

## PROACTIVE RELEASE COVERSHEET

<b>Minister</b>	James Shaw	<b>Portfolio</b>	Climate Change
<b>Name of package</b>	Proactive release of final policy decisions on Emissions Trading Reform (ETR) Bill	<b>Date of issue</b>	11 November 2019

<b>List of documents that have been proactively released</b>		
<b>Date</b>	<b>Title</b>	<b>Author</b>
21 October 2019	Climate Change Response (Emissions Trading Reform) Amendment Bill: Approval for introduction, agricultural policy decisions, and other minor policy decisions.	Office of the Minister for Climate Change
21 October 2019	CAB-19-MIN-0550 Cabinet Minute of Decision: Climate Change Response (Emissions Trading Reform) Amendment Bill: Approval for introduction, agricultural policy decisions, and other minor policy decisions.	Cabinet Office

<b>Information withheld</b>	
<p>Some parts of this information release are not appropriate to be released and, if requested, would be withheld under the Official Information Act 1982 (the Act). Where this is the case, the relevant sections of the Act that would apply have been identified and are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.</p>	
<b>Section of the Act</b>	<b>Reason for withholding</b>
s9(2)(f)(iv)	maintain the confidentiality of advice tendered by Ministers of the Crown and officials
s9(2)(h)	to maintain legal professional privilege
s 18(d)	information is publicly available

# Appendix 2 - ETR Bill Cabinet paper with minute

In Confidence

Office of the Minister for Climate Change

Chair, Cabinet

## **Climate Change Response (Emissions Trading Reform) Amendment Bill: Approval for introduction, agricultural policy decisions, and other minor policy decisions**

### **Proposal**

1. I propose to introduce the attached Climate Change Response (Emissions Trading Reform) Amendment Bill (**the Bill**) into the House of Representatives. The Bill will improve the New Zealand Emissions Trading Scheme (**NZ ETS**) to drive emissions reductions that will support New Zealand to reach domestic and international climate change targets. It will improve the treatment of forestry in the scheme through amendments I have jointly developed with Hon Shane Jones, the Minister of Forestry.
2. The Bill includes provisions that take action on agricultural emissions. On introduction, the Bill will put a price on agricultural emissions from 2025 (at farm level for livestock emissions and processor level for fertiliser emissions).
3. Other agricultural decisions, including decisions on interim action on agricultural emissions, will be introduced through the select committee process or via a supplementary order paper. In this paper, I report back on decisions taken by Ministers with the Power to Act on the detail of a formal sector-government agreement as the agreed interim action to encourage agricultural emissions reductions [CAB-19-MIN-480 refers].
4. I also seek approval to update the report by the Minister for Climate Change and Minister of Agriculture in 2022 (**the 2022 report**) to cover the development of an alternative on-farm pricing mechanism. This will clarify the Government's intention to develop an alternative mechanism for farm-level pricing, and will also ensure timely development of this mechanism.
5. I also seek Cabinet approval for minor policy decisions, most of which clarify or better reflect the original intent of earlier Cabinet decisions.

### **Executive Summary**

6. The Bill will amend the Climate Change Response Act 2002 (CCRA) to improve the NZ ETS, based on Cabinet decisions from December 2018 to September 2019. All these decisions have been announced publically, with the exception of decisions on agriculture.
7. The Bill will reform the architecture of the NZ ETS. It will provide a decision-making framework and supporting provisions that allow a cap to be set on the number of units entering the scheme, excluding units earned from removals. This will enable the supply of units to be managed in line with climate change targets.

The Bill will implement the phase-down of industrial allocation, improve the scheme's transparency and provide a robust compliance and penalties regime.

8. Other amendments will introduce averaging as an accounting system for post-1989 forests registered from 1 January 2019 and provide supporting policies that increase land-use flexibility and incentives for forestry participation. The Bill will replace the Permanent Forest Sink Initiative with a new permanent forest activity and improve operational efficiency for forestry in the scheme. I anticipate broad support for these provisions. The exception is the decision not to give post-1989 forests already registered in the NZ ETS the option of using averaging accounting which has been unpopular with existing post-1989 participants.
9. Cabinet's decisions on agricultural emissions will be introduced into the Bill in two stages.
10. On introduction, the Bill will include provisions that apply farm level surrender obligations for livestock emissions and processor-level surrender obligations for fertiliser emissions in the NZ ETS, for emissions from the year beginning 1 January 2025. Reporting obligations on farm-level livestock emissions will apply for emissions from the year beginning 1 January 2024. The level of free allocation to agriculture in the CCRA will be amended from 90 per cent to 95 per cent, to reflect the Labour-New Zealand First Coalition Agreement. This first stage is included to ensure that the scope of the Bill is broad enough to permit further decisions about agricultural emissions to be subsequently introduced.
11. There was general support across all stakeholder groups for a farm-level price on emissions from 2025 as part of a broader policy package. However, I anticipate high public and sector interest at select committee and robust discussion on the detail in the provisions and the policy package that supports them.
12. Other decisions on agriculture will be provided in the Bill through the select committee or via a supplementary order paper. These decisions include the legislative requirement for the 2022 report, which I now seek Cabinet's approval to update to include an alternative pricing mechanism among its key considerations. I intend to announce these decisions at the same time as the Bill is introduced, to provide clarity and certainty about the Government's decisions.
13. This also includes decisions on a formal sector-government agreement as an interim measure to encourage agricultural emissions reductions and prepare for emissions pricing. On 16 September 2019, Cabinet authorised a group of Ministers to have Power to Act to take decisions on the details of the preferred interim option<sup>1</sup>. In this paper, I report back on decisions taken by those Ministers, which provide some of the detail on this interim measure. This includes additional accountability and enforceability, through the creation of a legislative fall-back whereby Ministers could decide to apply emissions pricing by Order in Council if the independent Climate Change Commission advises that other steps would be

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<sup>1</sup> CAB-19-MIN-0480 refers.

insufficient to achieve farm-level emissions reporting and obligation timeframes. I anticipate high interest from the public and sector on these decisions.

14. I also seek Cabinet approval for some minor policy decisions, most of which have arisen during drafting. The most substantive decision is a proposal to set out in legislation the process by which participants can transition out of the Permanent Forestry Sink Initiative, to provide certainty about that transition.
15. I seek approval to introduce the Bill to the House on Thursday 24 October, 2019, with the Bill to be passed in early 2020.

