free allocation as provided for in legislation, and the pricing scenarios explored under the alternative pricing systems are all well below expected NZ ETS prices – noting that some sectors in the NZ ETS also receive free allocation, and early years of the NZ ETS included other discounting mechanisms to support transition;
- e. On 18 September 2023, Cabinet agreed to establish and implement a farm-level, split-gas levy system for agricultural emissions with a phased approach including:
 - i. In Q4 2024 participants will report on their emissions;
 - ii. In Q4 2025 participants will face a price for their emissions and be eligible for approved mitigation technologies and some on-farm sequestration [CAB23-MIN-0439 refers].

⁶ The call on whether carbon dioxide will or will not be included within the system from 2025 will be made by Cabinet.

What options are being considered?

Option One –*Counterfactual*: Animal farmer obligations will begin on 1 January 2024 under the NZ ETS as set out in the CCRA.

26. Pricing agricultural emissions through the NZ ETS was set up as a backstop option under the CCRA to ensure progress towards reducing agricultural emissions.
27. Under the NZ ETS backstop, animal farmers will be required to:
 - register and begin monitoring their emissions for reporting purposes from 1 January 2024
 - surrender units to cover their emissions from 1 January 2025.
28. The CCRA defines animal farmer activity as farming, raising, growing, or keeping ruminant animals, pigs, horses or poultry for:
 - reward; or
 - the purpose of trade in those animals, animal material or animal products taken or derived from those animals.⁷
29. Cabinet has agreed to develop and implement a farm-level levy with mandatory reporting in Q4 2024 and pricing in Q4 2025 [CAB-23-MIN-0439 refers]. Cabinet also agreed to amend the CCRA to remove all NZ ETS obligations for agriculture activities when legislation for a levy system is introduced. As the farm-level system is progressing as one bill, this means that the provisions of this backstop option will likely be repealed in time for the new system of reporting in Q4 2024. In this interim period of NZ ETS obligations commencing and the farm-level system being implemented, systems and regulations would need to be developed to support animal farmer participation in the NZ ETS. The EPA does not currently have a work programme in place to support participants' registration and reporting obligations and has no existing capability to implement NZ ETS emission reporting for 100,000 farmers.

Option Two – deferring the farm-level obligations by two years (preferred option)

30. The Government is proposing to defer the obligations for animal farmers (under sections 2A(5D) and 2B of the CCRA) from 1 January 2024 to 1 January 2026.
31. Given Cabinet decisions to progress pricing emissions at a farm-level [CAB-23-MIN-0370 and Cab-23-MIN-0439 refers] it is very likely that the provisions outlined in these options will be superseded by the implementation of the farm-level reporting and pricing system. The NZ ETS backstop will remain in place as set out in the CCRA until an alternative system is in place.
32. Under Option 2, the NZ ETS farm-level reporting and pricing obligations would be deferred for two years. We expect the backstop would be repealed in Q4 2024 and be replaced with the new system. The NZ ETS processor-level obligations would remain in place. As processor-level monitoring and reporting is already in place, we consider pricing will be practical to set up, and the costs to administer the system will be relatively low, should pricing at the processor-level be the option chosen at a future date.

Other options were identified but not progressed.

⁷ Schedule 3 Subpart 4 of Part 5 of the CCRA.

33. Other options, such as repealing the CCRA obligations prior to when NZ ETS reporting obligations begin on 1 January 2024, were not considered practical due to time constraints (i.e., the Bill would need to be introduced and passed in the short window between the House resuming following the election and the House rising over summer).
34. Given Cabinet has agreed to develop and implement a farm-level system with pricing by Q4 2025, other deferral dates were not progressed as a date of 1 January 2026 covers the time period until the farm-level system is in place.

How do the options compare to the status quo/counterfactual?

