



# Cabinet Economic Development Committee

## Minute of Decision

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### New Zealand Emissions Trading Scheme: Enabling a Technical Reserve Price for Auctions

Portfolio                      Climate Change

On 9 December 2020, the Cabinet Economic Development Committee:

#### Background

- 1        **noted** that under the New Zealand Emissions Trading Scheme (NZ ETS):
  - 1.1     a technical reserve price is a reserve set to reflect prevailing secondary market prices and is kept confidential;
  - 1.2     by preventing the sale of New Zealand Units (NZUs) significantly below prevailing market prices, a technical reserve price will ensure the auction does not unduly influence secondary market prices, and protect the Crown against the fiscal cost of such under-pricing;
- 2        **noted** that Cabinet has previously agreed to set a technical reserve price for NZ ETS auctions [DEV-20-MIN-0047 and ENV-20-MIN-0016];
- 3        **noted** that regulations setting the rules for auctioning in the NZ ETS were set without a technical reserve price due to an issue with the Climate Change Response Act 2002, despite the earlier Cabinet decisions referred to above [CAB-20-MIN-0446];

#### Proposed changes

- 4        **noted** that public commentary on the absence of a technical reserve price has increased the risk of a 'self-fulfilling prophecy' arising where bidders may be encouraged to bid lower in the auction than they otherwise would have done, raising the likelihood of a lower auction clearing price and risking the reputation of the NZ ETS;
- 5        **noted** that addressing this issue before the first auction in March 2021 requires urgent legislative amendment that risks creating further issues with the Climate Change Response Act 2002 and may attract criticism;
- 6        **noted** that:
  - 6.1     the outcome of the first NZ ETS auction will be closely watched, both here and overseas;

- 6.2 as a high profile part of recently enacted NZ ETS reforms, a successful first auction will give confidence in the reforms and will support the effectiveness of the NZ ETS cap;
- 7 **agreed** to amend the Climate Change Response Act 2002 (with consequential changes to the Climate Change (Auctions, Limits, and Price Control Settings for Units) Regulations 2020) to enable the Minister of Climate Change to set a confidential technical reserve price methodology, in consultation with the Minister of Finance, in addition to the existing price controls;
- 8 **agreed** that the auction operator will set a confidential technical reserve price for each auction relative to the market price of NZUs, using the prescribed confidential methodology;
- 9 **agreed** that if the clearing price of the auction does not reach or exceed the technical reserve price, then no units will be sold;
- 10 **agreed** that when setting the prescribed methodology, the Minister must give due consideration to the existing criteria in the Act for setting price controls, and that, in addition, the Minister must consider:
- 10.1 the purpose of the technical reserve price to act as a ‘safety net’ against the risk of auction prices clearing significantly below the secondary market price;
  - 10.2 the basis for determining recent secondary market price;
  - 10.3 the basis for determining an offset from secondary market price that is ‘significant’;
  - 10.4 recent market price volatility;
- 11 **agreed** that the auction operator be required to report regularly to the auction monitor on the operation of the technical reserve price;
- 12 **agreed** that for the purposes of understanding the operation of the technical reserve price in practice and providing evidence-based advice to the Minister regarding the confidential methodology, the auction operator will be required to share anonymised auction data, including bid information and details of the calculation of the technical reserve price, with both the auction monitor and the Ministry for the Environment;
- 13 **agreed** that transitional provisions will be required to enable any consequential changes to the Climate Change (Auctions, Limits, and Price Control Settings for Units) Regulations 2020 to enter into force immediately upon publication in the New Zealand Gazette;
- 14 **noted** that despite the risk of an accelerated legislative process, postponing the date of the first scheduled auction is not recommended as it would have a significant negative impact on market certainty and confidence, and would add to the cost of implementing the auction platform;

### Legislative implications

- 15 **noted** that the Minister of Climate Change will seek a category 2 priority for the Climate Change Response (Auctioning Reserve Price) Amendment Bill on the 2021 Legislation Programme (must be passed in 2021);
- 16 **noted** that the Bill will need to be progressed through the House under urgency in order to receive Royal assent and enter into force by the date of the first auction on 17 March 2021;

- 17 **authorised** the Minister of Climate Change to further clarify policy decisions relating to the amendments proposed in the paper under DEV-20-SUB-0173, in a way consistent with Cabinet's decisions;
- 18 **invited** the Minister of Climate Change to issue any necessary drafting instructions to the Parliamentary Counsel Office based on the above paragraphs;
- 19 **authorised** the Minister of Climate Change to publicly communicate the government's intention to proceed with an urgent legislative change to enable a technical reserve price in time for the start of auctioning for the NZ ETS.

Charlotte Doyle  
Committee Secretary

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**Present:**

Hon Grant Robertson (Chair)  
Hon Dr Megan Woods (Deputy Chair)  
Hon David Parker  
Hon Poto Williams  
Hon Damien O'Connor  
Hon Kris Faafoi  
Hon Jan Tinetti  
Hon Michael Wood  
Hon Dr David Clark  
Hon Meka Whaitiri  
Hon James Shaw  
Rino Tirikatene, MP  
Dr Deborah Russell, MP

**Officials present from:**

Office of the Prime Minister  
Officials Committee for DEV

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