## Background

16. This Bill will amend the Climate Change Response Act 2002 (CCRA) to improve the NZ ETS, including the scheme's treatment of forestry. The NZ ETS is New Zealand's main tool for reducing greenhouse gas emissions. The scheme is not being used to its full potential. We are not seeing the emissions reductions required to achieve a low-emissions and climate-resilient economy.
17. The Bill is the culmination of in-principle decisions of the previous government, public consultation in 2018, and two tranches of Cabinet decisions taken in 2018 and 2019. The agricultural provisions follow a report from the Interim Climate Change Committee in April 2019, public consultation in July/August 2019, and Cabinet decisions from December 2018 to September 2019. Relevant Cabinet and Cabinet Committee decisions are listed in **Appendix 1**.
18. A summary of the main improvements is set out below.

### *Updating the purpose of the Climate Change Response Act 2002*

19. The Bill will update the purpose of the CCRA to support implementation of New Zealand's international emission reduction and reporting commitments under the Paris Agreement. In addition, the purpose will be amended to assist New Zealand to meet domestic mission targets and emission budgets, to be set under the Climate Change Response (Zero Carbon) Amendment Bill (**Zero Carbon Bill**).

### *Enabling a cap on emissions covered by the NZ ETS*

20. The Bill will introduce a decision-making framework to manage unit supply. This will allow a cap to be set on the number of New Zealand Units (**NZUs**) entering the scheme, excluding units earned from forestry or other emission removals. This will enable the supply of units to be managed in line with climate change targets.
  1. This framework will provide coordinated and predictable decisions on the number of units to be auctioned, the number of units available through the price ceiling, and if a government chooses, the use of international units. Announcements on unit supply will be made via regulations on a rolling five-year basis.

### *Preparing for robust and transparent NZ ETS auctions*

22. Auctions provide a mechanism for supplying units into the scheme in an efficient and predictable way. The CCRA already provides for auctioning, following the development of regulations. Auctions are expected to begin in late 2020.

23. Regulations will provide detail around the design of auctions. The Bill sets out the types of decisions that the Climate Change Minister *must* or *may* make when recommending that auctioning regulations are made.
24. The Bill also provides for regulations to be made to appoint an auction monitor. The monitor would ensure that auctions are run fairly by providing independent oversight of auctions.

*Transitioning from the fixed price option to the cost containment reserve*

25. At present, participants are able to pay the Government a fixed price of \$25 for each NZU they are liable to surrender, rather than purchasing an NZU on the NZ ETS market. This fixed price option will be replaced with a new type of price ceiling, a cost containment reserve.
26. The cost containment reserve will operate through the auctioning system. It enables the Government to release a pre-determined number of additional NZUs into the scheme when the clearing price at auction reaches a trigger price. Providing additional units into the market will dampen the price, ensuring prices do not rise to an unacceptably high level. Regulation will set out the trigger price/s and the number of units to be released when the trigger/s are met.

*Enabling a potential price floor in future*

27. This Bill provides for regulations to enable a price floor to be set through an auction reserve price, if a government chooses to do so. This gives the Government a tool to manage any extremely low unit prices if necessary. Very low price levels reduce the incentive to reduce emissions and plant trees.

*Phasing down industrial allocation*

28. The Bill will implement the phase down of industrial allocation from 2021 (that does not apply to agricultural applications). This will occur through two complementary provisions
  - A minimum phase-down rate for all eligible industrial activities, set as an annual reduction of 0.01 in levels of allocation each year from 2021-30, increasing to 0.02 for the years 2031-40 and 0.03 for the years 2041-50.
  - A legislated process which enables the Minister for Climate Change to apply higher phase-down rates for industrial activities that are at low risk of emission leakage, with advice from the Climate Change Commission.
29. The Climate Change Commission will be able to recommend that changes are made to the rates of phase-down set for 2031-40 and 2041-50<sup>2</sup>.

*Improving the transparency of the NZ ETS*

30. The Bill requires the regular publication of participant-level emissions and removals data from 2021 onwards. Most mandatory participants in the scheme are companies, not individuals, although this will change when farm-level agriculture is introduced.

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<sup>2</sup> The Commission will not be able to recommend a minimum phase-down rate less than 0.01 up to 2040 or less than 0.02 from 2041-50.

31. In recent communication with officials, the Office of the Privacy Commissioner (OPC) has confirmed that it is comfortable with the publication of individual-level information for the purposes of enhancing transparency in the NZ ETS. However, the OPC has recommended that a provision be added to the Bill to allow for the withholding of personal information in circumstances where publication may prejudice an individual's privacy or personal safety. I have asked my officials to consider the need for such a provision. If necessary, this can be provided through the select committee process or supplementary order paper.

*Ensuring a robust compliance and penalties regime*

32. The Bill will introduce new infringement offences for low-level offending against the rules of the scheme. This will encourage participants to comply whilst reducing the administrative cost of compliance.
33. The Bill will restructure the current compliance mechanisms into two types of penalties. A new surrender/repayment penalty will apply when a person fails to pay units by a due date. A reporting penalty will cover errors and omissions in, and failures to submit both emissions returns and applications for industrial allocation.
34. Information on compliance with NZ ETS obligations is currently only released at an aggregated level. The Bill enables the publication of information about individual cases of non-compliance and requires the publication of more serious individual non-compliance. This will encourage participants and allocation recipients to meet their obligations and is consistent with reporting practice in overseas emissions trading schemes.

*Forestry improvements: Introducing averaging accounting*

35. Averaging accounting will be introduced to the NZ ETS for post-1989 forests<sup>3</sup> registered from 1 January 2019. Averaging accounting is an alternative carbon accounting method that enables forestry participants to earn units up until their forest has reached a stage equivalent to its long-term average level of carbon storage (the **average age**).
36. Participants using averaging accounting will be able to harvest and replant their forest without facing carbon liabilities at harvest. This will increase the number of units that forest owners can trade at low risk and be administratively simpler for participants and the Crown. Participants using averaging accounting will not be required to surrender NZUs after an adverse event, such as a fire, as long as they re-establish the affected area within four years. Participants will also be able to deforest without facing liabilities if they plant a carbon-equivalent forest elsewhere.
37. Averaging accounting will replace the existing stock-change accounting approach for forests registered after 31 December 2020, and will be mandatory for those forests. Participants will have the option of using averaging for post-

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<sup>3</sup> The definition of post-1989 forest land includes, for example, forest land that was not forest land on 31 December 1989 and pre-1990 forest land deforested with any surrender liability paid. Participants can voluntarily choose to register post-1989 forest land in the NZ ETS.

1989 forests registered in 2019 and 2020. Ministers decided in May 2019 that post-1989 forests already registered before 2019 must remain on the stock change carbon accounting approach. Ministers will revisit this decision in 2021<sup>4</sup>.

