

In Confidence

Office of the Minister for Climate Change

Chair, Cabinet Environment, Energy and Climate Committee

Proposed Climate Change Bill

Proposal

1. I seek your agreement to progress a Climate Change Bill (the **Bill**) which will provide an enduring Climate Change Framework (**Framework**) for the transition to a low-emissions and climate-resilient New Zealand. This paper describes the key components of the Bill – setting in statute an Emissions Reduction Target (the **Target**) for 2050, establishing an independent Climate Change Commission (the **Commission**), a system of emissions budgets to reach the Target, and a range of adaptation measures.
2. The Cabinet Environment, Energy and Climate Committee agreed on 5 December that the Bill should set an Emissions Reduction Target for 2050. The proposals in this paper reflect the outcome of that discussion.
3. Following agreement from Cabinet, I intend to introduce the Climate Change Bill to the House of Representatives in early 2019.
4. I also seek your approval to release tagged contingency funding to begin the establishment of the Commission and conduct the first National Climate Change Risk Assessment.

Executive summary

5. This Government is committed to taking decisive action on climate change to build a more sustainable economy that is not only better for the environment, but creates jobs and helps to improve the lives of all New Zealanders. We also want to show global leadership by demonstrating that New Zealand can be better off while taking action to reduce our impact on the climate.
6. New Zealand is committed to the Paris Agreement, which includes the aims to:
 - (a) hold the increase in the global average temperature to well below 2°C above pre-industrial levels and to pursue efforts to limit the temperature increase to 1.5°C above pre-industrial levels, recognizing that this would significantly reduce the risks and impacts of climate change, and
 - (b) increase the ability to adapt to the adverse impacts of climate change and foster climate resilience and low greenhouse gas emissions development, in a manner that does not threaten food production.
7. Taking action now will maximise the benefits, and minimise the costs, of the transition to a low emissions and climate resilient New Zealand. At the same time, it is important

to ensure that this is a just transition; one that supports and empowers industries, workers, and communities to adjust.

8. In the 100-Day Plan for Climate Change, I proposed the introduction of the Bill to provide an enduring framework for this transition. Cabinet noted that the Bill would define a target to reduce greenhouse gas (**GHG**) emissions by 2050, and codify the role, powers and functions of the Commission in law [CAB-17-MIN-0547.01 refers]. Following Cabinet agreement earlier this year, I consulted on options for the proposals in the Bill in June.
9. The Bill is designed to provide certainty - a clear signal on New Zealand's long-term emissions reduction goals, a durable Framework to adapt to the impacts of climate change, and stable and enduring institutional arrangements for climate change action.
10. The Bill will support New Zealand's long-term economic transition by:
 - (a) specifying New Zealand's emissions reduction ambition to contribute to the collective global effort of limiting the increase in global average temperature to 1.5 degrees Celsius above pre-industrial levels
 - (b) setting in statute an Emissions Reduction Target for 2050
 - (c) establishing a system of successive emissions budgets that will act as five-year milestones to achieve the Target, and enable policy settings to progressively adapt within a predictable framework
 - (d) requiring the consideration of plausible pathways for reductions of each GHG to inform emissions budgets
 - (e) establishing a range of adaptation measures that will enable New Zealand to meet the objective of a productive, sustainable and climate-resilient New Zealand
 - (f) creating a new, independent, Commission to provide expert advice on the settings required to transition to a low-emissions and climate-resilient New Zealand, while also establishing a means to hold government to account and progress climate objectives.
11. I consider that, together these components of the Bill will establish an enduring legal and policy framework in New Zealand, committing successive New Zealand governments to dedicate resources and take action on climate change. These proposals are strongly supported by the public, as seen through the response to recent consultation on the proposed Bill.
12. This paper describes these proposals in the following sections:
 - (a) Section A: The purpose of the Bill and Target
 - (b) Section B: Emissions budgets
 - (c) Section C: Adaptation
 - (d) Section D: Climate Change Commission
 - (e) Section E: Transitional provisions
 - (f) Section F: Consultation and Implications
13. Māori have a significant stake in climate change action, with a large economy and asset base sitting predominantly in the vulnerable primary industries, as well as Treaty-based rights and interests in natural resource use and management more generally. It will be critical to acknowledge a Crown-Māori partnerships approach, in the Bill.

Context

The global climate change context is changing

14. The Paris Agreement, and discussions with my counterparts from other countries, make it clear that the world is beginning the transition to a low-emissions and climate resilient economy. As a Party to the Paris Agreement, New Zealand has already committed to playing its part in global climate change mitigation efforts (see *Appendix 1*).
15. The latest Intergovernmental Panel on Climate Change (IPCC) report shows that unless we limit global average temperature rise to 1.5 degrees Celsius above pre-industrial levels, we face unprecedented risks to our ecosystems and marine biodiversity, species loss, and adverse impacts to health, food security and economic growth, along with other irreversible impacts from climate change.
16. The importance of limiting global average temperature rise to 1.5 degrees Celsius above pre-industrial levels cannot be emphasised enough (see *Appendix 2*).
17. It will become increasingly difficult to continue to operate a fossil fuel dependent, high-emissions economy in a future low-emissions world. If we do not transition to low-emissions, the consequences for our GDP growth are likely to be severe.
18. Recent research published in the *Nature* journal suggests that limiting global warming from climate change to 1.5 degrees Celsius (rather than 2 degrees Celsius) by mid-century could have a significantly beneficial impact globally: an increase in global GDP of 1.5 to 2 per cent, and avoided damages from climate change globally of approximately NZ\$11 trillion to NZ\$16 trillion.
19. Early climate change action has the potential to place New Zealand at a comparative global advantage to those economies that do too little, too late. It will give businesses and investors the confidence and incentives to align their decisions with the Bill's ambitions, innovate and invest in low emissions technology and industries, and take a position at the forefront of science, engineering and agriculture in a globally transitioning economy.
20. Many countries and regions have succeeded in decoupling their economic growth from emissions reductions, demonstrating that strong action can go hand-in-hand with a strong economy. A trend observed over the period 2000-2014 shows around 35 countries reduced their emissions while growing their GDP. This trend still holds with around 20 countries using consumption-based accounting methods showing these are real GHG emission reductions, and not simply transferring certain activities offshore. For example, the United Kingdom reduced emissions by 43 per cent since 1990 whilst growing its economy by two-thirds. It has reduced emissions at a greater pace than any of the G7 nation, whilst leading the G7 in growth in national income over the same period. California has seen the second-highest growth in per capita GDP of all the US states since 2010 while reducing its emissions.¹
21. I do not see a scenario in which New Zealand fails to take action and yet has an economy that continues to grow unabated in the long term. A failure to act will inevitably have adverse social, environmental and economic impacts.

¹ Refer to Appendix 3 for other examples. <https://www.carbonbrief.org/the-35-countries-cutting-the-link-between-economic-growth-and-emissions>, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/695930/2017_Provisional_Emissions_statistics_2.pdf, https://apps.bea.gov/itable/drilldown.cfm?reqid=70&stepnum=40&Major_Area=3&State=0&Area=XX&TableId=513&Statistic=1&Year=2010&YearBegin=2010&Year_End=2017&Unit_Of_Measure=AAGR&Rank=1&Drill=1&nRange=5

22. The full costs from climate change to New Zealand (and our economy specifically) are difficult to estimate. Stronger, near-term action is, however, expected to result in lower overall costs to New Zealand over the long term. The IPCC identified key climate risks to New Zealand being: continuing sea-level rise, and the increased frequency and intensity of flood damage to our low-lying coastal infrastructure.
23. New Zealand can advantageously position itself in an emissions-constrained and climate-impacted future global economy. Setting an Emissions Reduction Target for 2050 will catalyse domestic action and provide the confidence and incentives needed to invest in low-emissions technology and diversification into low-emission industries.
24. The transition should also take into account the benefits provided by our existing asset base, including native ecosystems which already sequester a large amount of carbon. Reducing the loss of these ecosystems and enhancing their restoration would provide benefits for both climate change mitigation and adaptation as well as for biodiversity.
25. The report recently released by the Productivity Commission provides a comprehensive and useful framework for approaching a challenging transition in a cost effective and just manner. The Productivity Commission notes that the transition will be challenging but achievable given concerted commitment and effort across government, business, households and communities. The sooner we begin to reduce emissions, the less abrupt and costly the inevitable transition will be.
26. In the context of this paper, and the Bill, we need to be consistent with the international architecture for responding to climate change including the Paris Agreement. When I use the term 'greenhouse gases' or GHG, it refers to the gases covered by the Kyoto Protocol: carbon dioxide (CO₂), nitrous oxide (N₂O), methane (CH₄), sulphur hexafluoride (SF₆), nitrogen trifluoride (NF₃) and the group of gases: hydrofluorocarbons (HFCs) and perfluorocarbons (PFCs).
27. New Zealand is heavily reliant on trade, particularly in agricultural products, for its continued prosperity and wellbeing. Trade delivers \$4 in every \$10 earned by our economy and sustains more than 600 000 jobs. It is essential that our exports be associated with New Zealand's reputation of being a good global environmental citizen, and of acting responsibly to address the challenges of climate change. This will also pre-empt any risk of our products being shunned by international markets for climate change reasons.

Previous Cabinet decision

28. Introducing this Bill is a strategic priority for this Government. It is a key priority of both the 2017 New Zealand Labour Party and New Zealand First coalition agreement, and the 2017 New Zealand Labour Party and Green Party of Aotearoa New Zealand confidence and supply agreement. As such, in the 100-Day Plan for Climate Change, I proposed the introduction of the Bill to provide an enduring Framework for this transition. Cabinet agreed that as well as defining a target to reduce GHG emissions by 2050, the Bill would codify the role, powers and functions of the Commission in law [CAB-17-MIN-0547.01 refers].
29. In July, Cabinet approved an all-of-government framework for climate change policy [CAB-18-MIN-0218 refers]. The three guiding principles which support the framework are:
 - (a) leadership at home and internationally – setting a clear and ambitious goal which stimulates innovation and investment, and influences the global response
 - (b) a productive, sustainable and climate-resilient economy – understanding the benefits and trade-offs of the transition and identifying best-value opportunities

- (c) a just and inclusive society – managing the pace and nature of the transition, and supporting affected regions, sectors and communities (including iwi and Māori).
30. In May, Cabinet agreed to a set of proposals for public consultation on the components of a potential Bill [CAB-18-MIN-0247 refers]. Consultation was completed in July, with more than 15,000 submissions received. Submissions have been considered in designing the final proposals for the Bill contained in this paper.

