



Cabinet Environment, Energy and Climate Committee

Minute of Decision

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New Zealand Emissions Trading Scheme: Confirming In-principle Decisions and Finalising Minor Issues

Portfolio Climate Change

On 27 June 2019, the Cabinet Environment, Energy and Climate Committee:

- 1 **noted** that the New Zealand Emissions Trading Scheme (NZ ETS) is the government's key tool to assist New Zealand to meet its climate change targets, and that:
 - 1.1 the government is reforming the NZ ETS to ensure it can support the transition to a low-emissions and climate resilient New Zealand;
 - 1.2 this requires amendments to the Climate Change Response Act 2002 (CCRA);
- 2 **noted** that these amendments are being developed in tranches:
 - 2.1 in December 2018 Cabinet agreed to the first tranche of amendments and drafting has commenced [CAB-18-MIN-0606.01];
 - 2.2 from March to May 2019, Cabinet considered tranche two, comprising a series of papers with discrete proposals, including proposals on forestry;
 - 2.3 Cabinet agreed, or agreed in principle, to tranche two amendments to the CCRA so that drafting could get underway;
 - 2.4 the paper under ENV-19-SUB-0034, and a further paper on forestry [ENV-19-SUB-0035], will complete tranche two of amendments to the CCRA;
 - 2.5 all amendments outlined above will result in a single bill amending the CCRA to be introduced to the House later in 2019;
- 3 **noted** that the paper under ENV-19-SUB-0034 does not include decisions on agriculture or any allocations or other support for the agricultural sector;
- 4 **noted** that the Minister for Climate Change will report back to Cabinet to recommend policy decisions on reducing agricultural emissions later in 2019;

Amending the purpose of the CCRA

- 5 **noted** that in December 2018, Cabinet approved the following recommendations as part of a first tranche of proposals to amend the CCRA to support New Zealand's implementation of the Paris Agreement and improve the NZ ETS [CAB-18-MIN-0606.01]:
- 5.1 agreed to amend the purpose section of the CCRA to assist New Zealand to comply with its emission reduction and reporting commitments for the purposes of the Paris Agreement;
 - 5.2 agreed in principle, subject to final decisions on the Climate Change Bill (CCB), to amend the purpose of the CCRA to assist New Zealand to meet target(s) and emissions budgets set under the CCB;
- 6 **noted** that the CCB is now named the Climate Change Response (Zero Carbon) Amendment Bill (ZCB) and was introduced into the House in May 2019;
- 7 **noted** that the ZCB will set an emissions reduction target for 2050 and establish a series of emissions budgets to achieve the 2050 target;
- 8 **noted** that the conditions of the in-principle agreement set out in paragraph 5.2 are now met;
- 9 **noted** that the purpose of the amended CCRA will include to assist New Zealand to comply with its emission reduction (Nationally Determined Contributions) and reporting commitments under the Paris Agreement, as well as to meet domestic targets and emission budgets
- 10 **agreed** to confirm the in-principle decision set out in paragraph 5.2 to amend the purpose of the CCRA to include assisting New Zealand to meet target(s) and emissions budgets set under the ZCB;

Cancellation and replacement of Kyoto units in private accounts

- 11 **noted** on 8 April 2019 Cabinet approved the following recommendations to address an operational issue concerning privately-held emission units from the first commitment period to the Kyoto Protocol through the upcoming CCRA Amendment Bill [CAB-19-MIN-0145]:
- 11.1 agreed in principle, subject to targeted engagement with relevant stakeholders to amend the CCRA to:
 - 11.1.1 cancel New Zealand-issued Assigned Amount Units (NZ AAUs) in private accounts;
 - 11.1.2 replace NZ AAUs in private accounts with an equivalent number of New Zealand Units;
 - 11.1.3 cancel, without compensation, Assigned Amount Units from overseas registries, Certified Emissions Reduction Units, Emission Reduction Units and Removal Units from the first Kyoto commitment period held in private accounts;
 - 11.1.4 implement these decisions on 30 November 2020;
 - 11.2 directed the Ministry for the Environment, to undertake targeted engagement with relevant stakeholders on the in-principle proposal described in paragraph 11.1 above;