*Forestry improvements: Introducing a new permanent forest activity into the NZ ETS*

38. A new permanent post-1989 forest activity will be added to the NZ ETS. Units earned from permanent forestry can be tagged to attract premium prices. This will make permanent forestry a more attractive and viable option for landowners. Permanent post-1989 forests will only be eligible to use the existing stock change accounting. The Permanent Forest Sink Initiative (PFSI) created under the Forests Act 1949 will be disestablished.
39. Participants in the new permanent post-1989 forest activity will be restricted from clear-fell harvesting for 50 years and will face a penalty if their forests are cleared before that time. The maximum penalty will be equivalent to the value of any timber from the harvest plus the value of the units attached to the land (alongside the normal requirement to surrender the units themselves).

*Operational and technical improvements for forestry*

40. A range of operational improvements will reduce the scheme's complexity for forestry participants and provide them with flexibility for changing land use needs. Minor and technical improvements will also enable more efficient administration of forestry in the NZ ETS.

*Surrender obligations for agriculture from 2025, with flexibility in the Act*

41. It is my intention to develop an alternative pricing mechanism for on-farm emissions. However, in the meantime, the Bill will apply NZ ETS surrender obligations on livestock emissions at the farm level, and fertiliser emissions at the processor level, for emissions from the year beginning 1 January 2025. Reporting obligations on farm-level livestock emissions will apply for emissions from the year beginning 1 January 2024. This will help enable the agriculture sector's contribution to the just transition to a low-emissions economy.

42. The Bill will also amend the level of free allocation to agriculture in the Act from 90 per cent to 95 per cent, as per the Labour-New Zealand First Coalition Agreement. <sup>5</sup>9(2)(iv) Confidentiality of advice

43. Further changes giving effect to these provisions will be provided following the Bill's introduction. This will include providing flexibility in the Act around farm-level surrender obligations in the NZ ETS, as well as a requirement that the

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<sup>4</sup> ENV-19-MIN-0035 refers.

<sup>5</sup> ENV-19-MIN-0047 refers.

Minister for Climate Change and Minister of Agriculture table a report in Parliament by 31 December 2022 on farm-level pricing.

44. I now seek Cabinet's approval to update the provisions for the 2022 report to cover the development of an alternative farm-level pricing mechanism. This will clarify the Government's intention to develop an alternative pricing mechanism for on-farm emissions, and will also ensure its timely development. I intend for the 2022 report requirements to be announced at the Bill's introduction, alongside all other decisions on agriculture.

*A formal sector-government agreement will encourage agricultural emissions reductions in the interim*

45. Other Cabinet decisions on agriculture, including provisions to enable action in the interim period to 2025, will be provided in the Bill through the select committee process or a supplementary order paper.
46. On 16 September 2019, Cabinet agreed<sup>6</sup> that the preferred interim option to encourage agricultural emissions reduction is to pursue a formal sector-government agreement, set out in the paper attached to CAB 19-SUB-0480. At the same time, Cabinet authorised a group of Ministers<sup>7</sup> to have Power to Act to take decisions on the details of the preferred interim option. Cabinet invited the Minister of Climate Change to report back to Cabinet on those decisions.
47. I can report that those Ministers have taken decisions on the details of a modified formal sector-government agreement as set out below. The agreement will be based on a draft version of the Farming Leaders Group's proposal, He Waka Eke Noa: A Primary Sector Climate Change Commitment (the Commitment)<sup>8</sup>.
48. To bolster the level of accountability and enforceability in the Commitment, Ministers with the Power to Act agreed to amend the CCRA to:

- 46.1 Include a legislative requirement for the Climate Change Commission to:
- 46.1.1 Monitor progress towards the commitments made in the draft Primary Sector Climate Change Commitment, including the milestones listed in Annex 1 of the Commitment, as well as progress towards meeting the farm-level emissions reporting and obligation timeframes.
- 46.1.2 Report by 30 June 2022 on progress made to date on the commitments, any barriers to implementation, and what further steps, if any, are required to meet the farm-level reporting and obligations timeframes.
- 46.2 Create a regulation-making power that may be used by the Minister for Climate Change, in consultation with the Minister of Agriculture, by Order in Council at any time from July 2022 onwards, to apply processor-level surrender obligations for agriculture in the NZ ETS, if the responsible

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<sup>6</sup> CAB-19-MIN-0480 refers.

<sup>7</sup> Prime Minister, Deputy Prime Minister, Minister for the Environment, Minister for Climate Change.

<sup>8</sup> Provided in Appendix 3 to the paper attached to CAB-MIN-0480-SUB.

Minister has reason to believe, based on the monitoring of the Climate Change Commission, that other steps would be insufficient to achieve the farm level reporting and obligation timeframes.

49. I expect the sector, through the organisations involved in the Primary Sector Climate Change Commitment<sup>9</sup>, to work collaboratively with the Government to agree several further aspects of the sector Commitment. These do not require legislative change. I will report back to Cabinet on these issues by 31 December 2019.
50. The first concerns governance: the sector has agreed in principle to form a small governance group that is accountable for delivery of the Commitment. This will include sector representatives, government officials, and iwi Māori representatives.
51. The sector has also agreed to further work to determine how the Commitment will be funded. All other sectors of the economy face emissions pricing, so it is important that the sector contributes financially in other ways to the transition to a low emissions economy.
52. The Commitment represents a partnership between the sector and the Government. The Government will progress work already underway to:
  - 50.1 ensure that OVERSEER (or an equivalent emissions measurement tool) is fit for purpose by the time the sector faces emissions pricing; and
  - 50.2 develop ways of accounting for on-farm emissions removals, such as carbon sequestration through riparian planting and other small-scale tree planting.

#### *Contentious provisions*

53. I anticipate support from across the House for most of the changes that this Bill will make to the architecture of the NZ ETS. As noted earlier, the Bill will implement four in-principle decisions of the previous Government following the 2015/16 Review<sup>10</sup>. These changes in the Bill generated broad public support in public consultation in 2018.
54. The decisions on the phase-down of industrial allocation may be more contentious, as a wide range of views were expressed on these issues by submitters during public consultation. However, since decisions were announced in July 2019, affected sectors have not actively opposed the changes.
55. The decision not to allow owners of currently registered post-1989 forests from using averaging accounting was contentious. Cabinet chose to retain the existing accounting approach for these forests. Allowing these forests to use averaging would have had a significant impact on unit supply in the NZ ETS and fiscal costs of around \$500m over 10 years<sup>11</sup>.

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<sup>9</sup> Including 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).

<sup>10</sup> See Appendix 1.

<sup>11</sup> See Improving the Emissions Trading Scheme for forestry participants – Final decisions required for drafting the amendment Bill (Sub 19-0060).