Section A: The purpose of the Bill and the Target

The Climate Change Bill will set an Emissions Reduction Target for 2050

Key proposals

- The Government's overall climate change mitigation goal is to meet New Zealand's obligations under the 2015 Paris Agreement, by the country playing its full part in pursuing efforts to limit the increase in average global temperature to no more than 1.5°C above pre-industrial levels (in line with evidence presented in the IPCC Special Report on Global Warming of 1.5°C).
- New Zealand will by 2050 not be adding to global warming and will achieve this by:
 - a) reaching net zero emissions for all greenhouse gases, except for biogenic methane, by 2050 (ie for carbon dioxide, nitrous oxide, HFCs, etc)
 - b) substantially reducing emissions of biogenic methane by 2050. That reduction will, subject to the next bullet point, be set at 35 per cent. In 2030 the Climate Change Commission will review this biogenic methane reduction component of the Target and advise whether that component should be revised; and whether the residual methane needs to be offset to net zero, fully or in part, from 2050. In doing so, the Commission will take account of the current scientific knowledge or circumstances.
- The Target will be legislated in 2019.
- The Target is carbon neutral (ie no net release of carbon dioxide into the atmosphere), and is consistent with advice from the Climate Change Chief Executives Board (including Treasury, MBIE, MPI, MfE), and from the Productivity Commission.

31. On 4 October 2016, New Zealand ratified the Paris Agreement. The purpose of the Bill is to provide a Framework by which New Zealand can develop and implement clear and stable climate change policies that contribute to the collective global effort to limit the increase in global average temperature to 1.5 degrees Celsius above pre-industrial levels, as set out in Article 2 of the Paris Agreement, recognising that this would significantly reduce the risks and impacts of climate change.

32. The Bill will achieve its purpose by setting the following Target :

- (a) net zero emissions for all greenhouse gases, except for biogenic methane, by 2050;
- (b) substantially reducing emissions of biogenic methane by 2050. That reduction will be set at 35 per cent. In 2030 the Climate Change Commission will review this biogenic methane reduction component of the Target and advise whether that component should be revised; and whether the residual methane needs to

be offset to net zero, fully or in part, from 2050. In doing so, the Commission will take account of the current scientific knowledge or circumstances.

33. I propose that the reduction in the biogenic methane component of the emissions reduction target be set, in the Bill, at [35] per cent below 2016 levels, in line with the Paris Agreement that recognises the fundamental priority of safeguarding food security and the particular vulnerabilities of food production systems to the adverse impacts of climate change.
34. In arriving at this level of reduction, I have firstly taken into account the Parliamentary Commissioner for the Environment's report (**PCE Report**), *The contribution of methane emissions from New Zealand livestock to global warming*, released in August 2018. This report stated that if New Zealand wished to ensure that its biogenic methane emissions cause no additional future warming relative to the warming caused by those emissions to date, it would have to reduce those methane emissions by about 10-22% below current levels by the year 2050. But, I have noted that this reduction of 10-22% only avoids additional warming from those emissions in 2050 relative to today. The Bill's purpose is to provide a Framework by which New Zealand can develop and implement clear and stable climate change policies that contribute to the collective global effort to limit the increase in global average temperature to 1.5 degrees Celsius above pre-industrial levels, as set out in Article 2 of the Paris Agreement.
35. The PCE Report does not tell us what reduction of biogenic methane emissions is needed in order to be consistent with that 1.5 degrees Celsius limit. The answer to this question is found in the *IPCC Special Report on Global Warming of 1.5°C (IPCC Report)* released in October 2018. The IPCC Report states that limiting warming to 1.5°C implies reaching net zero CO₂ emissions globally around 2050 and concurrent deep reductions in emissions of non-CO₂ forcings, including methane. In the report's modelled pathways that limit global warming to 1.5°C with no or limited overshoot, the central range of reductions in emissions of methane from agriculture is between 24 and 47 per cent by 2050, compared to 2010. The middle of this range is about 35 per cent.
36. We understand that the PCE will be releasing a full report in 2019 on how biological sources and sinks (eg afforestation) might be treated in the context of target setting and policy implementation.
37. The question then is, 'Is this achievable in New Zealand?' In seeking an answer this question I have looked to *The Report of the Biological Emissions Reference Group (BERG Report)* which has been released in December 2018. The purpose of the BERG report is to demonstrate how efforts can be focused to reduce biogenic emissions from agriculture. Relevantly, the BERG Report's modelling indicates that when future mitigation options are combined into 'packages' (eg, methane-reducing technologies: methane vaccine and methane inhibitors, etc), assuming various rates of adoption, overall biological emissions in the future could potentially be reduced by between 22 to 48 per cent in 2050; again the middle of the range is approximately 35 per cent.
38. Another report produced for BERG found with medium-high confidence that a methane inhibitor for grazing systems that can deliver a 10 to 30 per cent reduction in biogenic methane will be available by 2030, and with high confidence that one will deliver a 30 to 50 per cent reduction by 2050.
39. The proposed target is also broadly in line with historic efficiency improvements in New Zealand's agriculture sector. On average, greenhouse gas emissions per unit of meat and milk produced on farm in New Zealand has dropped by about 1 per cent per year for at least the past 20 years. If this level of improvement continued, we could see a reduction of approximately 29 per cent in greenhouse gas emissions per unit of meat

and milk production between 2016 and 2050, assuming production levels remain constant.

40. There are examples of the sector starting to meet this challenge, for instance in June 2018 Synlait also committed to a set of sustainability targets and actions across on-farm and off-farm emissions. It committed to reduce its emissions intensity (per kilogram of milk solids) by 35 per cent on-farm, and 50 per cent off-farm by 2028.
41. Based on this range of national and international research and its findings, I have taken that view that in order to limit warming to 1.5°C, biogenic methane emissions must be reduced by at least 35 per cent. Forest & Bird NZ, in its piece on climate in its summer 2018 edition of *Forest & Bird*, shares this view. William Rolleston (chairman of the Life Sciences Network, Agriview NZ and Genomics Aotearoa, co-founder of biotech company South Pacific Sera, farms in South Canterbury and past president of Federated Farmers), in his opinion piece in the *Stuff Climate News* dated 7 December 2018, acknowledges that this is achievable. Based on technologies currently available, or that are anticipated to become available, I understand that this level of reduction will not impose an unrealistic burden on the agricultural sector.
42. Impacts of this target on the agriculture sector can be managed. The Coalition Agreement states that if “agriculture is to be included in the ETS, then upon entry, the free allocation to agriculture [of emissions units] will be 95% but with all revenues from this source recycled back into agriculture in order to encourage agricultural innovation, mitigation and additional planting of forestry.” This commitment is also reflected in the terms of reference for the Interim Climate Change Committee in relation to its work on agricultural greenhouse gas emissions. I expect the Committee to report back to me on their recommendation in April 2019.
43. [The majority of New Zealand’s biogenic methane emissions are produced by the agriculture sector (89 per cent) with the remainder coming from the waste sector (11 per cent). In the event that biogenic methane emissions from waste were reduced by 100 per cent (including offsets), a reduction of 27 per cent in emissions from agriculture would be required to achieve the proposed 35 per cent overall reduction for biogenic methane.]

Economic impacts

44. Economic modelling indicates the scale of potential impacts across the economy and society. Where the impacts are felt will depend on the policies put in place to support the transition. Broadly, the analysis indicates that²:
 - (a) Annual average GDP growth out to 2050 could be 1.94 per cent, compared to 2.06 per cent under the current target to reduce emissions to 50% below 1990 levels by 2050
 - (b) Household incomes could grow by 84 per cent out to 2050, compared to 87 per cent under the current 2050 target
 - (c) One million hectares of sheep and beef land could convert to forestry, compared to 0.8 million hectares under the current 2050 target
 - (d) The average dairy farm of about 400 cows could face a cost of approximately 0.3 per cent of current gross revenue (\$2500) per year by 2025 (assuming a price of \$6/kg of milk solids, and agricultural biological emissions face obligations under

² Where possible these numbers have been adjusted from original modelling results to reflect the methane stabilisation level of 35%. The reports from which this data has been extrapolated will be made publically available on the Ministry for the Environment’s website when announcements on the proposed Climate Change Bill are made.

the New Zealand Emissions Trading Scheme with 95 per cent free allocation and an emissions price of \$32 per tonne of CO₂ equivalent).

- (e) The effect of emission pricing on petrol prices could see an increase of 2 cents per litre by 2025 (assuming all emissions prices are passed through to consumers), although total petrol costs should decline as we electrify transport.
45. These modelling results need to be interpreted with care and with a full appreciation of the limits of these modelling exercises and the assumptions built into them. The results are highly sensitive to input assumptions, and reduce sharply when stronger innovation and afforestation are assumed. The modelling also excludes potential upsides and co-benefits of the transition to a low emissions economy, and the impacts a changing climate could have on our economy, so is likely to over-state the overall impact.
46. Domestic and international evidence indicates that climate action stimulates faster innovation rates in low-emissions technologies that are of high economic value. Potential co-benefits from the transition include reduced congestion, health benefits, cleaner air, cleaner water, and improved biodiversity. These benefits were not modelled and are far more difficult to quantify than direct economic costs, but research collated by officials demonstrates that they could be substantial. The nature and magnitude of these co-benefits will depend on the transition pathway.
47. More information on the economic analysis and modelling is presented in the attached Regulatory Impact Statement and its addendum.

Reviewing the target

48. Once established, the Commission will review and advise on the Target in accordance with the provisions of the Bill.
49. The purpose of the Commission's review is to advise government as to whether the Target needs amending. This review could result in advice to change the timeframe for achievement of the Target, or a change to the level of emission reductions specified.
50. I propose that the Commission give such advice, only in conjunction with its advice on emissions budgets or when otherwise directed by government. Upon a recommendation by the Commission to change the target (including any consequential recommended changes to budgets), the government would be required to provide a response to this recommendation in Parliament within 12 months.
51. The Commission may recommend the government amend the Target when there are significant, measurable, and real changes in:
- (a) global action
 - (b) scientific understanding of climate change
 - (c) economic or fiscal circumstances
 - (d) international law
 - (e) technological developments
 - (f) distributional impacts and equity implications (including generationally).
52. I envisage this being most likely applied in situations such as where greater reductions are required, to contribute to efforts to limit the global average temperature increase to 1.5 degrees Celsius above pre-industrial levels.
53. If the government accepts a recommendation from the Commission to change the Target, then an amendment to the Act would be required. Consideration will also need to be given to the implications of an amended Target on the relevant emissions

budgets and plans. This review process is not intended to limit the ability of Parliament to amend the Act as it sees fit.

Fit with existing framework

54. The Target will be set in domestic legislation, and does not impact New Zealand's commitment to communicating and achieving NDCs that contain absolute economy-wide reductions at the maximum possible level of ambition, and that demonstrate a progression in ambition over previous efforts.
55. Sections 224 and 225 of the Climate Change Response Act 2002 (CCRA) provide for the setting of targets by gazette notice. I intend to repeal or amend these sections in light of the new legislated Target.