Table 2: Multi-criteria analysis of Options 1 and 2

	Option One – [Counterfactual/status quo]	Option Two – deferring the farm-level obligations by two years (preferred option)
Effective at reducing emissions	<p style="text-align: center;">0</p> <p>This option, while assuming the farm-level levy system will be enacted, is estimated to achieve little additional emission reductions by merely registering and monitoring emissions. In the <i>unlikely</i> event that the farm-level levy is not implemented, provided it could be implemented the pricing via the backstop option would lead to emission reductions over the long-term, but not significantly more than Option 2.</p>	<p style="text-align: center;">0</p> <p>While this option delays the monitoring of emissions by 10 months, few emission reductions would have occurred in that time as a result of this intervention (registering and monitoring). This option leaves in place the backstop in case the farm-level system is not implemented. As with Option 1, this option would lead to some emission reductions in the <i>unlikely</i> case that the farm-level levy system is not implemented. The two-year delay would result in fewer emissions being reduced in this <i>unlikely</i> case than for Option 1.</p>
Practical	<p style="text-align: center;">0</p> <p>This system would be impractical to implement given the large number of participants involved, the costs, and the lack of capacity for the EPA to undertake the required development and implementation within the timeframe. Also, setting up of a temporary registration system, at significant cost (~\$21m), with no pathway to pricing, given Cabinet’s commitment to the farm-level pricing system, and no significant emission reduction benefit, would make this option not practicable. There is little sector buy-in to support the ETS-based system and unlikely to be supported by the sector potentially affecting participation.</p>	<p style="text-align: center;">+</p> <p>Option 2 removes the duplicative registration and monitoring obligations but preserves the NZ ETS backstop. It allows time for the farm-level levy system to be developed and implemented. The farm-level levy system is preferred and supported by sector, which may increase participation</p>
Equitable	<p style="text-align: center;">0</p> <p>This option will require animal farmers to monitor and report their emissions for two different systems for around 12 months, putting additional strain particularly on the most affected participants.</p>	<p style="text-align: center;">+</p> <p>This option is not considered likely to give rise to disproportionate impacts in any one sub-sector. However, the farm-level levy is expected to have disproportionate impacts on the development of Māori land. Targeted support for Māori participants in the levy system would be through the Māori low-</p>

		emissions transition fund. This would give Māori dedicated support to transition to a low-emissions economy.
Overall assessment	0	+

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

35. Option 1 is impracticable to setup in the current timeframe. It would be costly to run and administer, likely to have low compliance, and would achieve little or no additional emission reductions. Option 2 (the preferred option) allows time to develop an alternative approach, including either the NZ ETS or Cabinet's commitment to the farm-level levy system. In the long run, both options are untenable (assuming no farm-level levy) - even for the preferred option without significant modification (e.g., re-defining which participants would be included).
36. We would expect a small difference in the emission reductions between these two options. While the definition of animal farmer involves an extra 77,000 participants when compared to the proposed farm-level system, these extra participants capture only 0.5% of the agricultural emissions. Option 2 implies only the loss of about 10 months registration and monitoring ahead of the farm-level levy system requiring reporting.

Benefits, costs and trade-offs of Options 1 and 2

37. The Government's preferred option is Option 2 (defer the obligations for animal farmers for two years).
38. We consider there are significant costs associated with Option 1 as follows:
- a. Difficult to implement and expensive from a regulatory perspective, due to the large number of participants required to enter into the NZ ETS. The Government's initial assessment estimates that this could capture more than 100,000 animal farmers.
 - b. Farmers would not be prepared to participate from 1 January 2024.
 - c. System administration would be challenging and costly to set up prior to statutory reporting and obligation dates. Discussions with the Agricultural Emissions Pricing Implementation unit implementing the farm-level levy system suggested a minimum of 6 months would be required even for the simplest of systems, making meeting the required timeframe impossible.
 - d. Regulations would also need to be developed and enacted to enable registration. These regulations would reduce the resource and time available for officials to focus on developing the farm levy split-gas levy system. The EPA have no capacity to undertake the required development and implementation, particularly given the timeframe, this includes the resourcing required, in the required lead times, with no ability to 'switch this on'.
39. We consider the following benefits of Option 2:
- a. Emissions will still be priced at farm level.
- Under Option 2, deferring farm-level reporting for animal farmers under the NZ ETS would eliminate the need to set up an interim system for farm-level

reporting while agricultural emissions pricing policy and the associated system is being developed and legislated.

- b. Deferring the obligations for animal farmer activities under the NZ ETS will provide clarity for farmers about their obligations in 2024.

Under Option 1, farmers would have to register and monitor emissions for reporting purposes as prescribed in the CCRA from 1 January 2024 under the NZ ETS. Then they would move to reporting under the farm-level system approximately 10 months later. There has been only a little engagement with the sector to promote awareness of this oncoming obligations. With the recent consultation that has been done on deferring the obligations, we heard that there would be confusion for farmers if they are required to switch from one reporting and pricing system through the NZ ETS to a different farm-level system sometime later. The NZ ETS processor-level backstop will remain in place as set out in the CCRA until the farm-level system is in place. When legislation for the farm-level system is enacted, it is expected the relevant NZ ETS obligations would be repealed. This implies that there will be a period of around 9-11 months where approximately 100,000 animal farmers would be required to register and monitor their on-farm emissions through the NZ ETS. The thresholds of the farm-level levy system will have around 23,000 participants – a small subset of the CCRA animal farmer definition. These 23,000 participants are expected to capture approximately 96% of the agricultural emissions. The additional 77,000 participants are estimated to capture only another 0.5% of agricultural emissions.⁸

- c. Option 2 means farmers will not have to comply with two different alternative pricing systems given Cabinet has agreed to develop and implement a farm-level system with pricing by Q4 2025 [CAB23-MIN-0439 refers].