56. There was general support across all stakeholder groups for a farm-level price on emissions as part of a broader policy package to incentivise agricultural emissions reductions, provided that all on-farm emissions removals could be counted as well as sources. Given this support, I do not consider the introduction of surrender obligations for agriculture from 2025 to be contentious. I do, however, anticipate robust discussion on the detail of how farm-level pricing will work in practice and the choice to pursue a sector Commitment rather than implement processor-level pricing in the interim period. These decisions will be included in draft legislative text for Cabinet's approval and referred to select committee as soon as possible.
57. The decision to develop an alternative pricing mechanism, but in the meantime allow for pricing of agricultural emissions in the NZ ETS, may elicit some contentious responses. For this reason, this decision is discussed upfront in the Bill's General Policy Statement to clarify the Government's intention to develop and consider an alternative, while clearly signalling the timing of emissions pricing and key decisions still to be made.

*Market governance issues will be addressed through a separate work programme*

58. This Bill does not address market governance. In May 2019, Cabinet agreed that officials would prepare a broad market governance package to address all identified market governance risks (ENV-19-MIN 0019 refers), including insider trading and market manipulation. This is an important but complex area of work that is likely to require a further amendment bill in the future.

### **Confirming policy positions**

59. During the drafting process, officials have uncovered issues which require further Cabinet approval. Most of these changes deal with minor matters and are set out in Appendix 2. I am seeking approval to include these changes in the Bill. These changes will allow drafting that:
- better reflects the policy intent of original Cabinet decisions; and/or
  - provides simpler and more robust legislation with slight departures from the original Cabinet decision.
60. Two forestry-related decisions deal with more substantive matters, while largely aligning with the original policy intent of previous Cabinet decisions.

*Simplifying the timing and standardising the nature of emission returns*

61. All forestry participants are required to provide an emissions return on a regular basis in a similar vein to a tax return. However, the drafting process has highlighted the inconsistent approach the current Act takes to the timing or nature of when emissions returns are due, or what they cover.
62. I seek to confirm that the Bill should provide a consistent approach to the emissions returns process. The need for consistency relates to the timing of updating the unit balance, which is the net number of units the registered area of forest has received and represents the maximum number of units the participant is required to surrender. The need for consistency also relates to how different types of returns relate to one another and the calculation of unit entitlements and

liabilities for carbon accounting areas<sup>12</sup>. Participants will now file a final emissions return rather than at least one of five different mandatory emission returns and provisional emissions returns.

63. In summary, I seek approval to:

56.1 require that an emissions return is submitted to bring the unit balance up-to-date prior to any other action for the carbon accounting area.

56.2 provide consistent rules for how different types of returns relate to one another and how unit entitlements and liabilities are calculated for the carbon accounting areas.

64. These changes will simplify the emissions returns process without affecting the unit entitlement for forestry participants.

*How the PFSI covenants are removed*

65. In December 2018, Cabinet agreed to remove the Permanent Forest Sink Initiative (PFSI) provisions from the Forests Act (ENV-18-MIN-0047), disestablishing that programme. At the same time, Cabinet noted that Ministers will seek to transfer PFSI participants into the new permanent post-1989 forestry activity in the NZ ETS<sup>13</sup>.

66. Since that decision, the Ministry for Primary Industries (MPI) has discussed the practicalities of this transfer with PFSI participants. The PFSI operates by participants entering into a covenant with the Crown<sup>14</sup>. Most covenant holders intend to move their forests into the NZ ETS, with strong interest in the permanent post-1989 activity. However, some covenant holders are looking for flexible options, for example, the option of transferring small areas of forest into the post-1989 rotational forest activity or moving small area of land into other land uses such as housing.

67. **s 9(2)(h) Legal privilege**

In light of this advice, and the need to provide certainty to covenant holders, MPI considers it prudent to legislate the transition for PFSI forests into the NZ ETS including the options open to participants.

68. I seek approval to provide for this through legislation by providing a one-off window of opportunity for covenant holders to make a choice about what they do with their PFSI land, as follows:

61.1 Between 1 January 2021 and 31 December 2021, the covenant holder will inform the Environmental Protection Authority<sup>16</sup> (EPA) of their intention to move their PFSI forest into the permanent post-1989 forest activity or post-1989 forest activity; or their intention to leave carbon forestry.

<sup>12</sup> A carbon accounting area (CAA) is the area of forest land for which a post-1989 forestry participant is required to report the change in carbon stocks over time.

<sup>13</sup> ENV-18-MIN-0047 refers, para 26.

<sup>14</sup> A covenant is a promise which creates a legal obligation by someone to do, or not to do, something in respect of the land. This promise is tied to the ownership of the land.

<sup>15</sup> **s 9(2)(h) Legal privilege**

<sup>16</sup> The EPA regulates the operation of the NZ ETS, but has delegated forestry operations to MPI.

- 61.2 If they elect to leave carbon forestry they will need to surrender the unit balance of the forest.
- 61.3 On 1 January 2022, any PFSI covenants where the covenant holder has not notified EPA of their decision will be cancelled and the forest will be moved into permanent post-1989 forest.

### **Impact analysis**

69. With a small number of exceptions, impact statements were prepared for all policies and submitted ahead of the relevant Cabinet and Cabinet Committee meetings. A list of all impact statements prepared for this Bill is included in the Bill's Disclosure Statement that is attached to this paper.
70. Each impact statement was reviewed by a Quality Assurance Panel comprised of representatives from the Ministry for the Environment (MfE) and/or Ministry for Primary Industries (MPI) and from Treasury's Regulatory Quality Team. All impact statements either met or partially met the Quality Assurance criteria.
71. The decision on transitioning from the fixed price option to the cost containment reserve was exempted as the relevant analysis was set out previously in the impact statement *Improving the NZ ETS Framework for Unit Supply*. Exemption from impact analysis was also granted for minor and technical forestry policy decisions.
72. The paper *Cancellation and Replacement of Kyoto Units in Private Accounts* did not require an impact statement since it implemented a previous Cabinet decision made in 2013, for which an impact statement had been prepared. This impact statement is listed in the Bill's disclosure statement.
73. The methodologies for calculating livestock emissions and providing free allocation at the farm level are yet to be defined. Therefore, their economic, community, and other impacts are uncertain. Impact analysis will be required upon any proposed amendments to the Act or regulations that give effect to these provisions.

### *New decisions*

74. For the additional non-forestry policy decisions in this paper, the Regulatory Quality Team in Treasury confirms that the changes are minor in nature and do not require further impact analysis or quality assurance. For the additional forestry policy decisions, MPI's Quality Assurance Panel confirms that the changes are aligned with the policy intent of previous decisions and do not require further impact analysis or quality assurance.