Crown-Māori Partnerships

56. Māori have a significant stake in climate change action, with a large economy and asset base sitting predominantly in the vulnerable primary industries, as well as Treaty-based rights and interests in natural resource use and management more generally. It will be critical to acknowledge a Crown-Māori partnerships approach in the Bill.
57. I intend that the Bill give regard to the principles of Te Tiriti o Waitangi.

Section B: Emissions budgets

The Bill will establish a Framework for emissions budgets

Key proposals

- Establish a Framework of successive five-year emissions budgets that specify the quantity of emissions permitted over a period, and support achievement of the Target.
- Require that emissions budgets for three periods are in place at any one time, meaning that emissions budgets will be set 10 to 15 years in advance.
- Emissions budgets, and the plan for achieving them, will be set by the responsible Minister after receiving advice from the Commission.
- The Commission will also monitor progress towards meeting emissions budgets and the Target.

58. To help New Zealand meet its Target, I propose dividing the period between 2022 and 2050 into a series of discrete emissions budgets. These will specify the amount of GHG emissions permitted across successive five-year periods, and serve as milestones to the Target. This will allow for a progressive transition to a low-emissions economy and mitigate the risk of significant shocks caused by rapid economic adjustment.
59. Emissions budgets will support stable policy settings by clearly indicating the emissions reductions required in the short to medium term. This stability will be essential in providing businesses, households and individuals with the confidence they need to make investments to reduce their GHG emissions, and lowering the overall cost of the transition.
60. Emissions budgets also need to be adaptable and responsive. Providing flexibility will enable the government to respond to technological and scientific advancements, and take into account the social, economic and environmental impacts of the transition.

61. It will be the duty of the responsible Minister to both set emissions budgets, and ensure that New Zealand does not exceed the quantity of emissions permitted in a budget period.
62. I recommend that emissions budgets are set for five-year periods, with the exception of the first emissions budget which will run for an abbreviated four-year period. While a range of options were identified, I consider that five-year budget periods will provide an appropriate balance between flexibility and certainty, as they will:
- (a) extend beyond the standard Parliamentary term, ensuring that emissions budgets remain consistent across successive governments and contribute to a stable policy environment and investment certainty
 - (b) align with the timing of New Zealand's NDCs under the Paris Agreement,³ and ensure consistent reporting
 - (c) provide sufficient time for the Commission to carry out each of its responsibilities within the budget cycle (ie, setting future budgets, advising on plans and policies, monitoring progress, and advising on NZ ETS settings).
63. In addition, I propose that three emissions budgets are in place at any given time. As each budget will cover five years this will mean that emissions budgets are set at least ten years in advance to provide certainty.
64. I recommend that:
- (a) a single emissions budget is established for all GHGs
 - (b) each emissions budget will state the amount of emissions permitted over the budget period, expressed as a net amount of carbon dioxide equivalent
 - (c) each emissions budget will indicate certain levels for each GHG, however quantities of one GHG can be substituted with another GHG in order to meet an emissions budget
 - (d) emissions budgets can be achieved through a combination of domestic emissions reductions, removals (ie, from forestry) and high integrity international units, noting that accessing international units is a last resort rather than a first choice.

The process for setting emissions budgets

65. The Commission and the responsible Minister will both have roles in determining the level of emissions budgets, and the plan for achieving them. The following table sets out the six budget periods between 2022 and 2050, the dates by which the Commission must provide advice, and the dates by which the responsible Minister must respond and notify the emissions budgets.

Budget period	Commission's advice	Government response and Gazettal
Budget period 1 (2022-2025)	February 2021	30 November 2021
Budget period 2 (2026-2030)	February 2021	30 November 2021
Budget period 3 (2031-2035)	February 2021	30 November 2021
Budget period 4 (2036-2040)	31 December 2024	31 December 2025

³ The first of these internationally communicated targets runs for a ten-year period between 2021 and 2030.

Budget period 5 (2041-2045)	31 December 2029	31 December 2030
Budget period 6 (2046-2050)	31 December 2034	31 December 2035

- 66.** Arrangements to ensure the timely and effective implementation of the Climate Change framework prior to the first set of emissions budgets being notified at the end of 2021 are outlined in *Section E: Transitional provisions*.

The Commission

- 67.** I propose that the Commission advises the government on the emissions budget settings that should apply. The involvement of this independent body will increase the government's accountability, and bolster public confidence in the fact that decisions are founded in comprehensive evidence and rigorous analysis. The Commission's advice will include:
- (a) the level at which the emissions budgets should be set
 - (b) the accounting methodologies that will apply (eg, whether they should align with the accounting methodologies that apply to NDCs set under the Paris Agreement or those used for the New Zealand GHG Inventory)
 - (c) plausible pathways for meeting these budgets
 - (d) an indication of the proportion of the emissions budget that will comprise biogenic methane, all other greenhouse gases, and removals (ie, from forestry) over the budget period
 - (e) a cap on the number of international units that can be used to meet the emissions budget, noting that accessing international units is a last resort rather than a first choice
 - (f) an indication of whether the Target remains appropriate or should be revised, to be included with its advice on the fourth, fifth and sixth emissions budgets.
- 68.** As three emissions budgets must be in place at all times, the Commission will be required to provide advice on a rolling basis; providing advice on the next emissions budgets no later than 12 months before the government is required to notify them (extending to 15 months in an election year).

The responsible Minister

- 69.** The responsible Minister will be required to present the Commission's advice in the House. The responsible Minister must respond to the Commission's advice and recommendations within 12 months of that advice being presented in the House (extending to 15 months in an election year).
- 70.** Prior to making a decision on whether to accept or reject the Commission's advice, the responsible Minister must consult with other political parties. The Bill will also require cross-party information sessions to take place. These will provide an opportunity for officials to provide detailed advice on the emissions budgets, the reasons for the recommended level, and plausible pathways for meeting the emissions budgets. In the United Kingdom a similar process is carried out, and budgets are approved through an affirmative resolution process in both Houses of Parliament.
- 71.** Where the responsible Minister proposes to depart from the Commission's advice, the Minister may choose to conduct additional consultation with persons and/or sector representatives that have an interest in the level of an emissions budget. In deciding not to consult further, the Minister must consider the scope of the Commission's consultation and be satisfied that adequate consultation has already taken place.

72. The Minister's response should also include an explanation of any departure from the Commission's recommendations.
73. Once the responsible Minister has identified a preferred emissions budget, they must gain Cabinet approval to draft a notice for the emissions budget, and to present a copy in the House.

Matters that must be taken into account

74. In providing advice and making decisions on emissions budgets, I propose that the Commission and the responsible Minister must give consideration to plausible pathways to achieving the Target and existing emissions budgets, and have regard to the following factors:
- (a) projected emissions and removals of GHGs
 - (b) a broad range of domestic and international scientific advice, and other knowledge (such as, mātauranga Māori)
 - (c) technology and anticipated technological developments, including the costs and benefits of New Zealand adopting these early
 - (d) the need for emissions budgets that are ambitious but technically and economically feasible
 - (e) public expectation as to the level of ambition necessary to achieve the Target
 - (f) economic circumstances and, in particular, the likely impact of the government's decision on the economy and the competitiveness of particular sectors of the economy, including te ōhanga Māori
 - (g) fiscal circumstances and, in particular, the likely impact of the government's decision on taxation, public spending, and public borrowing
 - (h) the distribution of impacts and their equity implications in the capacity to mitigate and adapt to climate change, for example, across regional, social, and intergenerational circumstances
 - (i) global responses to the threat of climate change by developed countries that have adopted the Paris Agreement, including New Zealand's NDCs.
75. In addition, the responsible Minister must have regard to the Commission's advice and recommendations when making decisions on an emissions budget.

Plausible pathway for meeting emissions budgets and the Target

76. As noted in paragraph 74, the Commission and the government must both consider plausible pathways when respectively advising on and setting emissions budgets, and preparing the plan (and supporting policies and strategies) for meeting emissions budgets
77. These plausible pathways will be identified by the Commission as part of its advice on emissions budgets, and will signal the course to achieving the Target. These will specifically include:
- (a) recommended reductions pathways for each GHG within the Target
 - (b) the contribution that removals (ie, from forestry) could make by 2050
 - (c) the likely key opportunities, as well as the biggest risks and uncertainties for New Zealand when reducing its emissions.

Establishing the first three emissions budgets (2022-2025, 2026-2030, 2031-2035)

78. Arrangements are needed to ensure the timely and effective implementation of the Climate Change framework prior to the beginning of 2022. These arrangements are outlined in *Section E: Transitional provisions*.

Budgets should have some level of flexibility

Budgets may be revised in limited circumstances

79. As noted above, providing flexibility to revise emissions budgets would allow the government to respond to changing circumstances, and manage the transition to a low-emissions future in a way that is as fair and as just as possible.
80. I recommend that, once notified, emissions budgets are generally regarded as fixed. However, when the Commission provides its advice and recommendations on future emissions budgets (ie, in 2025, 2030, and 2035), it may also recommend that existing emissions budgets are amended.
81. The Commission may recommend revising existing emissions budgets where there have been significant changes that affect the basis on which the emissions budgets were originally set. Specifically, these changes will be to the matters the Commission and the responsible Minister must take into account when advising on and making decisions on emissions budgets (see *paragraph 74*). However, the changes will only be permitted where the existing emissions budgets are no longer fit for purpose.
82. Emissions budgets may also be revised in light of improvements in methodologies for measuring and reporting emissions (ie, that may apply to our international obligations), including changes in the metric or exchange rate between gases. This will ensure that the level of an emissions budget remains relevant.
83. If the Commission's recommendations to amend the Target are adopted, consequential changes may be required to the existing emissions budgets. The Commission will provide advice and recommendations on these changes as part of its advice on reviewing the Target.
84. Limiting the circumstances in which emissions budgets can be revised will help to maintain certainty, and enhance the integrity of the process that establishes them. The limited flexibility introduced by this approach will allow emissions budgets to remain relevant and fit for purpose and ensure that the transition can be managed so that it is as just and as fair as possible.
85. I propose that, if the circumstances arise where an emissions budget may need to be revised, the responsible Minister must:
- (a) table the Commission's advice in Parliament
 - (b) take the Commission's advice and recommendations into account when determining whether existing emissions budgets should be revised
 - (c) explain the reasons for revising the emissions budgets, having regard to the criteria in *paragraphs 81 to 83*
 - (d) publicly consult on the proposed revisions
 - (e) table the proposed revision and explanation in Parliament, and progress through the standard Parliamentary process outlined in *paragraphs 70 to 73*.
86. An amended notice will be published after this process has been completed, noting that this must occur before the end of the current budget period.