Option 2 will avoid animal farmers having to learn and comply with two different reporting systems for no significant additional benefit. Subsequently, the farm-level levy pricing system, starting in Q4 2025 will create the incentive for farmers to reduce their on-farm emissions.

- e. Option 2 avoids the significant costs associated with Option 1.

A system for registering the 100,000 farmers would need to be developed and implemented. Then the 100,000 farmers would need to register in this system. While the detailed costings have not been calculated, a very simple system and its monitoring, system help, and maintenance would cost in the order of \$10m, and the administrative cost to farmers would be of the order of \$11m (~\$100 each for 100,000 participants). These costs would be matched with little or no emission reduction benefits. This also assumes an unlikely 100% compliance, some authentication, but little or no enforcement effort.

- 40. Overall, Officials prefer Option 2 (deferring farm-level reporting for animal farmers by two years). Given the Cabinet decision to progress farm-level reporting and pricing, Option 1 would require a system to be setup for registration and farmers to monitor farm emissions for approximately 10 months. From Q4 2024 the farm-level system would be in place, including the repeal of any further NZ ETS-based obligations for

⁸ New Zealand's Greenhouse Gas [Inventory](#) 1990-2021 pp 208.

farmers. The costs of setting up a system and the costs of registering would provide no significant benefit, e.g., through emission reductions. Overall, the Government considers Option 2 as its preferred option as it allows time to create an enduring and effective system while also avoiding additional setup and administrative costs.

41. This aligns with the Climate Change Commission’s 2022 analysis that implementing farm-level pricing within the NZ ETS will not be feasible by 1 January 2025, due to cost and complexity. The Government also considers that Option 2 is consistent with the purpose of the CCRA. Option 2 does not defer the processor-level obligations in the NZ ETS – and the processor-level obligations are expected to achieve targets and reductions in agricultural emissions.

What are the marginal costs and benefits of the option?

Table 3 shows the costs and benefits of the preferred option over the status quo along with discussions of the cost or benefit item, and the degree of certainty of the data underlying values.

Table 3: Incremental cost and benefit of the preferred option against the status quo

Affected groups <i>(identify)</i>	Comment <i>nature of cost or benefit (e.g., ongoing, one-off), evidence and assumption (e.g., compliance rates), risks.</i>	Impact <i>\$m present value where appropriate, for monetised impacts; high, medium or low for non-monetised impacts.</i>	Evidence Certainty <i>High, medium, or low, and explain reasoning in comment column.</i>
Additional costs of the preferred option compared to taking no action			
Regulated groups: (Over 100,000 Farmers and Growers)	Time and other resources spent on gathering required data for reporting in the ETS	There is lower certainty around the estimate of this, however, we estimate that ~\$11m in costs to farmers.	Low-medium
Regulators: (MfE, MPI, IR)	Time spent to prepare infrastructure for registration, reporting and eventually payment	\$10m for implementing the registration system	Low-medium
Others (e.g., consumers, etc.)	n/a	n/a	n/a
Total monetised costs	-	\$21m	
Non-monetised costs	n/a	n/a	n/a
Additional benefits of the preferred option compared to taking no action			
Regulated groups	-	See above	Low-medium
Regulators	-	See above	Low-medium
Others (e.g., wider govt, consumers, etc.)	n/a	n/a	n/a
Total monetised benefits	n/a	n/a	n/a

Non-monetised benefits	-	<i>Low</i>	Low-medium
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42. Cabinet has agreed to move to reporting from Q4 2024, and pricing from Q4 2025 [CAB-23-MIN-0439 refers]. Option 2 (preferred) avoids the unnecessary complexity of developing an interim system ahead of the implementation of the Government's approach. In particular, the involvement of an additional 77,000 farmers whose emissions make up only 0.5% of the agricultural emissions. This avoids significant administrative costs for farmers and the Government for very little gain in emissions reduction.

Section 3: Delivering an option

How will the new arrangements be implemented?

