



## Approval of legislative changes on agricultural emissions to progress drafting

Date Submitted:	8 October 2019	Tracking #: 2019-B-06087	
Security Level	In Confidence	MfE Priority:	Urgent

	Action sought:	Response by:
To Rt Hon Jacinda Ardern, Prime Minister	Agreement	11 October 2019
To Rt Hon Winston Peters, Deputy Prime Minister	Agreement	11 October 2019
To Hon David Parker, Minister for the Environment	Agreement	11 October 2019
To Hon James Shaw, Minister for Climate Change	Agreement	11 October 2019
CC Hon Damien O'Connor, Minister of Agriculture	N/A	N/A

Actions for Minister's Office Staff	Return signed copies of the briefing to MfE.
Number of appendices and attachments: 1	Titles of appendices and attachments (ie separate attached documents): 1. He Waka Eke Noa, Primary Sector Climate Change Commitment
Note any feedback on the quality of the report	

### Ministry for the Environment contacts

Position	Name	Cell phone	1 <sup>st</sup> contact
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## Approval of legislative changes on agricultural emissions to progress drafting

1. This briefing seeks your agreement, as Ministers with the Power to Act, for legislative changes to support the preferred interim option on agricultural emissions.
2. Your agreement will authorise the Parliamentary Counsel Office (PCO) to begin drafting further text, which will be included in the Climate Change Response (Emissions Trading Reform) Amendment Bill (the Bill) after the Bill's introduction into the House.

### ***Cabinet agreed to final policy proposals for action on agricultural emissions***

3. On 16 September, Cabinet agreed to final policy proposals for action on agricultural emissions [CAB-19-MIN-0480 refers]. Cabinet agreed some of the long-term decisions will be included in the Bill at introduction to ensure subsequent amendments on agriculture can be considered within scope of the Bill. These decisions include:
  - requiring mandatory farm-level reporting on livestock emissions from 1 January 2024;<sup>1</sup>
  - pricing livestock emissions at the farm level from 1 January 2025; and
  - pricing fertiliser emissions at the processor level from 1 January 2025.
4. Cabinet agreed to a regulation-making power to defer farm-level reporting and obligations on livestock emissions, if not considered feasible by the above timeframes. Upon deferral, processor-level obligations would apply instead. However, this regulation-making power will be included at the subsequent draft text stage, rather than at introduction.
5. Cabinet also considered two options to incentivise action on agricultural emissions in the interim period leading up to emissions pricing from 2025:
  - Option 1: processor-level pricing in the New Zealand Emissions Trading Scheme (NZ ETS), which was initially recommended by the Interim Climate Change Committee; and
  - Option 2: a formal sector-government agreement, based on the sector leaders'<sup>2</sup> proposed Primary Sector Climate Change Commitment, He Waka Eke Noa.
6. For the preferred interim option, Cabinet agreed to:
  - develop a modified version of Option 2 as set out in the policy paper considered by Cabinet and attached to CAB-19-SUB-0480;
  - authorise a group of Ministers comprising the Prime Minister, Deputy Prime Minister, Minister for the Environment and the Minister for Climate Change to have Power to Act to take decisions on the details of the preferred interim option; and
  - invite the Minister for Climate Change to report back to Cabinet on the decisions taken by the group of Ministers with Power to Act.

### ***Confirmation of the decisions taken by Ministers with the Power to Act is required to progress drafting***

7. After discussion among Ministers with the Power to Act – and including advice from officials at the Ministry for the Environment and the Ministry for Primary Industries – the following additional legislative changes for agriculture were proposed:
  - (a) require the Climate Change Commission (the Commission) to:

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<sup>1</sup> Livestock and fertiliser emissions are currently already being reported at the processor level.

<sup>2</sup> Apiculture NZ, Beef + Lamb NZ, DairyNZ, DCANZ, Deer Industry NZ, FOMA, Foundation for Arable Research (FAR), Federated Farmers, Horticulture NZ, Irrigation NZ, Meat Industry Association (MIA).