'Banking' and 'borrowing' between emissions budgets

87. I propose that the Bill makes provision for 'banking' and, under certain circumstances, very limited 'borrowing' to occur between adjacent budget periods in order to provide additional flexibility in meeting them.
88. 'Banking' provides the ability to allow excess emissions reductions achieved during one budget period to be counted towards the emissions reductions required for the next. Including a banking provision will create a more certain policy environment and will support early action. It will smooth the course set by emissions budgets without adversely affecting the level of future emissions budgets or increasing the burden of meeting them.
89. I propose that there should be no limit on the quantity of excess emissions reductions available for banking into the next budget period. However, I also recommend that any excess reductions that are banked can only apply to the adjacent budget period, and cannot be carried over further.
90. 'Borrowing' provides the ability to use part of the subsequent budget period to meet the previous budget and smooth the transition between successive emissions budgets. Including a borrowing provision can provide a degree of administrative flexibility and help to manage short-run shocks, such as volatility in emissions (for example increased emissions in the energy sector due to a dry winter), or the cost of emissions reductions. It will also help to manage delays in the finalisation of inventory data. The final inventory data may have implications for the actual quantity of emissions that occurred and whether an emissions budget has been met.
91. I recommend that borrowing across two emissions budgets should only occur under certain circumstances and should be very limited. This will provide flexibility, while ensuring that borrowing does not undermine the long-term objectives of the Bill. In any event, I propose that the quantity of emissions that can be borrowed from the next budget period is capped at one per cent. This cap will be included in the legislation. The proposed limit on borrowing is the same as that in the United Kingdom where Banking is unlimited and borrowing is capped at 1 per cent.
92. I consider that this combination of banking and borrowing will provide a transparent and controllable level of flexibility. This will help mitigate the risk that the pressure to achieve emissions budgets will drive emissions reductions harder and faster than the economy can bear. This system is consistent with the model used in the United Kingdom.
93. I propose that the responsible Minister has the discretion to decide whether or not banking or borrowing should occur for a given emissions budget, and the extent to which banking or borrowing should take place within the legislative parameters.
94. I propose that the Commission advises on the level of banking and borrowing that should occur across two budget periods. This would form part of the Commission's review following the conclusion of a budget period. At the time the Commission reviews the budget, it will be clear whether the emissions budgets have been overachieved or underachieved, and whether banking or borrowing may be necessary and/or desirable (see *paragraphs 115 to 121*).
95. When making a decision on banking and borrowing, the responsible Minister will be required to take the Commission's advice and recommendations from the end of budget review into account. The responsible Minister must make their decision within two months of receiving the Commission's recommendations. The matters set out in *paragraph 74* must also be taken into account when the responsible Minister considers the impact on subsequent emissions budgets.

Developing a plan to meet emissions budgets

96. Emissions budgets will be supported by a plan that provides policies and strategies for how they can be met.
97. The primary purpose of the plan will be to drive emissions reduction, afforestation, and manage the distributional impacts of the transition, including the impacts on vulnerable industries, workers, communities and iwi and Māori. Establishing a plan and supporting policies will enable New Zealand to adapt to changing circumstances and will be vital to ensuring a just and inclusive society for all, where no one is left behind.
98. The plan will be prepared and published by the responsible Minister, and informed by advice from the Commission. A range of government agencies will also have a role in the preparation and implementation of the plan. Ministers responsible for affected sectors (eg, transport, energy, and agriculture), and their agencies, will lead the development of policies to drive emissions reduction and afforestation, and support the transition to a low-emissions economy. Where these affect a number of Ministerial portfolios, lead agencies will be nominated. These policies will also be developed in consultation with affected parties, including sectors where significant change will be required.
99. I propose that the plan includes:
- (a) sector-specific policies to lower emissions and/or increase afforestation
 - (b) a strategy to support the transitional shift across sectors to lower emissions and climate resilience
 - (c) a strategy and policy tools to recognise and mitigate impacts on workers, regions, iwi and Māori, and wider communities, including how any action can be funded
 - (d) any other policies that the responsible Minister considers appropriate.
100. The Commission's high-level advice on the plan should be tabled in Parliament at least 12 months before the beginning of the budget period, and should be informed by public consultation.
101. The government must have regard to the Commission's advice and recommendations when determining the plan needed to achieve the emissions budgets for a given period. In doing so, the responsible Minister may also choose to carry out additional consultation with key groups (such as sector representatives or affected communities) if further consultation is considered necessary, and ensure government is informed of the outcomes of the consultation. The responsible Minister must also ensure that iwi and Māori have been consulted, and those outcomes are provided to government to consider
102. The government's plan and the supporting policies and strategies must be published immediately before the start of the relevant budget period, but can be updated on an ongoing basis so that they remain fit for purpose. The timeframes for the development of plans for each of the six budget periods is set out in the table below.

Budget period	Commission's advice on high level plans and policies	Government publishes plans and policies
Budget period 1 (2022-2025)*	February 2021	31 December 2021
Budget period 2 (2026-2030)	31 December 2024	31 December 2025
Budget period 3 (2031-2035)	31 December 2029	31 December 2030
Budget period 4 (2036-2040)	31 December 2034	31 December 2035
Budget period 5 (2041-2045)	31 December 2039	31 December 2040
Budget period 6 (2046-2050)	31 December 2044	31 December 2045

* Note that the timeframes for the plans and policies to meet the first budget period are detailed in *Section E: Transitional provisions*.

Establishing the plan for meeting the first emissions budget

103. Given the timeframes proposed for the preparation and publication of the plan (immediately before the beginning of the relevant budget period), special arrangements need to be made for the first emissions budget. These are outlined in *Section E: Transitional provisions*.

Aligning NZ ETS settings with emissions budget

104. The NZ ETS, established under the CCRA, will be one of the policies and plans for meeting emissions budgets as it is a key tool for reducing New Zealand's emissions, increasing removals, and meeting the Target established under the Bill. Some settings of the NZ ETS can be adjusted by the making of regulations under the CCRA. The NZ ETS settings include a range of parameters that together manage the supply and price of New Zealand Units (**NZUs**) into the NZ ETS.

105. Settings that manage the unit supply include:

- (a) the number of international units to be allowed in any given period, noting that accessing international units is a last resort rather than a first choice
- (b) the number of NZUs to be allocated in the period
- (c) the number of NZUs to be made available by auction in the period.

106. Decisions on this paper do not affect free allocation to emissions intensive and trade exposed firms in the New Zealand Emissions Trading Scheme. Free allocation is provided for under the CCRA, and that Act would need to be amended to make any change to free allocation policy.

107. Settings that manage the unit price include:

- (a) the level of any price thresholds (such as a floor or ceiling)
- (b) if the price ceiling were to be achieved through a cost-containment reserve, the number of units to be held in that reserve.

108. I recently consulted publicly on proposals to improve the NZ ETS. These included a proposal to coordinate decisions on the unit supply settings through an annual five-year rolling process. That is, certain regulations would be made each year, with a five-year look-ahead.

109. Cabinet is concurrently considering proposals on coordinating the decisions on unit supply settings in the NZ ETS through the paper *Amending the Climate Change*

Response Act 2002: tranche 1 proposals. One of the proposals is that the supply and price of units in the NZ ETS should reflect emissions budgets set under the Bill. This will ensure that the NZ ETS is effective in keeping New Zealand's emissions within the limits set by the budgets. As a result, emissions budgets will be an important input when the responsible Minister prepares regulations for unit supply settings.

110. I propose that the Commission's advice on emissions budgets includes a high-level view of the likely NZ ETS settings required to meet the budget, including a desirable price path(s). The price path(s) should take into account carbon prices globally, and will include a range between upper and lower bounds.
111. I propose that the Commission also provides more detailed advice to the responsible Minister on the annual unit supply settings of the NZ ETS before those settings are made in regulation. In preparing the advice, the Commission will meet the same requirements that apply to the responsible Minister when making decisions about those settings. These requirements are set out in the CCRA and include matters that must be considered, as well as a requirement to consult with those likely to be substantially affected. The Cabinet paper *Amending the Climate Change Response Act 2002: tranche 1 proposals* also proposes to extend the requirements to ensure consistency with relevant emissions budgets.
112. The responsible Minister will recommend regulations either adopting the Commission's advised settings or providing alternative settings.
113. Consultation carried out by the Commission could fulfil the Minister's consultation requirement. That is, if the Minister is satisfied that adequate consultation has already occurred on the proposals, it will not be necessary to consult again. However, the responsible Minister might need to consult further if adequate consultation has not occurred on the proposals (for instance if the recommendation is significantly different from what was considered by the Commission).
114. If the responsible Minister recommends NZ ETS unit supply settings that differ from the Commission's advice, the Minister will be required to give reasons for adopting the different settings.

Monitoring progress towards emissions budgets

115. I recommend that the Commission monitors New Zealand's progress towards emissions budgets and, ultimately, the Target.
116. I propose that the Commission produces both annual progress reports (based on the information that the government reports as part of its international reporting obligations including the New Zealand GHG Inventory), and a full review of each emissions budget following the end of the budget period. The annual progress report and full review will both be made publicly available.
117. The Commission's annual report must include:
 - (a) measured emissions and removals for the most recent year(s) of the budget period for which GHG inventory data is available
 - (b) the latest projections for current and future emissions
 - (c) an evaluation of the success of the plan for meeting the emissions budget, including any concerns and new opportunities to reduce emissions.
118. The responsible Minister must then table a report in Parliament within two months of receiving the Commission's annual report. This will contain a response to the annual report, including any recommendations made, and describe progress towards implementing the current plan for meeting the emissions budget.
119. The Commission's full review must:

- (a) indicate whether New Zealand has met its emissions budgets
 - (b) evaluate the success of the plan for meeting the emissions budgets
 - (c) advise on the level of banking or borrowing (if any) that should occur across adjacent budget periods (see *paragraphs 87 to 95*)
 - (d) the number of international units needed to meet an emissions budget (subject to the cap advised by the Commission when providing recommendations on the emissions budget).
- 120.** I recommend that the responsible Minister provides a decision on banking and borrowing across budget periods within two months of receiving the Commission's full review. This report must be tabled in Parliament.
- 121.** Where New Zealand has failed to meet the emissions budgets for a set period, the responsible Minister's report must also include an explanation of the reasons for this failure, and be made publically available.

Section C: Adaptation

We also need to adapt to the changing climate

Key proposals

- A Framework for enhanced action on adaptation consisting of:
 - a National Climate Change Risk Assessment (**NCCRA**), to improve our understanding of the climate change risks that New Zealand faces
 - a National Adaptation Plan, that will outline the government's planned approach to improving New Zealand's resilience to the effects of climate change
 - monitoring and reporting on the National Adaptation Plan to ensure accountability.
- An adaptation reporting power that will enable the responsible Minister to require central government organisations, local government, and 'lifeline utility providers' to provide a climate change adaptation report.