43. The option to defer NZ ETS reporting obligations will be implemented via a change to the CCRA through an Order in Council (OIC) process. This includes a period of public consultation as per the requirements in the CCRA.
44. In accordance with Section 2A(5D)(a) the Governor-General may, by Order in Council, appoint a later date for the application of Subpart 4 of Part 5 of Schedule 3 (animals-farmer activities). Section 2B prescribes requirements for making the Order in Council, including a number of matters the Minister of Climate Change must have regard to:
- a. the need for the EPA to be able to verify information contained in emissions returns of the persons who will become participants in an activity listed in the subpart by operation of the order; and
 - b. the likelihood that, as a result of becoming participants by operation of the order, persons carrying out an activity listed in the subpart will reduce their emissions; and
 - c. the desirability of minimising—
 - i. the compliance and administration costs of persons who will become participants in an activity listed in the subpart by operation of the order; and
 - ii. the administration costs of the Crown in administering the emissions trading scheme.
45. In addition to the matters that the Minister of Climate Change must have regard to as described above, they must also be satisfied that any decision made under the CCRA meets the purpose of the Act.⁹ The Minister of Climate Change must also consult with the persons (or representatives of those persons) that appear likely to have an interest in the Order, including, specifically, representatives of iwi and Māori that appear likely to have an interest in the Order. Lastly, the Order must appoint a date that is 1 January in a year and is made at least 1 year before the date appointed by the Order.
46. Deferring farm-level reporting for animal farmers under the NZ ETS would eliminate the need to set up an interim system for farm-level reporting while agricultural emissions pricing policy is being developed. Farm emissions will still be priced under an alternate, farm-level levy system as agreed by Cabinet on 18 September [CAB-23-MIN-0439 refers].
47. MPI, MfE and IR will be jointly responsible for implementing the levy system.
48. Policy decisions are currently underway to finalise the farm-level levy system, these will provide direction on the drafting of legislation and regulations to implement the system. These future legislative processes, including consultation, will provide checks and balances on the impact of choosing to defer.

⁹ Sections 3(1) (aa) and 3(1)(b).

How will the new arrangements be monitored, evaluated, and reviewed?

49. Deferring reporting obligations for animal farmers in the NZ ETS as proposed will provide time for the implementation of the farm-level system for pricing agricultural emissions.
50. Cabinet agreed on 18 September 2023 to establish and implement a farm-level levy system for agricultural emissions. They also agreed that the primary purpose of the levy is, as part of a wider programme, to achieve emissions reductions in line with New Zealand's domestic and international climate change targets and emissions budgets [CAB-23-MIN-0439 refers].
51. The mandatory reporting and levy system will be progressed through an Agricultural Emissions Pricing Bill. Cabinet agreed to amend the CCRA to remove all NZ ETS obligations for agriculture activities, including associated sector specific NZ ETS provisions in the CCRA, when legislation for a levy system is introduced [CAB-23-MIN-0439 refers]. As mandatory reporting begins in Q4 2024 and pricing begins in Q4 2025, legislation is expected to be introduced in 2024, which will include repealing NZ ETS obligations for animal farmers.
52. More information on the framework for monitoring, evaluating, and reviewing the farm-level levy systems may be found in the Supplementary Analysis Report, which will be submitted to Cabinet in September 2023. However, in summary, the farm-level system will have a 2030 review. Cabinet agreed to require a review of the agricultural emissions levy beginning no later than 1 July 2030 and will consider:
 - a. Whether the agricultural emissions levy is meeting its stated purpose;
 - b. Whether any changes are needed to ensure the levy remains sustainable in the long-term; and
 - c. Whether any amendments to legislation are necessary [CAB-23-MIN-0439 refers].
53. The review of the farm-level system will help to ensure it is meeting its stated purpose and identify any changes that may be needed to the system to achieve this.

Policy and Privacy

In Confidence

Office of the Minister of Climate Change
Chair, Cabinet

Deferral of Climate Change Response Act 2002 obligations for animals-farmer activities

Proposal

- 1 I am seeking authorisation for submission to the Executive Council of an Order in Council (OiC) to defer the application of the New Zealand Emissions Trading Scheme (NZ ETS) obligations under the Climate Change Response Act 2002 (CCRA) for animals–farmer activities.¹

Executive Summary

- 2 On 14 August 2023, Cabinet agreed to progress an OiC to defer NZ ETS obligations for animals–farmers, subject to consultation [CAB-23-MIN-0370 refers].
- 3 The OiC would defer the application of subpart 4 of Part 5 of Schedule 3 (animals–farmer activities) in respect of obligations under the CCRA to 1 January 2026.
- 4 Obligations under the CCRA require animals–farmers to register in the NZ ETS and monitor their emissions for reporting from 1 January 2024, and surrender units for emissions from the beginning of the second year (1 January 2025) as prescribed by the CCRA.² If these obligations are not deferred via an OiC prior to 1 January 2024, it is estimated that over 100,000 farmers will be required to register in the NZ ETS and participate as set out above.
- 5 Since the agricultural emissions pricing work programme started in 2019, the intention has been to repeal the NZ ETS obligations for animals–farmers and replace these with an alternative farm-level pricing system (levy system). On 18 September 2023, Cabinet agreed to establish and implement a farm-level, split-gas levy system for agricultural emissions with a phased approach [CAB-23-MIN-0439 refers]. The NZ ETS obligations will remain in place as set out in the CCRA until the farm-level system is in place. When legislation for a farm-level system for agricultural emissions is enacted, it is expected the relevant NZ ETS obligations will be repealed.

