

Consultation on the Zero Carbon Bill
Submission to the Ministry for the Environment

June 2018



Parliamentary Commissioner for the Environment
Te Kaitiaki Taiao a Te Whare Pāremata

Thank you for the opportunity to comment on the Zero Carbon Bill.

Enshrining a target in the Bill

I am pleased to see that the government is considering the option of a two-stage process for setting the emissions reduction target – as recommended in my report earlier this year '*A Zero Carbon Act for New Zealand: Revisiting Stepping stones to Paris and beyond*'.

I remain convinced that this is the best way forward for ensuring a strong and enduring target, one that enjoys broad cross-party support and is based in sound science. As the first stage in the target setting process, an overarching target consistent with Article 4 of the Paris Agreement should be included in the Bill. New Zealand has already endorsed the Paris goal and it enjoys broad cross party support. It provides a solid starting point, and should be enshrined in the legislation.

The adoption of a more precisely defined target (or targets) consistent with the Paris goal will be important to ensure that our long term climate goals are not open to interpretation. But the precise form of the target(s) must be based on careful and detailed analysis of the latest science. It too will require cross-party support.

The second stage in the target setting process should therefore be to request, and consider, advice from the Climate Change Commission on the detail of a domestic target that is consistent with our international undertakings. If the Commission is to provide advice on the emission budgets, it must be fully confident that the long-run target or targets that have been developed are sound.

The Commission can provide impartial advice on the form the target should take, based on detailed scientific analysis, including consideration of the speed and endpoint of reductions for the different greenhouse gases. The Climate Change Minister can then present the Commission's advice to Parliament, and, with Parliament's endorsement, the Zero Carbon Act could be amended to include the more specific target.

While the precise form of the long-term target should be based on advice from the Climate Change Commission, I would make two observations. Firstly, the choice of 2050 as a target year is arbitrary, and holds no particular climate related significance. Secondly, I note that only one of the options presented in the consultation document (net zero emissions by 2050) directly implies that methane emissions will be reduced. The first option requires no reduction of methane emissions. The second option requires methane emissions to 'stabilise', but the document does not clarify the level at which such stabilisation should occur.

We cannot assume that current levels of methane are sustainable. There are already some actions farmers can take to reduce on-farm emissions, and several promising options to reduce biological methane emissions are being developed. New Zealand also has an historic responsibility for methane-related warming that cannot be ignored. To maintain our global leadership role with respect to agriculture, we must lead the world in showing how to develop an effective low-emission food production system. Any target we adopt should therefore include *some* reduction in the flow of methane, while acknowledging that methane emissions – unlike carbon dioxide and nitrous oxide – do not need to reach net zero to avoid further warming.

Setting budgets well in advance

I am also pleased to see the Government acknowledge the importance of getting the first three emission budgets locked in quickly. Setting emission budgets well in advance ensures that business, industry and others have sufficient time to plan and adjust. Having three emission budgets in place at any given time, as proposed, would provide sufficient predictability, without being so far ahead that it becomes hard to account for technological advances and other relevant developments. Jump-starting the cycle with three budgets at the outset is the right thing to do.

The process for promulgating budgets

The document does not address the process by which emission budgets would be set, or the status of these budgets in law. While the long-term target and the process for setting emission budgets should be included in the Zero Carbon Act, the emission budgets themselves should not be in primary legislation. The process for setting emissions budgets should, however, be a Parliamentary occasion to ensure cross-party commitment.

The Climate Change Minister should present a proposed emission budget to Parliament, taking into account the advice and recommendations of the Climate Change Commission. The budget could then be debated by the House of Representatives and approved by resolution. The proposed budget could be published by notice in the Gazette.

Including an opportunity for Parliamentary scrutiny would, along with the other safeguards in the Zero Carbon Act, discourage arbitrary changes to the level of ambition in response to short-term considerations. Such a process should also foster a broadly shared commitment to steady progress. For this reason it is preferable to the existing process for setting emission reduction targets under the Climate Change Response Act 2002, which requires notification of the target in the Gazette but does not require presentation of that target to the House.

The frequency of budgets

The document proposes emission budgets spanning five years, which, after the promulgation of the first three, would be set every five years. The document also proposes that the Government should publish a plan setting out specific policies to meet these budgets within a certain timeframe after each budget is set. This means the Government – and indeed Parliament – would be required to review the adequacy of the Government's overall climate mitigation policy once every five years. This is the approach taken in the UK.

In my report '*A Zero Carbon Act for New Zealand: Revisiting Stepping stones to Paris and beyond*' I recommended six-year budgets. In reaching this conclusion, two considerations stood out as particularly important.