122. Regardless of the actions we take to mitigate our emissions, our climate will continue to change for many years because of historic and continuing global emissions of GHGs. These changes will affect all New Zealanders and we need to plan how we will respond.

123. The Climate Change Adaptation Technical Working Group noted that New Zealand does not currently have a coherent framework to address, respond to, or adapt to the impacts of climate change. Impacts and actions are dealt with across a number of different legislative and regulatory regimes.

124. To support the objective of a productive, sustainable and climate-resilient New Zealand, I recommend that the Bill put in place a framework for adaptation, consisting of:

- (a) a NCCRA, to improve our understanding of the climate risks that New Zealand faces
- (b) a National Adaptation Plan, which will outline the government's plan to adapt to the effects of climate change

- (c) monitoring and reporting on the National Adaptation Plan to ensure accountability.
125. To further support better adaptation planning, I also propose an adaptation reporting power. This power would enable the responsible Minister to require specified central government organisations (including relevant Crown entities), local government, and 'lifeline utility providers' (as defined in the Civil Defence Emergency Management Act 2002) to provide an assessment of the impact of climate change on their functions, a summary of their proposals and policies for adapting to climate change, and their progress towards implementing those proposals and policies.
126. These recommendations are consistent with those recommended by the Climate Change Adaptation Technical Working Group in its final recommendations report released in May 2018.

A National Climate Change Risk Assessment

127. A NCCRA can help improve the country's resilience by providing nationally consistent information on a broad range of climate change impacts and vulnerabilities to these impacts across New Zealand.
128. I propose that the Bill require the Commission to undertake NCCRAs at intervals of no more than six years. The six-year cycle will align with the land transport funding and local government investment and funding timeframes under the Local Government Act. This alignment will be essential for successfully implementing the National Adaptation Plan, which is the government response to the NCCRA.
129. Undertaking regular NCCRAs will:
- (a) provide a reproducible, point-in-time assessment of the most critical matters to be addressed
 - (b) take account of new information on potential risks to New Zealand
 - (c) improve our understanding of the nature and severity of the risks and opportunities caused by climate change.
130. I consider that the Commission is best placed to undertake a technical and independent assessment of risks, with a high degree of credibility and objectivity.
131. I propose that, in preparing a NCCRA, the Commission will analyse and compare a broad number of different types of economic, social, health, environmental and cultural impacts. This will involve compiling existing information on impacts and vulnerability, as well as commissioning new information to fill identified gaps. The Commission will also consider alignment and linkages with existing risk assessments, including the National Risk Register.
132. I propose that the Commission provide its NCCRA to the responsible Minister and that the Minister must table it in Parliament, and make it publicly available.

Establishing the first National Climate Change Risk Assessment

133. To ensure a timely implementation of the Climate Change framework, a set of implementation arrangements are proposed in order to complete the first NCCRA shortly after the passing of the Bill. These arrangements are outlined in *Section E: Transitional provisions*.

National Adaptation Plan

134. The National Adaptation Plan will be prepared by the responsible Minister with input from iwi and Māori, local government, and key stakeholders. In response to the latest NCCRA, the National Adaptation Plan will need to consider a broad range of

economic, social, health, environmental and cultural impacts, relevant climate-related reports, funding requirements, New Zealand's climate obligations and any findings from the monitoring report of the previous National Adaptation Plan.

135. The National Adaptation Plan will include the government's objectives, strategies, policies and proposals for adapting to climate change. The responsible Minister will be required to consult publicly on the draft National Adaptation Plan before it is finalised (tabled in Parliament and made publicly available). Through this process, the National Adaptation Plan will provide more certainty about the roles and responsibilities for implementing the plan and increasing New Zealand's resilience to climate change.
136. Although the NCCRA and National Adaptation Plan will establish priorities nationally I anticipate that regions, cities, businesses or sectors will need to undertake more detailed assessments of risks and prioritisation of actions.
137. I recommend that a National Adaptation Plan be made publicly available no later than two years after the completion of the most recent NCCRA. Its objective is to articulate a planned approach to improving New Zealand's resilience to the effects of climate change.
138. I propose that the Commission undertake regular monitoring and reporting on the implementation of the National Adaptation Plan. The Commission will be required to regularly complete progress reports outlining the implementation of the National Adaptation Plan, the achievement of its objectives, any implementation barriers, and recommendations for addressing those barriers. I consider the Commission, as an independent body, is best placed to make a fair and unbiased assessment of the government's progress.
139. The Commission will provide its report to the Minister no later than two years after the most recent National Adaptation Plan has been made publicly available. The Minister will be required to table the report in Parliament, and provide a response to any recommendations within six months of receiving the report.

Adaptation Reporting Power

140. I recommend that an adaptation reporting power be included in the Bill. This power would enable the responsible Minister to require specified central government organisations (including Crown entities), local government, and critical infrastructure providers ('lifeline utilities' as defined in the Civil Defence Emergency Management Act 2002) (together, 'Reporting Organisations') to provide reports on climate change adaptation. Lifeline utilities include both public and private utility providers that provide essential infrastructure services to the community such as water, wastewater, transport, energy and telecommunications.
141. I propose that the responsible Minister may, at any time, require one or several 'Reporting Organisations' to prepare a report. The report shall include:
 - (a) an assessment of the impact and risks arising from climate change on the organisation's functions
 - (b) a description of the organisation's proposals and policies for adapting to climate change
 - (c) an assessment of the organisation's progress in implementing its adaptation proposals and policies.
142. These reports will provide a number of benefits including: supporting the preparation of the NCCRA and the National Adaptation Plan, making information available to the public and decision-makers, and encouraging Reporting Organisations to better integrate the assessment and management of climate change impacts into their functions. Understanding what action individual organisations are taking to adapt to

the effects of climate change, and to mitigate the risks it presents, will help the government to better coordinate adaptation efforts through the National Adaptation Plan.

- 143.** I propose that the Bill include a power to make regulations that specify more detailed requirements for the reports. The regulations could include any of the following:
- (a) specific information requirements, which could be differentiated by sector, class of activity or geographical area
 - (b) deadlines for the submission of reports
 - (c) any ongoing reporting requirements
 - (d) any other administrative matters relating to the report.
- 144.** There is an adaptation reporting power under the UK Climate Change Act 2008. It was used for the first round (from 2008-13) of adaptation reporting. However, a voluntary approach was used in the second round and will again be used for the third round. A consultation document published by the UK Department for Environment, Food and Rural Affairs in February 2018 noted that 86 out of the 111 organisations invited to submit adaptation reports in the second round of reporting did so. It further noted that:
- “a mandatory approach may drive up participation, however this alone is unlikely to drive up the quality of reporting. In the third cycle of reporting we intend to build on the previous rounds by increasing voluntary participation as well as improving report quality.”
- 145.** As such, there will be no obligation on the responsible Minister to use the adaptation reporting power, and information can still be requested on a voluntary basis at any time.
- 146.** In making the regulations, the responsible Minister shall consider a proportionate, risk-based and streamlined approach to minimise burdens and duplication. For example, if New Zealand was to adopt the Task Force on Climate-Related Financial Disclosures (TCFD) reporting requirements, aspects of the adaptation reporting power may no longer be needed. The responsible Minister will also be required to consult with the Reporting Organisations prior to making the regulations.

Section D: Climate Change Commission

An independent Commission will provide advice and accountability

Key proposals

- Establish the Climate Change Commission as an independent Crown entity with advisory and monitoring functions, to:
 - provide independent, expert advice to government on climate policy in relation to both emissions reduction and climate resilience
 - monitor and review the government's progress towards its emissions reduction and climate resilience goals.
- The responsible Minister is able to direct the Commission to have regard to government policies only when providing specific advice on the NZ ETS and NDC.
- The Commission will be comprised of seven members with expertise in a range of fields.

147. Under the Bill, I propose the establishment of a new statutory entity - the Climate Change Commission.

148. The purpose of the Commission is to:

- (a) provide independent, expert advice to government on climate policy in relation to both emissions reduction and climate resilience
- (b) monitor and review the government's progress towards its emissions reduction and climate resilience goals.

149. I consider that the Commission is a vital part of the framework to support New Zealand's transition to a low-emissions and climate-resilient New Zealand. It will provide a critical function to advise and monitor the country's progress towards achieving the Target, among a range of other functions.

150. While a range of options were considered for what role the Commission could have in New Zealand's low-emissions transition, I consider that it is most appropriate that it has an advisory role, and that final decision-making should rest with the government. This will ensure that the elected government remains responsible and accountable for policy choices, and allow the Commission to concentrate on its role as a widely-trusted expert advisor.

The Commission will have a range of functions to help New Zealand mitigate and adapt to the impacts of climate change

151. Throughout this paper, I have identified that the Commission will provide expert advice to the government on a range of climate change matters. These are summarised below, in addition to some further roles:

Target

- (a) monitor and review progress towards meeting the Target
- (b) advise on any revisions to the Target (if the criteria in *paragraph 51* are met)

Emissions budgets and the NZ ETS (see Section B: Emissions budgets):

- (c) recommend emissions budgets
- (d) advise on any revisions to existing emissions budgets

- (e) advise at a high-level on the plan and supporting policies and strategies to meet emissions budgets, including a desirable price path(s)
- (f) provide independent recommendations on settings of the NZ ETS
- (g) monitor and review progress towards meeting the emissions budgets, publishing progress reports annually and a review following the end of each budget period
- (h) advise on the level of 'banking' or 'borrowing' of emissions reductions between budgets

Adaptation (see Section C: Adaptation):

- (i) prepare the NCCRA (every six years)
- (j) monitor and evaluate implementation of the National Adaptation Plan, publishing a progress report every two years following the approval of the most recent National Adaptation Plan

Related advice:

- (k) advise the government on New Zealand's NDCs, upon the request of government
 - (l) prepare reports and advice to government from time to time on matters related to emissions reduction and climate resilience, at the request of government.
- 152.** The Commission may make recommendations to government for the request of reports or advice.
- 153.** As part of its advice about the Target and emissions budgets, the Commission should describe (and update) plausible pathways along which the New Zealand economy could grow and develop so as to achieve the Target. These pathways will indicate a general direction for action.
- 154.** All reports of the Commission will be tabled in Parliament and published.
- 155.** In performing its functions, the Commission will generally consider the following matters:
- (a) current scientific knowledge
 - (b) available technology that can be efficiently adopted, and any early-mover advantages
 - (c) economic impacts, including, for example, impact on the ability of Māori to access economic opportunities
 - (d) social and environmental circumstances, including regional and sector differences at local level
 - (e) global responses, noting that decisions must consider the global response and as such any actions must be proportional to that global response.
- 156.** It will also consider any other matters required in relation to specific functions, as described in the previous sections of this paper.
- 157.** In relation to plausible pathways, the Commission will assess:
- (a) options for the plausible pathways and the challenges, opportunities, benefits, and costs of each pathway
 - (b) the implications of these options for the feasibility of achieving the Target by domestic reductions
 - (c) at a high level, policy measures that would achieve the Target or emissions budget, such as emission pricing and other regulatory interventions

- (d) efficient and cost-effective emissions-reduction opportunities such as through technological change and structural economic adjustment
 - (e) broader economic objectives for increasing wellbeing and achieving higher living standards, including sustainability, economic growth (including productivity growth), improving equity, social cohesion, and resilience to risk.
158. In relation to advice on NDCs, the Commission will consider, among other things:
- (a) the contributions of other developed-country Parties
 - (b) carbon market developments
 - (c) foreign policy objectives.