¹ Animals–farmer participants are those that undertake the activity of farming, raising, growing, or keeping ruminant animals, pigs, horses, or poultry for reward or for the purpose of trade in those animals, or in animal material or animal products taken or derived from those animals.

² Refer section 2A(5D), which provides for Subpart 4 of Part 5 of Schedule 3 (animals-farmer activities) to apply from 1 January 2024, as affected by section 219 which provides that emissions during the first year do not require units to be surrendered.

Background

- 6 Pricing agricultural emissions through the NZ ETS was set up as a backstop option to ensure progress towards reducing agricultural emissions in the event an alternative pricing system was not in place by 2025.
- 7 As part of the backstop, the CCRA contains provisions related to obligations for animals–farmers in the NZ ETS. These obligations will commence from 1 January 2024 unless they are deferred via an OiC.
- 8 On 14 August 2023, Cabinet agreed to:
 - 8.1 consult on progressing an OiC to defer these obligations under sections 2A(5D) and 2B of the CCRA;
 - 8.2 release the discussion document *Deferral of NZ ETS Reporting Obligations for Animals–Farmer Activities* for public consultation in August 2023;
 - 8.3 the Minister of Climate Change progressing an OiC in August 2023 to defer animals-farmers becoming NZ ETS participants from 1 January 2024, subject to consultation;
 - 8.4 authorise the Prime Minister, the Minister of Agriculture and the Minister of Climate Change to make final policy decisions on progressing the OiC;
 - 8.5 authorise the Minister of Climate Change to issue drafting instructions for the OiC following consultation;
 - 8.6 the Minister of Climate Change recommending to Cabinet the making of the OiC before the 2023 general election, subject to the outcome of consultation [CAB-23-MIN-0370 refers].
- 9 On 18 September 2023, Cabinet agreed to:
 - 9.1 establish and implement a farm-level, split-gas levy system for agricultural emissions with a phased approach including:
 - 9.1.1 in Q4 2024 participants will report on their emissions;
 - 9.1.2 in Q4 2025 participants will face a price for their emissions and be eligible for approved mitigation technologies and some on-farm sequestration [CAB-23-MIN-0439 refers].
- 10 Public consultation started on 18 August 2023 and ended on 6 September. A total of 1,225 submissions were received, with 49 submitters supporting the proposal to defer NZ ETS obligations and 1,164 opposed³ to the proposal.
- 11 In September 2023, the Prime Minister, the Minister of Agriculture and I approved deferral of the application of Subpart 4 of Part 5 of Schedule 3 to 1 January 2026, in accordance with s2A(5D)(a) [BRF-3680 and B23-0622 refers]. The date of 1 January 2026 gives time for the farm-level system to be developed and implemented as approved by Cabinet on 18 September [CAB-23-MIN-0439 refers].

³ Of the 1,164 submitters that opposed the deferral, 1,084 of these were form submissions from a Greenpeace template.

- 12 The processor-level NZ ETS backstop will remain in place as set out in the CCRA until an alternative system is in place. When legislation for an alternative levy system is enacted, it is expected the relevant NZ ETS obligations would be repealed.

Policy

- 13 I, as the Minister of Climate Change, am authorised to issue drafting instructions for the OiC [BRF-3680, BR23-0622 and CAB-23-MIN-0370 refers].
- 14 Section 2B(5) of the CCRA includes a number of matters the Minister of Climate Change must have regard to before recommending the making of the OiC. The relevant sections are set out below in paragraphs 30-32 and the analysis below considers these matters.