### **Financial implications (new decisions)**

75. I am not seeking additional funding for the new policy decisions outlined in this paper.

### **Human rights**

76. The proposals in this paper set out in paragraphs 56 to 65 are consistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

## Compliance


77. The Bill complies with the following:

- 73.1 the principles of the Treaty of Waitangi;
- 73.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;
- 73.3 the Disclosure Statement requirements. A Disclosure Statement has been prepared and is attached to this paper.
- 73.4 the principles and guidelines set out in the Privacy Act 1993;
- 73.5 relevant international standards and obligations, including the Paris Agreement;
- 73.6 the Legislation Guidelines (2018 edition), which are maintained by the Legislation Design and Advisory Committee.

## Crown-Māori relationships

78. Māori have a significant stake in climate change action and a significant interest in the NZ ETS. Iwi/Māori have a large asset base sitting largely in the primary industries, as well as Treaty-based rights and interests in natural resource use and management. It will be critical when implementing the amendments in the Bill to continue to adhere to Treaty of Waitangi principles, as provided by section 3A of the CCRA.
79. As part of consultation on improvements to the NZ ETS, a Māori Leaders' Forum was held in Wellington in September 2018 with officials from MfE and MPI. Attendees at the hui emphasised the importance of considering the impacts on Māori of the proposals to change the NZ ETS, with a particular focus on those living in rural communities. They stated that the Government should ensure that Māori are not disadvantaged in any way. They requested that Māori should be involved, represented and influential in all decision-making arrangements and noted that stable and enduring policies are required to support investment decisions.
80. The first of MfE's quarterly regional hui with iwi leaders in May 2019 has set an expectation for the Crown to engage with Māori on environmental and climate change policy in a more holistic and integrated manner. Iwi/Māori submissions on agriculture have reiterated this point, expressing a strong interest in partnership with the Crown that gives effect to the Treaty and avoids further barriers to Māori land use and development. Feedback from the 2018 hui, May 2019 hui, and ongoing engagement with iwi/Māori will form part of the work programme on climate change responding to the Ministry for the Environment's recently confirmed Te Ao Māori Strategy.

81. s 9(2)(h) Legal privilege



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<sup>17</sup> CAB-19-MIN-0480 refers.

### **Gender implications**

82. There are no gender implications arising from the Bill or policy decisions in this paper.

### **Disability perspective**

83. There are no disability implications arising from the Bill or policy decisions in this paper.

### **Consultation**

#### *NZ ETS wide improvements and forestry*

84. Public consultation on high-level issues in the NZ ETS was held as part of stage two of the 2015/16 review. In 2016, targeted stakeholder meetings were held in urban and regional centres, and a hui was organised in collaboration with advisors from the Climate Change Iwi Leaders Group. The Ministry for the Environment (MfE) received 345 submissions in this consultation round. Issues important to submitters included the need for regulatory certainty and a long-term plan for how the NZ ETS will help New Zealand meet its international obligations.
85. The MfE, Ministry of Primary Industries (MPI) and Te Uru Rākau held public consultation on the Government's proposed improvements to the NZ ETS in August and September 2018, including on forestry improvements. This included a national roadshow for stakeholders and iwi/Māori in ten locations across New Zealand. A total of 253 submissions were received for this consultation, with 162 submissions addressing the NZ ETS framework improvement proposals and 147 addressing the forestry proposals. Approximately 60 submitters commented on both sets of proposals.
86. The feedback received in this consultation has informed policy development leading to this Bill. Submitters supported the majority of forestry and non-forestry proposals to improve the NZ ETS. Submitters raised consistent messages that NZ ETS settings need to be easy to understand and changes clearly signalled. While the proposals did not include introducing a price floor, a number of submitters were of a view that a price floor is necessary. The Bill enables the introduction of a price floor. Most submitters on the forestry proposals supported an optimal transition for all post-1989 forests to averaging accounting. As noted in paragraph 45, Cabinet's subsequent decision not to allow owners of currently registered post-1989 forests from using averaging accounting was contentious.

#### *Agriculture*

87. A short, focused consultation took place over 16 July-13 August on the Government's proposed response to the Interim Climate Change Committee's (Interim Committee) recommendations for action on agricultural emissions. This included roadshows, technical workshops and hui, in a total of 18 urban and rural centres. A total of 3,976 written submissions were received. There was general support across all stakeholder groups for farm-level pricing as compared to processor-level pricing. This included submissions from farmers, growers and major industry organisations, but only if farmers are able to account for all on-

farm removals as well as sources. The majority of submissions strongly emphasised the importance of collaboration with the agricultural sector.

#### *Agency consultation*

88. The policy decisions in the Bill and outlined in Appendix 1 were led by the MfE and MPI, including Te Uru Rākau. Other agencies consulted during the policy development process were Ministry of Foreign Affairs and Trade, Treasury, Environmental Protection Authority, Ministry of Business, Innovation and Employment, Ministry of Justice, Te Puni Kōkiri, Department of Conservation, Ministry of Transport and the Energy Efficiency and Conservation Authority. The Department of Prime Minister and Cabinet and Te Puni Kōkiri were informed.

#### **Binding on the Crown**

89. I propose that the Bill bind the Crown.

#### **Allocation of decision-making powers**

90. The Bill allows for regulations to be made for an independent auction monitor to be appointed. The required and optional functions of the monitor are focused on monitoring of, and reporting on, the auctioning system to mitigate auction integrity risks. The monitor does not have specific decision-making powers beyond these functions. The functions could include making recommendations to the Minister for improvements to the auction system.

#### *Ministerial Powers*

91. A new power will be created for the Minister for Climate Change to grant the ability for permanent post-1989 land to be deregistered from the NZ ETS before the end of the 50-year permanence period provided that certain conditions are met and that the participant surrenders the equivalent value in units (without having to pay any additional penalties).
92. As part of disestablishing the PFSI, the Minister of Forestry will no longer be able to enter a PFSI covenant and create regulations relating to these covenants.

#### *Powers of the regulators*

93. The Bill enables the Environmental Protection Authority (EPA) to give areas of land forestry classifications, in addition to their existing ability to provide emissions ruling. Previously, persons interested in participation in the NZ ETS would have to establish forest before knowing whether it would be eligible to earn NZUs. These classifications will provide investment certainty for persons interested in establishing forests and reduces compliance risk from land transactions. Both the improved emissions ruling process and the forestry classifications can be used as part of this.
94. The Bill enables the EPA to remove participants with post-1989 forestry land from the NZ ETS if they are persistently non-compliant with their obligations and/or if they do not meet any penalty requirements. Currently it is possible to remove forestry participants from the NZ ETS, but this takes many years and is not effective. This will improve the environmental integrity of the NZ ETS by promoting compliance in forestry. It will also reduce administrative burden for the Crown and participant. Persistent non-compliant participants will have least-cost options for deregistration.