An independent Crown entity is the most appropriate form for the Commission

159. I propose that the Commission be established as an independent Crown entity for the purposes of the Crown Entities Act 2004. I have considered a range of institutional forms and recommend this form as the most appropriate given the need for the Commission to provide independent advice, and to operate at arm's length from the government in carrying out its functions and duties.
160. The Commission will have seven members, who will be the Commission's board for the purposes of the Crown Entities Act. They will be the governing body of the Commission, with the authority to exercise the powers and perform the functions of the Commission, and will be accountable to the responsible Minister for performing their duties as members of the board.
161. The board's responsibilities under the Crown Entities Act will include ensuring that the Commission performs its functions efficiently and effectively, in a manner consistent with the spirit of service to the public, and in collaboration with other public entities where practicable.
162. As a Crown entity, the Commission may also establish other advisory panels as it sees fit (for example, a science or economic advisory panel).
163. I propose that the Ministry for the Environment is the monitoring department for the Commission, supporting the responsible Minister to undertake her or his duties in regards to the Commission.

The ability of the Commission to have regard to government policy

164. The Crown Entities Act provides that there is no power by which the Minister is able to direct an independent Crown entity to have regard to or to give effect to a government policy unless this is specifically provided in another Act.
165. I consider that this level of independence is appropriate to the main advisory and monitoring functions proposed for the Commission.
166. However, the Commission's function to recommend NZ ETS settings will require the Commission to translate policy decisions of the government (in respect of its emissions reduction policies and plans) into recommended NZ ETS settings. Furthermore, the responsible Minister must be able to direct the Commission, should it be asked to provide NDC advice, to do so in accordance with New Zealand's obligations and expectations under the Paris Agreement.
167. I therefore propose that the Bill provides a tightly limited power for the responsible Minister to direct the Commission to have regard to government policies in relation to these specific functions.

Composition of the Commission

- 168.** The Crown Entities Act prescribes processes under which an independent Crown entity is appointed and operates. The Governor-General makes appointments on the recommendation of the responsible Minister, and members are appointed for a term of up to five years. In order to provide continuity and stability, I propose that members of the Commission will be appointed in a way that ensures that no more than two appointments expire in the same year.
- 169.** In order to maintain the independence of the Commission and its advice, I propose that the Commission be comprised of experts who have significant experience in relevant fields, rather than being representatives of particular sectors or stakeholder groups.
- 170.** The Governor-General will appoint a chairperson and a deputy chairperson on the recommendation of the Minister. Existing provisions of the Crown Entities Act will provide broadly for the Commission to organise its own processes, including delegating functions to employees and subcommittees.
- 171.** The Commission will be able to convene advisory panels and seek advice or information as appropriate.
- 172.** The Crown Entities Act provides that the Minister may only appoint or recommend a person who, in the responsible Minister's opinion, has the appropriate knowledge, skills, and experience to assist the statutory entity to achieve its objectives and perform its functions.
- 173.** The Bill may set out additional criteria for members and processes for their appointment. In order to promote an appropriate balance of expertise, the Bill will require the Minister to consider:
- (a) the need for the Commission to have:
 - an understanding of climate change mitigation and adaptation, including the effects and implications of any responses to climate change
 - experience working in or with government at national and subnational levels
 - knowledge of broad public and regulatory policy direction
 - (b) the need for the Commission to include technical and professional skills, experience, expertise and innovative approaches relevant to:
 - the environmental, social, economic and distributional impacts of climate change, including regional and sector differences at a local level, and climate change policy interventions
 - Te Tiriti o Waitangi, te reo me ona tikanga Māori, te ōhanga Māori, mātauranga Māori, and other Māori interests
 - a range of sectors and industries, regions and people.
- 174.** Given the significance of the Commission's role in guiding New Zealand's economic transformation, I propose that an independent nominating committee identifies the candidates for appointment as Commission members. The responsible Minister may only recommend for appointment candidates nominated by the nominating committee. The nominating committee will:
- (a) publicly seek nominations for potential Commission members
 - (b) seek input from iwi and Māori representative organisations, and others who might have an interest
 - (c) collate and advise the Minister on a list of potential candidates.

175. The responsible Minister would appoint the independent nominating committee. The committee will include the incumbent Chair of the Commission (unless that position is vacant).
176. Before recommending that the Governor-General appoint a person as a **member** of the Commission or as **deputy chairperson** of the Commission, the Minister must consult with representatives of other parties in Parliament.
177. Similarly, before recommending that the Governor-General appoint a person as **chairperson** of the Commission, the Minister must consult with representatives of other parties in Parliament. In negotiations with the Opposition, a proposal to obtain the consent of the Leader of the Opposition to the appointment was raised but I have decided not to accept that proposal.
178. In the event there is a delay in appointing the chairperson, I propose that the Bill enable the normal duties of a chairperson of an independent Crown entity to be carried out by the deputy chairperson until such time that an appointment is made to the role of chairperson. I propose that this provision is in addition to Schedule 5 of the Crown Entities Act, which provides that deputy chairperson has and may exercise all of the functions and powers of the chairperson, where an appointment has been made but the chairperson is unable to carry out its functions.

Power to consult and to access information

179. The Commission will require access to government-held information in order to fulfil its functions. The provisions of the Bill will need to balance access to this information with the need to safeguard legally privileged or personal information. Where appropriate, it will also have statutory provisions to allow it to access information that it might not otherwise be able to gain, for instance under the CCRA.
180. I propose that, for the purpose of accessing relevant information under the CCRA, the Commission should be treated as though it were an administering agency. It will also be subject to equivalent obligations of confidentiality.
181. The CCRA contains substantial penalties for breaching obligations of confidentiality.⁴ These would apply to the Commission in respect of information it accesses under that Act.
182. The Commission will also have provision to consult broadly and gather information, and arrangements will be required to allow for the sharing of this information with government departments.

Review of Commission's effectiveness

183. I recommend that the effectiveness of the Commission in performing its role and function is reviewed seven years after the Commission becomes operational.
184. I intend for the Ministry for the Environment to initiate an independent review of the effectiveness of the Commission, which could also incorporate the effectiveness of the Ministry in its monitoring department capacity. On completion of the review, the Ministry for the Environment will publish a review report.

⁴ Obligations of confidentiality are set out in section 99 of the CCRA. Under section 130, every person to whom section 99(1) applies who knowingly acts in contravention of section 99 commits an offence and is liable on conviction to— (a) imprisonment for a term not exceeding 6 months; or (b) a fine not exceeding \$15,000; or (c) both.

Section E: Transitional provisions

185. To achieve timely implementation and provide certainty, I recommend that the Bill includes transitional arrangements to establish the architecture and institutions as soon as possible. The standard lead-in times proposed for mechanisms such as the emissions budgets are not possible in the establishment of the framework (eg, setting emissions budgets 10 years in advance).
186. The transitional arrangements I propose will enable full implementation of the Bill before the beginning of 2022. They will allow for establishing the signals for the emissions reduction pathway for New Zealand and, in doing so, provide greater certainty for businesses, investors and all New Zealanders.
187. I propose that the statutory timeframes provided for in the sections above will apply once the framework is fully operational.

Establishing the Commission

188. I propose that the Commission becomes operational within four weeks of the Bill passing, to ensure it begins to deliver its first set of advice as soon as possible. Preparatory work undertaken while the Bill is going through select committee will be critical to meeting this timeframe.
189. Transitional provisions in the Bill will allow the first appointments to be made without a statutory nominating committee (as this could not be appointed until after the Bill becomes law). Instead, I intend to have the first appointment process supported by officials, adhering closely to the full appointment process that will be followed thereafter. This transitional process will require officials to:
 - (a) publicly seek nominations for potential Commission members
 - (b) collate and advise on a list of potential candidates.
190. I will consult on the list of potential candidates with representatives of other parties in Parliament, so that I can recommend widely-supported appointments (through the Cabinet Appointments and Honour Committee) shortly after the Bill is passed.
191. The Ministry for the Environment will be responsible for the Commission's successful establishment. The Ministry will form an establishment team (made up of officials) to undertake preparatory work prior to the Commission taking office. The work of this team will draw on previous experience from the establishment of the Environmental Protection Authority in 2011.
192. Work of the establishment team can include, among other things:
 - (a) undertaking the process above to identify a list of potential candidates for the Commission members to enable the formal appointment process to commence without delay following the Bill passing
 - (b) initiating the process for appointing the chief executive so that decisions on candidates could be made by the Commission immediately on taking office
 - (c) working with the Interim Climate Change Committee (**Interim Committee**) and its Secretariat to design a process for the transfer of analysis and evidence and for necessary staff (content and operational staff as required for continuity and to minimise disruption to functions) to be offered fixed-term positions with the Commission
 - (d) preparing potential organisational structures and processes for the Commission based on the functions being proposed
 - (e) "line up without signing up" the Commission to premises and equipment as appropriate.

193. I propose \$0.516 million be released to the Ministry for the Environment from the tagged contingency to undertake this preparatory work (see *Financial implications: paragraphs 221 to 223*). I believe that this funding is appropriate as an addition to the Ministry's core Climate Change programme to deliver the Bill, and is critical to the timely establishment of the Commission, and the subsequent implementation of the Climate Change framework.

The Interim Committee will make progress before the Commission is formally established

194. The Interim Committee (a Ministerial Advisory Committee) has a number of tasks, including preparing the evidence and analysis for the plausible pathways [ENV-18-0042 refers]. This is to begin work without undue delay to support the Commission in providing its advice shortly after establishment.

195. Once decisions have been taken about the framework proposed in this paper I will clarify with the Interim Committee the expectations for this work.