Implementation feasibility and verification of information

- 15 A deferral date of 1 January 2026 reflects Cabinet’s 18 September decision to develop and implement a farm-level system by this time.
- 16 If an alternative levy system is not legislated for in the interim, surrender obligations will commence for animals–processor activities (alongside fertiliser–processor activities) from 1 January 2025. Since 2011, animals–processor activities have been reporting their agricultural emissions under the NZ ETS. The EPA is therefore better placed to verify the information contained in animals–processor returns compared to animals–farmer returns, at least in the near term. Retaining obligations at the processor level also minimises the compliance and administration costs for animals participants and the administration costs of the Crown.
- 17 It would be challenging to implement a system for over 100,000 animals–farmers prior to the statutory reporting and obligation dates and expensive from a regulatory perspective. The EPA has no existing capability to implement the NZ ETS emission reporting for the estimated number of animals–farmers. Section 220 of the Act requires the Climate Change Commission to provide a report to the Minister of Climate Change. The report assessed the progress towards meeting farm-level obligations (including progress towards animals–farmer participants being ready to start complying with reporting and surrender obligations) and was provided in June 2022. The report stated, with “high confidence”, that implementation of farm-level pricing within the NZ ETS will not be feasible by 1 January 2025.
- 18 Without a robust and effective system for enabling the animals–farmer participants to comply with their obligations, the EPA will not be able to verify the information in the emissions returns. Implementing a system of this scale within the short timeframe remaining to 1 January 2024, is expected to increase administration costs to the Crown for the administration of the NZ ETS, particularly if an alternative system replaces the NZ ETS for agriculture emissions. Reporting costs obligations for the implementation agency for an estimated 106,000 participants is estimated to be \$43 million.⁴

Administration and compliance costs

⁴ The estimated reporting costs include system development and implementation for reporting only. It excludes, for example, registration, IT, compliance, monitoring, enforcement, payment processing, extension services, and any incentive or sequestration payments or transitional assistance.

- 19 Farmers are unlikely to be prepared for the upcoming NZ ETS requirements due to the focus they have had on understanding the alternative agricultural emissions pricing system that Government consulted on last year. This means there may be both a lack of awareness of their obligations and a lack of knowledge on how to meet them. Compliance with NZ ETS obligations for animals–farmers from 1 January 2024 (if the OiC is not made to defer these obligations) is expected to impose significant compliance and administration costs on those participants.
- 20 Cabinet’s 18 September decision agreed to develop and implement a farm-level, split-gas system for pricing agricultural emissions by Q4 2025. Whilst legislation for an alternative levy system is still to be developed and passed, it is anticipated that the alternative system will be legislated for in 2025. Accordingly, deferring obligations for animals–farmer participants to 1 January 2026 is expected to reduce costs for these participants. This is because they would not have to comply with the NZ ETS reporting and pricing system in the interim, prior to mandatory reporting of farm level agricultural emissions from Q4 2024 and the development and implementation of a farm-level, split-gas levy system for agricultural emission pricing from Q4 2025 [CAB-23-MIN-0439 refers].
- 21 I note that if quick progress is not made on the farm-level system, resourcing will need to be allocated to prepare for NZ ETS obligations to apply for animals–farmer participants from 1 January 2026. Steps should be considered to ensure that a similar situation does not arise again prior to the new 1 January 2026 date for commencement of farm-level animals NZ ETS obligations.

Emissions reductions and Purpose of the Act

- 22 This decision must also be considered in light of the purpose provisions of the CCRA. The purposes of the CCRA include, relevantly:⁵
- 22.1 to provide a framework by which New Zealand can develop and implement clear and stable climate change policies that contribute to the global effort under the Paris Agreement to limit the global average temperature increase to 1.5° Celsius above pre-industrial levels; and
- 22.2 to provide for the implementation, operation, and administration of a greenhouse gas emissions trading scheme in New Zealand that supports and encourages global efforts to reduce the emission of greenhouse gases by—
- 22.2.1 assisting New Zealand to meet its international obligations under the Convention, the Protocol, and the Paris Agreement; and
- 22.2.2 assisting New Zealand to meet its 2050 target and emissions budgets.
- 23 The NZ ETS backstop with processor obligations is likely to achieve the same reduction in greenhouse gas emissions as a farm-level system in the short term. Modelling indicates that pricing through either the processor-level backstop or an alternative levy system will enable New Zealand to meet its legislated emissions reduction targets and emissions budgets.⁶ Therefore, the decision to defer application of farm-level NZ ETS obligations is not expected to impact the ability of the NZ ETS to assist New Zealand to meet its international obligations, and its 2050 target and

⁵ Refer section 3(1)(aa) and 3(1)(b).

⁶ Ministry for the Environment. 2022. [Regulatory impact statement: Agricultural emissions pricing](#). Wellington: Ministry for the Environment.

emissions budgets. The Government has committed to implementing an alternative levy system by 2025.

- 24 When legislation for the farm-level system is enacted, it is expected the relevant NZ ETS obligations would be repealed.

Treaty analysis

- 25 The Government has heard consistently that mitigating and adapting to climate change are significant priorities for Māori. Māori own a high proportion of marginal land. Climate change impacts – such as coastal erosion and inundation, flooding, and a higher frequency of weather-induced erosion events – will severely affect marginal land.