- 12 **noted** that in May 2019 the Ministry for the Environment, with the assistance of the Environmental Protection Authority, undertook targeted engagement with relevant account holders and owners as required by paragraph 11.2;
- 13 **noted** that the majority of account holders and owners supported the proposal in paragraph 11.1
- 14 **noted** that the Minister of Climate Change is satisfied that the issues raised by submitters opposed to the proposal do not outweigh the rationale for implementing the proposal;
- 15 **agreed to confirm** the in-principle decisions outlined in paragraph 11.1

Improving compliance and penalties

- 16 **noted** on 8 April 2019 Cabinet approved and noted the following recommendations as part of a set of proposals to improve the compliance regime in the NZ ETS [CAB-19-MIN-0145]:

16.1 agreed the surrender/repayment penalty will apply only when a person fails to surrender or repay units by a due date;

16.2 agreed in principle, subject to confirmation that this will not create a barrier for linking with international carbon markets, that the surrender/repayment penalty will be three times the current carbon price, and will be updated annually in regulations;

16.3 s 9(2)(j)

17 s 9(2)(j)

- 18 **agreed to confirm** the in-principle decision outlined in paragraph 16.2;

- 19 **agreed** to clarify that the reporting penalty agreed by Cabinet in April 2019 [CAB-19-MIN-0145] applies to errors and omissions in, and failures to submit both emissions returns and applications for industrial allocation;

Phase-down of industrial allocation

- 20 **noted** that on 8 May 2019, Cabinet considered proposals to phase down industrial allocation in the NZ ETS [CAB-19-MIN-0209];
- 21 **noted** that as the proposals had financial implications and were considered during the Budget moratorium, Cabinet agreed to the decisions in-principle, noting that decisions were for drafting purposes only and would be agreed subject to a subsequent Cabinet decision after the Budget is delivered;
- 22 **noted** that the Budget has now been delivered and the in-principle decisions can now be confirmed;

- 23 **agreed to confirm** the following decisions by Cabinet in May 2019, which at that time were agreed in-principle for the purposes of issuing drafting instructions:
- 23.1 agreed to phase down industrial allocation with the first reduction applying to the calendar 2021 emissions reporting year;
 - 23.2 agreed to establish minimum phase-down rates that will be set in legislation and specified as a minimum annual reduction applied to the level of assistance for all eligible activities of 0.01 for each of the years 2021 to 2030, 0.02 for each of the years 2031 to 2040 and 0.03 for each of the years 2041 to 2050;
 - 23.3 agreed that the responsible Minister may make regulations to reduce the minimum phase-down rate for the period 2031 to 2040, and for the period 2041 to 2050, if the Climate Change Commission recommends such a reduction based on an assessment that there is an ongoing and substantial risk of emission leakage;
 - 23.4 agreed that the Climate Change Commission may not recommend, and the Minister may not make regulations for, a minimum phase-down rate less than 0.01 for each of the years 2031 to 2040 or a minimum phase-down rate less than 0.02 for each of the years 2041 to 2050;
 - 23.5 agreed that there will be a decision-making process that will allow the government to set activity-specific phase-downs of any one or more eligible activities in regulations in advance for the 2026–30 emissions budget period and for each subsequent five-year budget period established under the CCB (now the ZCB);
 - 23.6 agreed that regulations will set mandatory phase-downs for the relevant budget period, and indicate intended phase-down rates for the following budget period;
 - 23.7 agreed that the collective effect of the minimum phase-down rate and all of the regulations phasing down individual activities for a given budget period must generally not be inconsistent with New Zealand’s meeting the emissions budget for that period;
 - 23.8 agreed that when making decisions on an activity-specific phase-down of allocation the Minister for Climate Change must have regard to:
 - 23.8.1 New Zealand’s targets and indicative future emission budgets as set under the CCB [now the ZCB] and New Zealand’s Nationally Determined Contributions under the Paris Agreement;
 - 23.8.2 the risk of emission leakage on an activity-specific basis, including:
 - 23.8.2.1 emission pricing and other policies in competing jurisdictions, their cost, any assistance such as allocation, and its phase-out;
 - 23.8.2.2 the markets for international trade in the specified products produced by eligible industrial activities;
 - 23.8.2.3 any ability of industrial allocation recipients in New Zealand to pass on increased costs to customers;
 - 23.8.3 any risk that the value of the industrial allocation for an eligible activity exceeds the cost of meeting NZ ETS obligations affecting the activity;