196. The disestablishment of the Interim Committee is also provided for in its terms of reference. It will be disestablished when its reports are provided to the Commission, or when the purpose and functions of the Interim Committee have been completed. The Interim Committee is to continue until 30 September 2019 at the latest.

197. I propose that the necessary Secretariat staff from the Interim Committee be offered fixed-term positions with the Commission upon the disestablishment of the Interim Committee, for a term of six months. This will provide continuity and certainty for the newly established Commission to deliver its early advice to government. It would apply to existing Secretariat staff working on the analysis and evidence for the plausible pathways, and to operational staff required to provide the least disruption for the transfer and continuation of functions.

Implementation of the first three emissions budgets as soon as possible

198. So that businesses, households and individuals can start taking action to reduce their GHG emissions, the first three emissions budgets should be established as quickly as possible.

199. My recommended process for setting these emissions budgets is outlined below. While this replicates the standard process established under the Bill to the greatest extent possible, I acknowledge that it departs from it in several ways.

200. Notably, the first three emissions budgets will be set on accelerated timeframes to enable the first emissions budget to commence on 1 January 2022. The plans and supporting policies and strategies for meeting the first emissions budget will also be developed on the same timeframes, departing from the typical process to prepare and publish a plan before the beginning of the relevant budget period.

Setting a Provisional Emissions Allowance (2020-2025)

201. The NZ ETS will be one of the key means of achieving emissions budgets. The CCRA is currently being amended to ensure the NZ ETS is fit for purpose as we move into the 2020s. One of the key proposals is to announce unit supply settings on a five-year rolling basis. Implementing this will require decisions on the unit supply for the period from 2020 to 2024 by late 2019, and to 2025 by late 2020.

202. In the absence of an emissions budget until late 2021, there is significant uncertainty around the level of emission reductions that the NZ ETS will be expected to deliver. This creates a risk that businesses will delay investments in low emissions technologies and forestry.

203. To provide certainty for NZ ETS participants, while retaining the Commission's ability to provide independent advice on the level of the first emissions budget, I propose that

officials develop a Provisional Emissions Allowance for the period 2020-2025. This allowance will be superseded by the emissions budget for 2022-2025, once it has been agreed.

204. I intend to return to Cabinet once the Bill has been enacted, seeking approval to consult on the Provisional Emissions Allowance and NZ ETS unit supply volumes.
205. I will also return to Cabinet in late 2019 to seek approval for NZ ETS annual unit supply volumes to be set in regulations.

First three emissions budgets (2022-2025, 2026-2030, 2031-2035)

206. Having regard to the factors outlined in *paragraph 74*, the Commission would consider the preliminary evidence and analysis, and make recommendations on both the level of first three emissions budgets and the high-level plans and policies to meet the first emissions budget (2022-2025). In doing so, the Commission must also have regard to the most recent New Zealand Greenhouse Gas Inventory (the 2020 submission covering the period 1990-2018). These recommendations would need to be tabled in Parliament by February 2021.
207. The Minister would have nine months to consider the advice and recommendations provided by the Commission and, following the process set out in *paragraphs 69 to 73*, notify the first three emissions budgets by 31 December 2021. In doing so, the Minister must also have regard to the factors listed in *paragraph 74*.
208. I propose that the Minister also publishes the plans and supporting policies and strategies to support the first emissions budget by 31 December 2021.
209. The first emissions budget would then commence on 1 January 2022 and run for a four-year period, concluding on 31 December 2025.
210. If unforeseen circumstances prevent the Commission from recommending the first emissions budget within these timeframes, I propose that officials recommend to the Minister, the first three emissions budgets. If this eventuates, I propose that officials comply with the same provisions outlined in this section for the Commission, and that the Commission reviews the emissions budgets as soon as practicable after it has been stood up.

The first National Climate Change Risk Assessment should be in place as soon as possible

211. I propose that the NCCRA be prepared, in the first instance, by the responsible Minister within a year of the Act coming into force. This will enable the Commission to initially focus on its establishment, and on the provision of its advice on the Target, emissions budgets and NZ ETS settings.
212. I deem this suitable given the technical nature of this assessment, and the existing technical capability that resides in the Ministry for the Environment to establish the framework and manage specialist consultants to undertake this initial assessment.
213. The statutory timeframes and the role of the Commission would then apply to subsequent NCCRAs, undertaken at least every six years.

Section F: Consultation and Implications

Consultation

Public Consultation

214. Cabinet agreed that the development of the Bill should be open and transparent, and achieve widespread public buy-in. To that end, Cabinet approved public consultation

on proposals for the Bill [CAB-18-MIN-0247 refers]. Consultation on the Bill ran from 7 June until 19 July 2018, with the Ministry for the Environment holding a wide range of events to ensure as many New Zealanders took part in the climate change discussion.

- 215.** The majority of the 15,007 submissions received were in support of developing the Bill. Over 95 per cent said that New Zealand should have some form of 2050 target for reducing emissions. Of the 12,149 responses to the question *which is the best target for New Zealand?*:
- (a) 11,007 submissions (91 per cent) said the best target was net zero emissions across all GHGs
 - (b) 586 submissions (4.8 per cent) said the best target was net zero long-lived gases and stabilised short-lived gases by 2050
 - (c) 281 submissions (2.3 per cent) said that the best target for New Zealand was net zero carbon dioxide by 2050
 - (d) 61 submissions (0.5 per cent) said New Zealand shouldn't have a new target
 - (e) 214 submissions (1.8 per cent) had a different opinion or were unsure.
- 216.** Ninety-one per cent of submitters preferred that the government set a 2050 target in legislation now, while 6 per cent preferred that the government set a goal to reach net zero emissions by the second half of the century and the Commission advises on the specific target for the government to set later.
- 217.** A large number of submitters and people at public consultation meetings felt that we should be doing more and going faster. Some suggested a 2030 or 2040 target instead of a 2050 target.
- 218.** We received submissions from a wide range of organisations and individuals, including local government, iwi and Māori, non-governmental organisations, universities and research institutes, and submitters from the health, oil and gas, energy, agriculture, forestry, construction, insurance and banking, business, transport and tourism sectors.
- 219.** Questions and concerns raised included the need for enduring legislation, clarifying what stabilising short-lived gases might look like, ensuring the Commission is truly independent and can adequately incorporate te ao Māori perspectives, and the potential cost of the Bill to lower socio-economic groups.

Departmental Consultation

- 220.** The following agencies were consulted during the development of this paper and Regulatory Impact Statement: Ministry of Business, Innovation and Employment, Ministry of Primary Industries, Ministry of Foreign Affairs and Trade, the Treasury, Department of Internal Affairs, Te Puni Kōkiri, Department of Conservation, Ministry of Education, State Services Commission (particularly concerning proposals for the Commission), Ministry of Transport, New Zealand Transport Agency, the Energy Efficiency and Conservation Authority, and the Environmental Protection Authority. The Department of Prime Minister and Cabinet was informed.

Financial implications

Funding requested through this Cabinet paper

- 221.** I propose to release \$1.9 million operating and \$0.150 million capital in financial year 2018/19 and \$300,000 operating in financial year 2019/20 from the tagged contingency in Budget 2018 "Establishment of the Independent Commission" (the tagged contingency) [CAB-18-MIN-0158.10 refers].

- 222.** Of this funding, \$0.5 million operating and \$0.150 million capital will allow the work to prepare for the establishment of the Commission, including:
- (a) background work to identify potential candidates for the Commission and its chief executive
 - (b) designing a process for the transfer of analysis, evidence and staff from the Interim Committee secretariat to the Commission
 - (c) specifying requirements for, identifying premises, and beginning the setup of and shared services provider/s (including contracted legal services)
 - (d) preparing potential organisational structures, policies and procedures for the Commission based on the proposed functions.
- 223.** The remainder of this funding will allow the NCCRA to commence this financial year to make progress on our understanding of impacts of the changing climate on New Zealand while the Bill makes its way through the House.

Funding that will be sought through Budget 2019

- 224.** I propose to seek new funding for the Commission and the government response to the Commission and other requirements of the Bill through Budget 2019.
- 225.** New funding, of \$10-11 million per year on an ongoing basis, will be required for the establishment of the Commission and for the ongoing costs of the Commission.
- 226.** The work to establish the Commission will include:
- (a) leasing and fitting out premises
 - (b) setting up IT systems and networks
 - (c) setting up business processes and signing agreements with providers
 - (d) designing and developing the Commission's branding
 - (e) recruiting secretariat staff.
- 227.** The ongoing costs of the Commission will include costs associated with:
- (a) Commission members and Māori Advisory Committee members' attendance at meetings and stakeholder engagement
 - (b) secretariat salaries
 - (c) consultancy/research
 - (d) overheads.
- 228.** This funding will also allow Interim Committee secretariat staff to be employed by the Commission on a short-term basis (see *Section E: Transitional provisions*).
- 229.** The Bill places new obligations on government to respond to the Commission's recommendations and develop new policy.
- 230.** New work that will be required at the Ministry for the Environment will include:
- (a) providing advice to government on the Target
 - (b) providing advice to government on emissions budgets
 - (c) preparing responses to the reports of the Commission on emissions budgets, progress towards emissions budgets, and settings in the NZ ETS
 - (d) providing advice to government on policies and plans to achieve emissions budgets
 - (e) preparing the National Adaptation Plan

- (f) administering the Adaptation Reporting Power
 - (g) monitoring the Commission.
- 231.** This will require additional full-time equivalent staff at the Ministry for the Environment on an ongoing basis from 2019 and additional research at an estimated cost of \$2.5 million per year.
- 232.** The Environmental Protection Authority will be required to respond to enquiries from the Commission as part of the Commission's iterative development of recommendations. The Environmental Protection Authority will also need to respond to the Commission's reports and to implement the government's responses to the Commission's recommendations. This will require an additional two full time equivalent staff to respond to the Commission.
- 233.** Other agencies including the Ministry for Business, Innovation and Employment, Ministry for Primary Industries, Department for Conservation, Ministry for Culture and Heritage, Ministry of Education and Environmental Protection Authority will also require additional resource to deliver on the new requirements in the Bill. There are likely to be further implications for other government agencies such as the New Zealand Transport Agency and Te Puni Kōkiri, as well as for local government. However, these will be dependent upon future decisions related to things like adaptation reporting requests.

Legislative implications

Finalising the Climate Change Bill

- 234.** The policy decisions from this paper will require legislative change to be progressed through the Bill and amendments to be made to the CCRA.
- 235.** Subject to confirmation as part of the usual process for agreeing the next Legislation Programme, I ask that the new legislation be given a category 2 priority on the 2019 Legislation Programme (meaning the Bill must be passed by the end of 2019).
- 236.** In addition, I seek authorisation to make any technical and administrative changes required to finalise the draft Bill, in consultation with the Ministers of Finance, Transport, Energy and Resources, Environment, Agriculture and Forestry. Any substantive policy decisions required to finalise the draft Bill will be submitted to Cabinet for decisions.
- 237.** I seek authorisation to release an exposure draft of the Bill for targeted consultation with iwi and Māori, and the Opposition on the proposed legislation.