- 26 The Government acknowledges that Māori also have significant interests in agriculture. This means that any requirement to pay for agricultural emissions could affect Māori agribusiness and related investments, assets and interest, specifically the financial return across the Māori economy. Through consultation we heard from Māori that:

26.1 Immediate action and improvements to reduce agricultural emissions is required.

26.2 Māori landowners should have a lead-in time to account for historical barriers placed on whenua Māori and account for the challenges and nuance of whenua Māori ownership.

26.3 Agricultural emissions pricing should not be delayed past the proposed deferral date of 1 January 2026 as this will likely result in high costs and pressures (both domestically and internationally) for farmers and Māori landowners to meet their emissions targets.

- 27 Given the short timeframe remaining before 1 January 2024 if the obligations are not deferred and given the large number and complexity of many whenua Māori enterprises, there are not enough appropriate resources to help develop and support low-emissions profiles for whenua Māori.

- 28 Deferring farm-level NZ ETS obligations will provide Māori animals–farmers time to understand the requirements of the farm-level system, or the NZ ETS obligations. It will also provide time for Government to stand up adequate support to assist participants to meet their obligations. Processor-level NZ ETS obligations remain in place as a backstop.

Timing and 28-day rule

- 29 It is a requirement of Cabinet that secondary legislation made by OiC must not come into force until at least 28 days after it has been notified in the New Zealand Gazette. Approving the OiC and publishing it in the New Zealand Gazette prior to the election would mitigate some of the risk that it may not be in place prior to the 1 January 2024 commencement date. Making the OiC prior to the election would provide more certainty to affected persons and avoid concerns relating to liability for non-compliance with registration and monitoring obligations that commence from that date.

- 30 The OiC must be approved and gazetted prior to 4 December 2023 to avoid a waiver of the 28-day rule. If Cabinet agrees to submit the OiC to Executive Council for Governor-General approval prior to 4 December, a waiver will not be required.

Compliance

- 31 The OiC complies with the following:
- 31.1 the principles of the Treaty of Waitangi;
 - 31.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993;
 - 31.3 the principles and guidelines set out in the Privacy Act 2020;
 - 31.4 relevant international standards and obligations;
 - 31.5 the Legislation Guidelines (2021 edition), which are maintained by the Legislation Design and Advisory Committee.
- 32 An OiC made under section 2A(5D) to appoint a date for which Subpart 4 of Part 5 of Schedule 3 (animals–farmer) applies must comply with the requirements of section 2B and 3A(b)(i) of the CCRA. The Order must be made on the recommendation of the Minister of Climate Change, appoint a date that is 1 January in a year, and be made at least 1 year before the date appointed by the Order. As this Order proposes a date of 1 January 2026 for application of this subpart, it complies with the timing requirements.
- 33 When making the OiC the Minister must ensure there has been consultation with the persons (or representatives of those persons) that appear likely to have an interest in the Order, including, specifically, representatives of iwi and Māori that appear likely to have an interest in the Order.⁷ Public consultation was carried out from 18 August to 6 September 2023 to satisfy this requirement and notifications via email advising of the public consultation with links to the consultation material were sent to Treaty Partners and the sector, environmental non-governmental organisations (ENGOs), and Māori who previously made submissions on agricultural emissions pricing.
- 34 The Minister must also have regard to the following considerations:
- 34.1 the need for the EPA to be able to verify information contained in emissions returns of the persons who will become participants in an activity listed in the subpart by operation of the order;
 - 34.2 the likelihood that, as a result of becoming participants by operation of the order, persons carrying out an activity listed in the subpart will reduce their emissions; and
 - 34.3 the desirability of minimising:
 - 34.3.1 the compliance and administration costs of persons who will become participants in an activity listed in the subpart by operation of the order; and

⁷ Refer sections 2B(6) and 3A(b)(i).

34.3.2 the administration costs of the Crown in administering the emissions trading scheme.

35 I have had regard to these matters and the purpose provisions of the CCRA when making the recommendation to make the OiC.

Regulations Review Committee

36 The Order in Council is a disallowable instrument and must be presented to the House of Representatives. I do not believe there are grounds for the Regulations Review Committee to draw the Order in Council to the attention of the House of Representatives.

Certification by Parliamentary Counsel

37 The draft regulations were certified by the Parliamentary Counsel Office (PCO) as being in order for submission to Cabinet.

Impact Analysis

Regulatory Impact Statement

38 A Regulatory Impact Statement (RIS) was prepared for the proposed deferral of obligations for animals–farmers under the NZ ETS (see Appendix 1). The Quality Assurance Panel provided a statement indicating that the RIS ‘meets’ the standards for regulatory impact assessment.

39 The Quality Assurance Panel’s statement is as follows:

“The Ministry for the Environment and Ministry for Primary Industries joint Regulatory Impact Analysis panel (the RIA panel) has reviewed the Regulatory Impact Statement “An Order in Council to defer monitoring and reporting obligations for animal farmers under the New Zealand Emissions Trading Scheme” (RIS). The Panel considers that the RIS meets the quality assessment criteria.”