95. The EPA will also be empowered to remove land from the register if the land should never have been registered as post-1989 forest land or pre-1990 offsetting forest land or post-1989 approved swap land (post-1989 offsetting forest land) because it did not meet the eligibility criteria at the time the original approval was granted. A process will be established to give the participant an opportunity to comply.
96. The EPA will also have the power to temporarily suspend a participant's obligation to surrender units for emissions from forest clearance as a result of an adverse event such as fire or storm. This will apply to post-1989 forest land subject to averaging accounting methodology and permanent forestry. The participant will have to re-establish the forest within a certain timeframe and will be entitled to earn units for removals once the replacement forest reaches the carbon stock of the previous forest before the adverse event.

### **Associated regulations**

97. The Bill enables the making of regulations; including auctioning and unit supply regulations, forestry regulations, and compliance regulations. A list of key associated regulations is included in **Appendix 3**.

#### *Upcoming consultation on regulations*

98. In November-December 2019, I will seek Cabinet's approval to consult on the auctioning and unit supply regulations, and with the Minister of Forestry, the forestry regulations. Public consultation processes are expected to run concurrently in the final quarter of 2019, with regulations made in 2020. Consultation on the regulations for the new infringement offence regime is planned for 2020.
99. Consultation on the unit supply regulations is likely to attract a great deal of interest from the public and NZ ETS stakeholders. These regulations will determine the level of the cap on the NZ ETS, and so will have a significant impact on the effectiveness of the scheme in meeting emission reduction targets. Social and financial impacts must also be taken into account in the way that the cap is designed, particularly given the need for a just transition.
100. The forestry regulations will be detailed, and likely to be of interest to both existing participants and landowners considering whether to plant forest or join the NZ ETS for forestry.

### **Commencement of legislation**

101. Most amendments will come into force on the day after the date of Royal assent. Other amendments have different start dates set out in the Act, or will come into force on varying dates by Order in Council. For example, amendments to implement the cancellation and replacement of Kyoto units in private accounts commence on 30 November 2020. Forestry amendments are intended to generally commence on 1 January 2021.

### **Parliamentary stages**

102. The Bill holds a category 2 priority on the 2019 Legislation Programme (must be passed in 2019). This timeframe has not proven feasible given the complexity of drafting in the Bill.

103. I propose the Bill should be introduced on 24 October 2019 and passed in 2020. The Bill should be referred to the Environment Select Committee.

### **Publicity**

104. I intend to make public announcements on the introduction of the Bill in consultation with other Ministers.

105. Significant announcements relating to changes to the NZ ETS are usually preceded by a 24-hour notice to market participants. I intend to follow this convention.

106. I am also working with the Farm Leaders Group to facilitate an aligned communications approach.

### **Proactive Release**

107. I propose to release this paper proactively on the Ministry for the Environment's website, subject to any redactions as are appropriate under the Official Information Act 1982.


Proactively released

## Recommendations

The Minister for Climate Change recommends that Cabinet:

1. **note** the Climate Change Response (Emissions Trading Reform) Amendment Bill 2019 (the Bill) holds a category 2 priority on the 2019 Legislation Programme (must be passed in 2019)
2. **note** the Bill seeks to improve the settings of the New Zealand Emissions Trading Scheme (NZ ETS) in order to drive emissions reductions and help reach domestic and international climate change targets
3. **note** the Bill has been drafted as an amendment to the Climate Change Response Act 2002 (CCRA)
4. **note** that in November-December 2019 I will be seeking Cabinet approval to consult on auctioning and unit supply regulations associated with the Bill, and with the Minister of Forestry, forestry regulations, and these consultation processes are likely to take place in the final quarter of 2019

### *Agriculture*

5. **note** that I will be introducing policy decisions for action on agricultural emissions in two stages, but announcing all policy decisions at the same time
6. **note** that on introduction, the Bill will include provisions that apply farm-level surrender obligations for livestock emissions and processor-level surrender obligations for fertiliser emissions in the NZ ETS, for emissions from the year beginning 1 January 2025, as well as reporting obligations on farm-level livestock emissions that will apply for emissions from the year beginning 1 January 2024
7. **note** that on introduction, the Bill will amend the CCRA so that the level of free allocation to agriculture in the CCRA will be amended from 90 per cent to 95 per cent, to reflect the Labour-New Zealand First Coalition Agreement
8. **s 9(2)(f)(iv) Confidentiality of advice**  

9. **agree** to update the requirements for considerations in the 2022 Ministerial report on farm-level pricing (the 2022 report) to remove the requirement to consider a different levy/rebate scheme and replace it with the requirement to develop an alternative pricing mechanism for on-farm emissions
10. **note** that other Cabinet decisions on agriculture, including the chosen option for interim action on agricultural emissions and the requirements for the 2022 report, will be provided in the Bill through the select committee process or via a supplementary order paper, and I anticipate high interest from the public and sector on those provisions

### *Sector-government agreement*

11. **note** that on 16 September 2019, Cabinet (CAB-19-MIN-0480 refers):
  - 11.1 agreed that the preferred interim option to encourage agricultural emissions reductions in line with New Zealand's climate change targets

and to support the transition to farm-level pricing from 2025, is to develop a modified version of Option 2, a formal sector-government agreement, as set out in the paper attached to CAB-19-SUB-0480