- (i) monitor progress towards the commitments made in He Waka Eke Noa, the Primary Sector Climate Change Commitment (provided in Appendix 1), including the milestones in Annex 1, as well as progress towards meeting the farm-level reporting and obligation timeframes; and
  - (ii) report by 30 June 2022 on progress made to date on the commitments, any barriers to implementation and what further steps are required, if any, to meet the farm-level reporting and obligation timeframes; and
- (b) create a regulation-making power that may be used at any time from July 2022 onwards by the Minister for Climate Change, in consultation with the Minister of Agriculture, to apply processor-level surrender obligations for agriculture by Order in Council, if the responsible Minister has reason to believe other steps would be insufficient to achieve the farm-level reporting and obligation timeframes.
8. The Minister for Climate Change intends to submit the draft Bill to Cabinet on 14 October to approve its introduction into the House. The proposed changes above would not be included in the Bill at introduction, so would need to be incorporated as part of further draft text on agriculture, along with the other amendments agreed by Cabinet in CAB-19-MIN-0480, which would be referred to the Select Committee as soon as possible.
9. Therefore, we recommend that you approve the proposed legislative changes in this paper no later than the end of this week (11 October) to enable PCO to begin drafting.

***For certainty and clarity, we also recommend incorporating the sector leaders' commitments in legislation***

10. To provide certainty with regard to the Commission's requirements in (6)(a)(i) above, we recommend inserting Annex 1 of the Commitment (the Draft Five-Year Programme of Action) as a schedule in the Climate Change Response Act (CCRA). This will provide a clear and concise scope of commitments for the Commission to take into consideration in its report. The schedule could be set to be repealed automatically on a given date, e.g. 1 January 2025.
11. There is precedent for this, as the CCRA already includes the text of the United Nations Framework Convention on Climate Change (the UNFCCC) and the Kyoto Protocol to the UNFCCC, and the Bill also proposes to insert the Paris Agreement as a schedule in the Act.
12. Without including in the CCRA the commitments which the Commission is required to monitor progress against, the Commission and affected stakeholders will lack certainty and clarity as to which commitments will be monitored and reported on.
13. We note the Commitment is currently draft and could be revised further. However, any additions or revisions to the draft Commitment could be included during the Select Committee stage or by supplementary order paper (SOP).

***Ministers' discussions are ongoing and there may be further decisions to be confirmed***

14. We note discussions among Ministers with the Power to Act are ongoing, and there may be further decisions taken in regard to the preferred interim option. Your agreement will advance legislative drafting on the decisions outlined in this briefing only.
15. The Minister for Climate Change will report back to Cabinet on the decisions taken by Ministers with the Power to Act, once all decisions are confirmed.

## Recommendations

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16. We recommend that you:

- a. **Approve** the decisions taken by Ministers with Power to Act, which are outlined in this briefing note, as part of further draft text to be included in the Climate Change Response (Emissions Trading Reform) Amendment Bill  
Yes/No
- b. **Agree** to insert Annex 1 of He Waka Eke Noa, the Primary Sector Climate Change Commitment, as a schedule in the Climate Change Response Act 2002 to provide further clarity for the decisions above  
Yes/No
- c. **Note** any additions or revisions to the draft Commitment could be incorporated during the Select Committee stage or by supplementary order paper
- d. **Authorise** the Minister for Climate Change to clarify and develop policy matters further relating to the agreed decisions above, in a way not inconsistent with Cabinet's decisions or those taken by Ministers with the Power to Act  
Yes/No
- e. **Note** the Minister for Climate Change will report back to Cabinet once all of the decisions taken by Ministers with the Power to Act regarding the preferred interim option are confirmed

## Signature

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Mark Storey  
Manager, Agriculture and Climate Change Policy, Ministry for the Environment

Rt Hon Jacinda Ardern  
**Prime Minister**

**Date**

Rt Hon Winston Peters  
**Deputy Prime Minister**

**Date**

Hon David Parker  
**Minister for the Environment**

**Date**

Hon James Shaw  
**Minister for Climate Change**

**Date**

PROACTIVELY RELEASED

**Appendix 1. He Waka Eke Noa, Primary Sector Climate Change Commitment**

[withheld as the final version of this document is publicly available, e.g. on the Beef+Lamb, HortNZ and DairyNZ websites]

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