- 23.8.4 other sources of supply into the NZ ETS, including offshore emission reductions obtained by the government or available to NZ ETS participants;
 - 23.8.5 the availability of low-emission technologies related to each activity;
 - 23.8.6 New Zealand’s relevant international obligations;
 - 23.8.7 the proper functioning of the NZ ETS;
 - 23.8.8 the cost to the taxpayer of providing allocation;
 - 23.8.9 recommendations of the Climate Change Commission;
 - 23.8.10 any other matters the Minister for Climate Change considers relevant;
- 23.9 agree that before regulations setting an activity-specific phase-down are made, the Climate Change Commission must prepare advice on the phase-down and provide the responsible Minister with a report detailing its recommendations for the regulations;
- 23.10 agree that if final decisions depart from the Climate Change Commission’s recommendations, the responsible Minister must provide a report giving reasons for any decisions that differ from the CCC’s advice, present the report to Parliament, and make it publicly available;
- 23.11 agree that the Minister must be satisfied that consultation with affected parties has occurred before making regulations, including publication of a draft proposal and a period of at least 20 working days for submissions;
- 23.12 agree that if a budget is revised or if, in exceptional circumstances, the matters that the Minister considered in making it require reconsideration, a regulation setting activity-specific phase-downs for a particular budget period may be amended during the budget period, if recommended by the Commission;
- 24 **approved** the following changes to appropriations to give effect to the policy decision in paragraph 23 above, with a corresponding impact on the operating balance:

Vote Environment Minister for Climate Change	\$M – increase/(decrease)				
	2019/20	2020/21	2021/22	2023/23	2023/24 & outyears
Non-Departmental Other Expense: Allocation of New Zealand Units	0	(1.630)	(5.190)	(9.190)	(12.860)

- 25 **authorised** the Minister of Finance and the Minister for Climate Change to make necessary forecasting changes to the Non-Departmental Other Expense: Allocation of New Zealand Units appropriation;
- 26 **noted** that Cabinet also agreed to allow Ministers to make in-principle decisions to allow the bringing forward of free allocation to incentivise technological change to low-carbon alternatives [CAB-19-MIN-0209];
- 27 **agreed to not proceed** with any proposal to legislate to allow the bringing forward, or borrowing, of industrial allocation;

Other matters

- 28 **noted** that any new funding required to implement the decisions recommended in the paper under ENV-19-SUB-0034 apart from those set out in paragraphs 23 and 24 will either be sought through a separate Cabinet paper or through the Budget 2020 process;
- 29 **agreed** that the CCRA Amendment Bill ensure that the consultation requirements for making regulations under the amended Act can be satisfied by consultation occurring before the commencement of the amended Act, provided all other requirements are met;
- 30 **agreed** that the CCRA Amendment Bill ensure that all participants with obligations to surrender or repay units under the NZ ETS can use the fixed price option, while that option remains;
- 31 **authorised** the Minister of Climate Change to further clarify policy decisions relating to the amendments proposed in the paper under ENV-19-SUB-0034, in a way not inconsistent with Cabinet's decisions;
- 32 **invited** the Minister for Climate Change to issue any necessary drafting instructions to the Parliamentary Counsel Office based on the decisions in the paper under ENV-19-SUB-0034.

Vivien Meek
Committee Secretary

Present:

Hon Dr Megan Woods
Hon David Parker (Chair)
Hon Shane Jones
Hon James Shaw
Hon Eugenie Sage

Officials present from:

Office of the Prime Minister
Officials Committee for ENV

Hard-copy distribution:

Minister for Climate Change