- 11.2 authorised a group of Ministers comprising the Prime Minister, Deputy Prime Minister, Minister for the Environment, and Minister for Climate Change to have Power to Act to take decisions on the details of the preferred interim option
- 11.3 invited the Minister for Climate Change to report back to Cabinet on the decisions taken by the group of Ministers with Power to Act
12. **note** that the Ministers set out in recommendation 11.2 have taken decisions on the details of a formal sector-government agreement based on the Primary Sector Leaders Group's proposal, He Waka Eke Noa: A Primary Sector Climate Change Commitment (the Commitment)
13. **note** that Ministers with the Power to Act agreed to bolster accountability and enforceability in the Commitment by amending the CCRA to:
  - 13.1 include a legislative requirement for the Climate Change Commission to:
    - 13.1.1 monitor progress towards the commitments made in the draft Primary Sector Climate Change Commitment,<sup>18</sup> including the milestones listed in Annex 1 of the Commitment, as well as progress towards meeting the farm-level emissions reporting and obligation timeframes
    - 13.1.2 report by 30 June 2022 on progress made to date on the commitments, any barriers to implementation, and what further steps, if any, are required to meet the farm-level reporting and obligations timeframes
  - 13.2 Create a regulation-making power that may be used by the Minister for Climate Change, in consultation with the Minister of Agriculture, by Order in Council at any time from July 2022 onwards, to apply processor-level surrender obligations for agriculture in the NZ ETS, if the responsible Minister has reason to believe, based on the monitoring of the Climate Change Commission, that other steps would be insufficient to achieve the farm level reporting and obligation timeframes
14. **authorise** the Minister for Climate Change, in consultation with the Minister of Agriculture, to further clarify and develop policy matters related to the decisions set out in recommendation 13, in a way not inconsistent with these Cabinet decisions
15. **authorise** the Minister for Climate Change, in consultation with the Minister of Agriculture, to agree a governance structure for a formal sector-government agreement that must include representatives of the sector, the government, and iwi/Māori

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<sup>18</sup> Provided in Appendix 3 to the paper attached to CAB-MIN-0480-SUB.

16. **invite** the Minister for Climate Change, in consultation with the Minister of Agriculture, to work with the governance group to develop funding options relating to fulfilment of the Commitment
17. **invite** the Minister for Climate Change to report back to Cabinet on governance and funding decisions and outcomes by 31 December 2019
18. **invite** the Minister for Climate Change to issue drafting instructions to the Parliamentary Counsel Office based on the agreed decision in recommendation 12

*Transparency provisions and privacy interests*

19. **note** that the Bill requires the regular publication of participant-level emission and removals data from 2021 onwards
20. **note** that while Office of the Privacy Commissioner (OPC) is comfortable with the requirement to make such information available as outlined above, the OPC has recommended a provision be provided to withhold information where its publication is likely to prejudice an individual's privacy or personal safety
21. **note** that I have asked my officials to consider the need for such a provision and, if necessary, this could be provided through the select committee process or a supplementary order paper

*Confirming policy positions*

22. **note** that, during the drafting process officials have identified minor policy changes set out in Appendix 2 that will better reflect the policy intent of original Cabinet decisions and/or provide simpler and more robust legislation with slight departures from those decisions
23. **agree** to the minor policy proposals in Appendix 2
24. **agree** to the changes to the emissions return process for forestry to:
  - 24.1 require an emissions return to bring the unit balance up to date prior to any other action for the carbon accounting area
  - 24.2 provide consistent rules for how different types of returns relate and how unit entitlements and liabilities are calculated for the carbon accounting areas
25. **agree** to legislate the transition for participants in the Permanent Forest Sink Initiative (PFSI) into the NZ ETS, including the options open to participants, through the following steps:
  - 25.1 between 1 January and 31 December 2021, covenant holders may submit the emission returns to, and notify the Environmental Protection Authority (EPA) of their decision to take up one of the three options below:
    - 25.1.1 move all their PFSI forests to the post-1989 forest activity in the NZ ETS, or
    - 25.1.2 move all their PFSI forests to the permanent post-1989 forestry in the NZ ETS or to leave carbon forestry, or
    - 25.1.3 remove all their PFSI forests from carbon forestry

- 25.2 a covenant holder may notify the EPA of their decision before 2021, but will be unable to use the new process to move into the NZ ETS before 1 January 2021, and will be subject to the current Act and covenant conditions before 1 January 2021
- 25.3 if participants elect to leave carbon forestry, they will be required to surrender units equal to the number received during the term of the covenant
- 25.4 PFSI covenants are cancelled on 1 January 2022, and any land where the holder does not make a decision to be moved into the permanent post-1989 forest activity.

*Approval for introduction*

- 26. **note** that the Minister of Climate Change has approval from the government caucuses for the introduction of the Bill and there is sufficient support in the House of Representatives for the Bill to progress
- 27. **note** that officials will need to continue further technical work on the Bill during Select Committee including consequential amendments to other instruments and other minor tidy ups
- 28. **note** that major announcements about change to the NZ ETS are usually preceded by a 24-hour notice to market participants and I intend to follow this convention before announcing Cabinet's decisions
- 29. **approve** the Bill for introduction
- 30. **agree** that the Bill be introduced on 24 October 2019 or as soon as practicable
- 31. **agree** that the Government propose that the Bill be:
  - 31.1 referred to the Environment Select Committee for consideration
  - 31.2 enacted in 2020.

Authorise for lodgement

Hon James Shaw  
**Minister for Climate Change**



# 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.*

### Climate Change Response (Emissions Trading Reform) Amendment Bill: Approval for Introduction, Agricultural Policy Decisions and Other Minor Policy Decisions

Portfolio                      Climate Change

On 21 October 2019, Cabinet:

#### Background

- 1        **noted** that the Climate Change Response (Emissions Trading Reform) Amendment Bill 2019 (the Bill) holds a category 2 priority on the 2019 Legislation Programme (must be passed in 2019);
- 2        **noted** that the Bill seeks to improve the settings of the New Zealand Emissions Trading Scheme (NZ ETS) in order to drive emissions reductions and help reach domestic and international climate change targets;
- 3        **noted** that the Bill has been drafted as an amendment to the Climate Change Response Act 2002 (CCRA);
- 4        **noted** that in November-December 2019, the Minister for Climate Change will be seeking Cabinet approval to consult on auctioning and unit supply regulations associated with the Bill, and with the Minister of Forestry on forestry regulations, and that these consultation processes are likely to take place in the final quarter of 2019;

#### Agriculture

- 5        **noted** that the Minister for Climate Change will be introducing policy decisions for action on agricultural emission in two stages, but announcing all policy decisions at the same time;
- 6        **noted** that on introduction, the Bill will include provisions that apply farm-level surrender obligations for livestock emissions and processor-level surrender obligations for fertiliser emissions in the NZ ETS, for emissions from the year beginning 1 January 2025, as well as reporting obligations on farm-level livestock emissions that will apply for emissions from the year beginning 1 January 2024;
- 7        **noted** that on introduction, the Bill will amend the CCRA so that the level of free allocation to agriculture in the CCRA will be amended from 90 percent to 95 percent, to reflect the Labour-New Zealand First Coalition Agreement;

8 s 9(2)(f)(iv) Confidentiality of advice

- 9 **agreed** to update the requirements for considerations in the 2022 Ministerial report on farm-level pricing (the 2022 report) to remove the requirement to consider a different levy/rebate scheme and replace it with the requirement to develop an alternative pricing mechanism for on-farm emissions;
- 10 **noted** that other Cabinet decisions on agriculture, including the chosen option for interim action on agricultural emissions and the requirements for the 2022 report, will be provided in the Bill through the select committee process or via a supplementary order paper, and that the Minister for Climate Change anticipates high interest from the public and the sector on those provisions;