Climate Implications of Policy Assessment

40 The Ministry for the Environment has been consulted and confirms that the CIPA requirements do not apply to these changes as the threshold for significance is not met. Their statement is as follows:

“The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to this proposal as the threshold for significance is not met.”

Publicity

41 The OiC, once made, will be published in the New Zealand Gazette. An announcement will also be published on the Ministry for the Environment website and an update will be given to industry so that those most affected by the proposal understand their obligations as soon as possible.

Proactive release

- 42 Following Cabinet's consideration, I intend to release the paper proactively on the Ministry for the Environment website in whole or in part, subject to appropriate redactions in accordance with the Official Information Act 1982.

Consultation

- 43 Ministry for Primary Industries provided significant input to support its development.

Recommendations

I recommend that Cabinet:

- 1 **note** that on 14 August the Cabinet agreed to delegate to the Prime Minister, the Minister of Agriculture and the Minister of Climate Change authority to make final policy decisions on progressing the OiC and authorise the Minister of Climate Change to issue instructions for drafting the OiC following consultation [CAB-23-MIN-0370 refers];
- 2 **note** that the deferral of application of Climate Change Response Act 2002 obligations for animals-farmer activities will give effect to the decision referred to in recommendation 1 above;
- 3 **authorise** the submission to the Executive Council of an Order in Council to defer the application of subpart 4 of Part 5 of Schedule 3 (animals-farmer activities) in respect of obligations under the Climate Change Response Act 2002;
- 4 **note** that the deferral of Climate Change Response Act 2002 obligations for animals-farmer activities will come into force on [2 November 2023];
- 5 **note** that section 2B(5) of the Climate Change Response Act 2002 requires that the Minister have regard to specified matters before recommending the making of an Order in Council under section 2A(5D);
- 6 **note** that section 2B(6) of the Climate Change Response Act 2002 requires that the responsible Minister be satisfied that consultation with persons likely to have an interest in the order has occurred before recommending the making of an Order in Council under section 2A(5D)
- 7 **note** that section 3A(b)(i) of the Climate Change Response Act 2002 requires that the Minister be satisfied that consultation with representatives of iwi and Māori that appear likely to have an interest in the order has occurred when making an Order in Council under section 2A(5D);
- 8 **note** the advice of the Minister of Climate Change that these requirements at recommendations 5-7 have been met.

Authorised for lodgement

Hon James Shaw

Minister of Climate Change

Appendix 1- Regulatory Impact Statement



Cabinet

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Deferral of Climate Change Response Act 2002 Obligations for Animals-Farmer Activities

Portfolio Climate Change

On 2 October 2023, Cabinet:

- 1 **noted** that in August 2023, Cabinet agreed:
 - 1.1 to delegate to the Prime Minister, the Minister of Agriculture and the Minister of Climate Change authority to make final policy decisions on progressing an Order in Council (OiC) to defer New Zealand Emissions Trading Scheme (NZETS) obligations for animals-farmers activities;
 - 1.2 authorised the Minister of Climate Change to issue instructions for drafting the OiC following consultation [CAB-23-MIN-0370];
- 2 **noted** that the deferral of application of Climate Change Response Act 2002 obligations for animals-farmer activities gives effect to the decision referred to in paragraph 1 above;
- 3 **authorised** the submission to the Executive Council of the Climate Change (Animals–Farmer Activities) Order 2023 [PCO 25754/2.0];
- 4 **noted** that the Order in Council referred to in paragraph 3 above defers the application of subpart 4 of Part 5 of Schedule 3 (animals-farmer activities) in respect of obligations under the Climate Change Response Act 2002;
- 5 **noted** that the deferral of Climate Change Response Act 2002 obligations for animals-farmer activities comes into force on 2 November 2023;
- 6 **noted** that section 2B(5) of the Climate Change Response Act 2002 requires that the Minister have regard to specified matters before recommending the making of an Order in Council under section 2A(5D);
- 7 **noted** that section 2B(6) of the Climate Change Response Act 2002 requires that the responsible Minister be satisfied that consultation with persons likely to have an interest in the order has occurred before recommending the making of an Order in Council under section 2A(5D);

- 8 **noted** that section 3A(b)(i) of the Climate Change Response Act 2002 requires that the Minister be satisfied that consultation with representatives of iwi and Māori that appear likely to have an interest in the order has occurred when making an Order in Council under section 2A(5D);
- 9 **noted** the advice of the Minister of Climate Change that the requirements at paragraphs 5 to 7 have been met.

Rachel Hayward
Secretary of the Cabinet