



Cabinet Environment, Energy and Climate Committee

Minute of Decision

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New Zealand Emissions Trading Scheme: Tranche Two: Supporting a Fit-for-Purpose Auctioning System

Portfolio Climate Change

On 2 May 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 tranche one of amendments to the CCRA and drafting has commenced [CAB-18-MIN-0606.01];
 - 2.2 tranche two comprises of a series of papers with discrete proposals which will be considered by Cabinet over March to May 2019;
 - 2.3 tranche one and two will result in a single bill amending the CCRA to be introduced to the House in mid-2019, and to enter into force in 2020;
- 3 **noted** that in December 2018, Cabinet agreed to begin developing an auction platform and regulations to implement auctioning of New Zealand Units (NZUs) to align the supply of NZUs in the NZ ETS with emission reduction targets [CAB-18-MIN-0606.01];

Enabling an auction monitor

- 4 **agreed** to amend the CCRA to enable an independent 'auction monitor' to be appointed via regulations to mitigate auction integrity risks by providing independent oversight of auctions;
- 5 **agreed** that the functions of the auction monitor would be provided for in regulations;

- 6 **agreed** that if regulations were made to appoint an auction monitor, its functions must include at least:
- 6.1 validating auction results and calculating additional specified metrics; and
 - 6.2 publishing a report on auction outcomes;
- 7 **agreed** that if regulations were made to appoint an auction monitor, its functions could include:
- 7.1 monitoring the conduct of auction participants and any agent appointed to sell NZUs by auction under section 6A;
 - 7.2 providing periodic assessments of the auction system and making recommendations for improvements;
 - 7.3 any other functions that the Minister for Climate Change considers relevant to the effective conduct of the role of the auction monitor;
- 8 **agreed** that the CCRA should be amended to provide for information sharing so that the auction monitor can access information from the EPA, the Registrar and the Minister for Climate Change or agent(s) appointed to carry out the sale of NZUs by auction under section 6A of the CCRA for the purpose of the auction monitor carrying out its functions;
- 9 **noted** that the role of the auction monitor will be reassessed, and potentially expanded, as part of the broader NZ ETS market governance work programme;

Providing further clarity about auctioning regulations

- 10 **noted** that the CCRA enables the Minister for Climate Change to sell NZUs by auction, but that to date an auctioning mechanism has not been utilised;
- 11 **noted** that the current regulation making power is sufficient to enable the development of an auctioning platform and regulations, but that it does not provide sufficient clarity for potential auctioning participants about what will be included in auctioning regulations;
- 12 **agreed** to amend the current statutory prerequisites for auctioning regulations so that, should the Minister choose to make auctioning regulations, the Minister for Climate Change would be required to make regulations about the following matters:
- 12.1 the date for auctioning to commence;
 - 12.2 an indicative auction schedule for when auctions are planned to be held;
 - 12.3 details of auction registration requirements or criteria a person must met to participate in the auction;
 - 12.4 the auction format, such as rules for bidding;
 - 12.5 financial processes that a person must follow when participating in an auction, including financial assurance and payment and delivery requirements;
 - 12.6 publication of auction results after each auction;
 - 12.7 situations where the auction would not proceed;

- 13 **agreed** to amend the current statutory prerequisites for auctioning regulation so that, should the Minister for Climate Change choose to make auctioning regulations, the Minister may make auctioning regulations about the following matters:
- 13.1 providing for a pilot before auction commence;
 - 13.2 penalties for breaching auction regulations;
 - 13.3 providing for any other matters for the conduct of an auction that the Minister considers relevant to the effective conduct of the auction;
- 14 **agreed** that the current CCRA offence regarding false declarations should continue apply to any declarations required under the auctioning regulations;
- 15 **agreed** that the current CCRA consultation provisions for regulations should continue apply for any auctioning and auctioning monitor regulations;
- 16 **authorised** the Minister for Climate Change to further clarify policy decisions relating to the amendments proposed in the paper under ENV-19-SUB-0018, in a way not inconsistent with Cabinet's decisions;
- 17 **invited** the Minister for Climate Change to issue drafting instructions to the Parliamentary Counsel Office based on the agreed decisions presented in the paper under ENV-19-SUB-0018.

Vivien Meek
Committee Secretary

Present:

Rt Hon Winston Peters
Hon Kelvin Davis
Hon Dr Megan Woods
Hon David Parker (Chair)
Hon Stuart Nash
Hon James Shaw
Hon Eugenie Sage

Hard-copy distribution:

Minister for Climate Change

Officials present from:

Office of the Prime Minister
Officials Committee for ENV