#### Sector-government agreement

- 11 **noted** that on 16 September 2019, Cabinet:
- 11.1 agreed that the preferred interim option to encourage agricultural emissions reductions in line with New Zealand's climate change targets, and to support the transition to farm-level pricing from 2025, is to develop a modified version of Option 2, a formal sector-government agreement, as set out in the paper attached to CAB-19-SUB-0480;
  - 11.2 authorised a group of Ministers comprising the Prime Minister, Deputy Prime Minister, Minister for the Environment, and Minister for Climate Change to have Power to Act to take decisions on the details of the preferred interim option;
  - 11.3 invited the Minister for Climate Change to report back to Cabinet on the decisions taken by the group of Ministers with Power to Act;
- [CAB-19-MIN-0480]
- 12 **noted** that the Ministers with Power to Act have taken decisions on the details of a formal sector-government agreement based on the Primary Sector Leaders Group's proposal, *He Waka Eke Noa: A Primary Sector Climate Change Commitment* (the Commitment);
- 13 **noted** that Ministers with Power to Act agreed to bolster accountability and enforceability in the Commitment by amending the CCRA to:
- 13.1 include a legislative requirement for the Climate Change Commission to:
    - 13.1.1 monitor progress towards the commitments made in the draft Primary Sector Climate Change Commitment,<sup>1</sup> including the milestones listed in Annex 1 of the Commitment, as well as progress towards meeting the farm-level emissions reporting and obligation timeframes;
    - 13.1.2 report by 30 June 2022 on progress made to date on the commitments, any barriers to implementation, and what further steps, if any, are required to meet the farm-level reporting and obligations timeframes;

<sup>1</sup> Provided in Appendix 3 to the paper attached to CAB-MIN-0480-SUB.

- 13.2 create a regulation-making power that may be used by the Minister for Climate Change, in consultation with the Minister of Agriculture, by Order in Council at any time from July 2022 onwards, to apply processor-level surrender obligations for agriculture in the NZ ETS, if the responsible Minister has reason to believe, based on the monitoring of the Climate Change Commission, that other steps would be insufficient to achieve the farm-level reporting and obligation timeframes;
- 14 **authorised** the Minister for Climate Change, in consultation with the Minister of Agriculture, to further clarify and develop policy matters related to the decisions set out in paragraph 13 above, in a way not inconsistent with Cabinet's decisions;
- 15 **authorised** the Minister for Climate Change, in consultation with the Minister of Agriculture, to agree a governance structure for a formal sector-government agreement that must include representatives of the sector, the government, and iwi/Māori;
- 16 **invited** the Minister for Climate Change, in consultation with the Minister of Agriculture, to work with the governance group to develop funding options relating to fulfilment of the Commitment;
- 17 **invited** the Minister for Climate Change to report back to Cabinet on governance and funding decisions and outcomes by 31 December 2019;
- 18 **invited** the Minister for Climate Change to issue drafting instructions to the Parliamentary Counsel Office based on the decisions referred to in paragraph 13 above;

#### Transparency provisions and privacy interests

- 19 **noted** that the Bill requires the regular publication of participant-level emissions and removals data from 2021 onwards;
- 20 **noted** that while Office of the Privacy Commissioner (OPC) is comfortable with the requirement to make such information available as outlined above, the OPC has recommended a provision be provided to withhold information where its publication is likely to prejudice an individual's privacy or personal safety;
- 21 **noted** that the Minister for Climate Change has asked officials to consider the need for such a provision which, if necessary, could be provided through the select committee process or a supplementary order paper;

#### Confirming policy positions

- 22 **noted** that, during the drafting process, officials have identified minor policy changes, as set out in Appendix 2 of the paper under CAB-19-SUB-0550, that will better reflect the policy intent of original Cabinet decisions and/or provide simpler and more robust legislation with slight departures from those decisions;
- 23 **agreed** to the minor policy proposals set out in Appendix 2 of the paper under CAB-19-SUB-0550;
- 24 **agreed** to the changes to the emissions return process for forestry to:
- 24.1 require an emissions return to bring the unit balance up to date prior to any other action for the carbon accounting area;
- 24.2 provide consistent rules for how different types of returns relate and how unit entitlements and liabilities are calculated for the carbon accounting areas;

- 25 **agreed** to legislate the transition for participants in the Permanent Forest Sink Initiative (PFSI) into the NZ ETS, including the options open to participants, through the following steps:
- 25.1 between 1 January and 31 December 2021, covenant holders may submit the emission returns to, and notify the Environmental Protection Authority (EPA) of their decision to take up one of the three options below:
    - 25.1.1 move all their PFSI forests to the post-1989 forest activity in the NZ ETS; or
    - 25.1.2 move all their PFSI forests to the permanent post-1989 forestry in the NZ ETS or to leave carbon forestry; or
    - 25.1.3 remove all their PFSI forests from carbon forestry;
  - 25.2 a covenant holder may notify the EPA of their decision before 2021, but will be unable to use the new process to move into the NZ ETS before 1 January 2021, and will be subject to the current Act and covenant conditions before 1 January 2021;
  - 25.3 if participants elect to leave carbon forestry, they will be required to surrender units equal to the number received during the term of the covenant;
  - 25.4 PFSI covenants are cancelled on 1 January 2022, and any land where the holder does not make a decision to be moved into the permanent post-1989 forest activity;

#### Approval for introduction

- 26 **noted** that the Minister of Climate Change has approval from the government caucuses for the introduction of the Bill, and that there is sufficient support in the House of Representatives for the Bill to progress;
- 27 **noted** that officials will need to continue further technical work on the Bill during the Select Committee process, including consequential amendments to other instruments and other minor tidy ups;
- 28 **noted** that major announcements about changes to the NZ ETS are usually preceded by a 24-hour notice to market participants, and that the Minister for Climate Change intends to follow this convention before announcing Cabinet's decisions;
- 29 **approved** the Bill [PCO 20351/10.6] for introduction;
- 30 **agreed** that the Bill be introduced on 24 October 2019 or as soon as practicable;
- 31 **agreed** that the government propose that the Bill be:
- 31.1 referred to the Environment Select Committee for consideration;
  - 31.2 enacted in 2020.

Michael Webster  
Secretary of the Cabinet

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Hard-copy distribution: (see over)

**Hard-copy distribution:**

Prime Minister  
Deputy Prime Minister  
Minister of Agriculture  
Minister for Climate Change

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