Firstly, conversations with officials in the UK revealed a concern that the five-year gap between policy reviews is too long. This is because the process has to start from scratch each time – a problem exacerbated by the inevitable turnover of both policy makers and officials. It was also noted that should policy momentum slip during the interval between budget preparations, there is no mechanism in the UK Climate Change Act requiring the Government to review the adequacy of its policies across all sectors, and revise its plan if necessary.¹ For these reasons, UK officials suggested a useful addition to their system would be a requirement for the Government to undertake a review of its policy plan midway through the five year period.

Secondly, climate mitigation is a long game, requiring policy stability to be sheltered from the short-term ebb and flow of politics. New Zealand has a short, three-year election cycle. Trying to fit five-yearly budgets with a mid-way review into this timetable would be challenging to say the least. It is important to emphasise the *parliamentary* nature of the process that is being created. When a parliament signs off on a budget it is signing off on something that it will never experience – it will be a future Parliament that lives with the consequences of that budget decision. While the Government is responsible for bringing an emission budget to the House, it is parliamentary endorsement that seals the process. Parliamentary debate on the Government's emission reduction plan is also an important feature. For this reason I consider that the budget and review process should be designed with parliament in mind. The best way to do this is to require each Parliament to formally turn its mind to climate change mitigation policy once during its term.

The above considerations led me to make the recommendation that in New Zealand, budgets should be set for six-year periods, with a requirement to review the adequacy and progress of emission reduction plans at the halfway mark. This would mean that each Parliament would be required to vote on a budget and scrutinise an emission reduction plan, or to scrutinise a review of progress at a mid-point between the budget-setting processes. These arrangements would ensure that ministers, government officials and select committees would have a regular, formal reason to address what is effectively a large-scale, long-term economic transition process without it becoming entangled in the electoral cycle. In this way, the need to address a long-term challenge in a measured way could be institutionalised with the focus kept firmly on the long run.

The reasons given in the document for choosing a five-year budget period are that it would have lower administrative costs and it would align with our Nationally Determined Contributions (NDCs) under the Paris Agreement. I do not believe these reasons bear scrutiny.

While some elements of the NDC cycle remain to be agreed internationally, the Paris Agreement requires developed countries to communicate successive NDCs every five years that include economy-wide emission reduction targets and demonstrate increasing ambition over time.

The proposal for a five-year budget cycle appears to derive mainly from a desire to synchronise the NDC and the domestic budget-setting processes. The concern seems to be that not aligning these domestic and international cycles will reduce the clarity, transparency and understanding of New Zealand's emission reduction targets and make them more difficult to communicate clearly to the public and to the international community. Furthermore, it could lead to multiple rounds of domestic consultations on New Zealand's emission reduction targets.

These concerns are not insurmountable and they do not outweigh the wider benefits of adopting a six-year budget with a three-year review. Our primary goal must be creating a robust *domestic* process that can spur the transition to a low-emissions economy. This is very much in the spirit of the Paris Agreement which is about bottom-up action. The best way to do this is to ensure that each and every Parliament is formally required to turn its mind to climate change mitigation policy.

1. A review that required a revision to the plan (if necessary) would be stronger than the mere requirement to respond to the Climate Commission's annual assessments (in the UK these are usually little more than a recitation of existing policy settings).

While consistency with New Zealand's obligations under international agreements is required when setting emission budgets, the domestic processes set up by the Zero Carbon Act will drive New Zealand's approach to meeting its international commitments. If the budget-setting process involves public consultation and is built on a statute-mandated process of independent expert advice and Parliamentary debate and approval, I would question the on-going need for a separate public process for the preparation of New Zealand's NDCs.

If the Government wants to conduct such a consultation it can do no harm, but it has to be undertaken squarely within the parameters that Parliament has mapped out through budgets that it considers are consistent with New Zealand's legislated long-run target. I have every confidence that our negotiators are more than capable of explaining our NDC in the light of that domestic budget-setting process.

One of the strengths of the Zero Carbon Act is the high degree of transparency required by the Government in its communication of matters relating to climate mitigation policy. The framework should foster a greatly improved understanding of, and confidence in, New Zealand's progress towards a low-emissions economy by domestic and international audiences.

Revisiting budgets

The final matter to which I wish to draw attention is the ability to revisit emission budgets. I do not support the proposal to allow the government to revise the third, or last, emission budget as a matter of course. Allowing the third budget to be revised in this way would introduce unnecessary uncertainty. Rather, provision should be made for the revision of any budget or budgets but subject to the existence of clearly-defined objective conditions.

There may, at times, be a good reason for revising a future emission budget. For example, there may be a major change in domestic or global circumstances that affect the basis upon which the original budget was set. If the Government wishes to revise an emission budget, it should have to consider independent advice from the Climate Change Commission and seek Parliamentary approval, as would occur for new emission budgets. My proposal for mid-point reviews of progress would be one potential trigger for a revisiting of the budget trajectory.



Rt Hon Simon Upton
Parliamentary Commissioner for the Environment