Legislation will be binding on the Crown.

- 238.** The Bill proposes to place new requirements on government, which will create a venue for legal challenge to executive actions, including judicial review.
- 239.** The legislation will, as far as appropriate, be drafted to make clear that accountability is intended to be political rather than legal. This will be particularly important in the case of non-compliance with a target or budget.
- 240.** Mitigations for these risks will be considered as part of the drafting process.

Consequential amendments to the CCRA

- 241.** Consequential amendments to the CCRA will be made as a result of the Bill including revising the purpose statement. Other minor changes will be made to ensure that the Commission has appropriate access to information under the CCRA.
- 242.** In addition, on 13 August the Minister for Forestry and I launched a public consultation on proposed changes to the NZ ETS to improve the overall operation and design of

the NZ ETS, as well as to implement changes required as a result of the Paris Agreement. I intend for these amendments to the CCRA to be made by the end of 2019.

Regulatory impact analysis

243. The Regulatory Impact Analysis requirements apply to the proposals in this paper. A Regulatory Impact Statement (**RIS**) has been prepared and is attached at *Appendix 4*.
244. The Regulatory Impact Analysis Team has reviewed the RIS and provided the following quality assurance statement:

The Regulatory Quality Team at The Treasury and the Regulatory Impact Analysis Panel at the Ministry for the Environment have jointly reviewed the "Climate Change Bill" RIS dated 19 October 2018. The joint review team considers that the RIS meets the quality assurance criteria for Regulatory Impact Assessments, based on:

- (a) *the RIS being complete*
- (b) *the proposal having been publicly consulted on*
- (c) *the RIS being as clear and concise as possible, given the complexity of the subject*
- (d) *the inclusion of modelled economic costs and benefits*

International obligations

245. The recommendations for the Bill are consistent with New Zealand's obligations under the Paris Agreement and other international commitments. In particular, the processes I am recommending to set a new 2050 Target, implement emissions budgets and carry out the adaptation measures, are consistent with New Zealand's international commitments on climate change.

Human rights

246. The proposals in this paper are consistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

Publicity and proactive release

247. The Bill has been discussed widely amongst New Zealanders, including in the media, both before and during the consultation on the discussion document.
248. I propose to release this paper and attached RIS on the Ministry for the Environment's website no later than when the draft Bill is introduced into the House, in early 2019.

Recommendations

I recommend that the Cabinet Environment, Energy and Climate Committee:

Context

1. **note** that on 18 December 2017, Cabinet noted [CAB-17-0547.01] that the Minister for Climate Change intended to introduce a Climate Change Bill (the Bill) (subject to Cabinet approval in 2018) to [CAB-17-0547.01 refers] to:
 - 1.1. define a target for reducing greenhouse gas (GHG) emissions by 2050
 - 1.2. codify the role, powers and functions of an independent Commission in law

SECTION A: The purpose of the Bill and the Target

2. **agree** that the purpose of the Bill is to provide a framework by which New Zealand can develop and implement clear and stable climate change policies that contribute to the collective global effort to limit the increase in global average temperature to 1.5 degrees Celsius above pre-industrial levels
3. **agree** that the Bill sets an Emissions Reduction Target (**Target**) to achieve:
 - 3.1. net zero emissions for all greenhouse gases, except for biogenic methane by 2050
 - 3.2. a reduction in emissions of biogenic methane (including, if necessary, to net zero) by 2050
4. **agree** that the level of emissions reductions in recommendation 3.2 is set at 35 per cent below 2016 levels by 2050, subject to a review by the Commission
5. **note** that economic modelling has been undertaken to assess the scale of the potential impacts of the Target on the New Zealand economy, and that these impacts are summarised in paragraph 43 of this paper and presented in the attached Regulatory Impact Statement
6. **agree** that the Commission must, for the purposes of its review, consider whether it is necessary for biogenic methane to reach net zero by 2050, taking into account any changes as set out in recommendation 12
7. **agree** that in establishing the Target, sections 224 and 225 of the Climate Change Response Act 2002 (CCRA) can be repealed or amended
8. **note** this Target is set in domestic legislation and does not impact New Zealand's commitment to communicating and achieving Nationally Determined Contributions (NDCs) that contain absolute, economy-wide reductions at the maximum possible level of ambition, and that demonstrate a progression in ambition over previous efforts
9. **note** that I intend to seek Cabinet approval to revise the purpose of the New Zealand Emissions Trading Scheme so that it is consistent with assisting New Zealand to meet the Target and NDCs

Ability to review the Target

10. **agree** that the Commission must undertake a review of any or all aspects of the Target in conjunction with its advice on successive emissions budgets (ie, the fourth, fifth, and sixth emissions budgets as per recommendation 21.6)
11. **agree** that the Commission may undertake a review of any or all aspects of the Target at any other time if requested by the Government
12. **agree** that following its review, the Commission may recommend the government amend any or all aspects of the Target where there are significant changes in
 - 12.1. global action
 - 12.2. scientific understanding of climate change
 - 12.3. economic or fiscal circumstances
 - 12.4. international law
 - 12.5. technological developments
 - 12.6. distributional impacts and equity implications (including generationally)
13. **agree** that the review could result in advice to change the timeframe for achievement of any or all aspects of the Target, or a change to the level of emission reductions specified.

14. **agree** that, on receiving a recommendation from the Commission to amend any or all aspects of the Target, the responsible Minister must respond to the Commission's advice no later than 12 months from receiving it, and table the response in Parliament

Crown-Māori partnerships

15. **note** that the Bill give regard to the principles of Te Tiriti o Waitangi through incorporating specific requirements to
 - 15.1. consult with iwi and Māori, as laid out in recommendations 46, 47, 76, 116, 122, 132 and 155
 - 15.2. give consideration to matters of interest to iwi and Māori, as laid out in recommendations 23, 44, 47, 70, 75, and 101

SECTION B: Emissions budgets

Establishing an emissions budget framework

16. **agree** to establish the framework for emissions budgets under the Bill that supports the achievement of the Target as stated in recommendation 3.1 and 3.2
17. **agree** that
 - 17.1. a single emissions budget will be established for each budget period, covering all GHGs
 - 17.2. each emissions budget will state the amount of emissions that will be permitted across each budget period as a net amount of carbon dioxide equivalent
 - 17.3. emissions budgets will be achieved through domestic emissions reductions and removals (ie, from forestry), and high integrity international units
 - 17.4. emissions budgets will be for a period of five years, with the exception of the first emissions budget which will be for a four-year period
 - 17.5. three emissions budgets should be in place at any one time, and that this means that emissions budgets will be set at least ten years in advance
18. **agree** that it is the duty of the responsible Minister to set emissions budgets within the timeframes stipulated
19. **agree** that it is the duty of the responsible Minister to seek to ensure that New Zealand does not exceed the quantity of emissions permitted in a budget period
20. **agree** that the Commission must provide advice to the responsible Minister on the recommended quantity of emissions allowed over an emissions budget period budget at least 12 months (or 15 months in an election year) before a budget needs to be notified subject to recommendations 140 to 147.
21. **agree** that the Commission's advice must include
 - 21.1. the recommended level of an emissions budget
 - 21.2. the accounting methodologies that will apply
 - 21.3. plausible pathways for meeting emissions budgets, including price and policy pathways
 - 21.4. an indication of the proportion of the emissions budget that will comprise each GHGs, removals (ie, from forestry), and high-integrity international units
 - 21.5. set a cap on the number of international units that can be used to meet the emissions budget, noting that accessing international units is a last resort rather than a first choice

- 21.6. an indication of whether the Target remains appropriate or should be revised, but only as part of its advice on the fourth, fifth and sixth emissions budgets
22. **agree** that in preparing the advice in recommendations 20 and 21, the Commission must have regard to the matters in recommendation 23
23. **agree** that when determining the emissions budgets, the responsible Minister must give consideration to plausible pathways for meeting the Target and emissions budgets and have regard to the following matters
- 23.1. projected emissions and removals of greenhouse gases
 - 23.2. a broad range of domestic and international scientific advice
 - 23.3. technology and anticipated technological developments, including the costs and benefits of New Zealand adopting these early
 - 23.4. the need for emissions budgets that are ambitious but technically and economically feasible
 - 23.5. public expectation as to the level of ambition likely to achieve the Target
 - 23.6. economic circumstances and, in particular, the likely impact of the government's decision on the economy and the competitiveness of particular sectors of the economy
 - 23.7. fiscal circumstances and, in particular, the likely impact of the government's decision on taxation, public spending and public borrowing
 - 23.8. the distribution of impacts and their equity implications in the capacity to mitigate and adapt to climate change for example across regional, social, cultural and intergenerational circumstances
 - 23.9. global responses to the threat of climate change by developed countries that have adopted the Paris Agreement, including New Zealand's NDCs
24. **agree** that plausible pathways for meeting emissions budgets and the Target will include
- 24.1. recommended reduction pathways for each GHG within the Target and, where appropriate, proposed revisions to the Target
 - 24.2. the contribution that removals (ie, from forestry) could make by 2050
 - 24.3. the likely key opportunities for New Zealand when reducing its emissions, as well as the biggest risks and uncertainties
25. **agree** that the responsible Minister must table the Commission's advice in Parliament
26. **agree** that the responsible Minister must notify the emissions budgets at least ten years ahead of the relevant budget period
27. **agree** that the responsible Minister will be required to respond to the Commission's advice within 12 months of it being tabled in Parliament (extending to 15 months in an election year), and that in preparing the response the Minister must
- 27.1. develop the emissions budgets
 - 27.2. in the case that the emissions budgets depart from the Commission's advice, decide whether further consultation with persons and/or sector representatives that are likely to have an interest in the level of an emissions budget is necessary
 - 27.3. in making the decision in recommendation 27.2, the responsible Minister must consider the scope of the Commission's consultation, and must satisfy his or herself that adequate consultation has occurred

- 27.4. provide an explanation of any departures from the Commission's advice and recommendations
28. **agree** that emissions budgets will be published by a notice
29. **agree** that a copy of the notified emissions budgets will be presented in the House of Representatives

Review of emissions budgets settings

30. **agree** that the Commission may recommend that existing emissions budgets be revised when it provides advice and recommendations on future emissions budgets
31. **agree** that the Commission may recommend that existing emissions budgets be revised when there have been significant changes that have affected the considerations on which the emissions budgets were originally formulated (recommendation 23), such that they are no longer fit for purpose
32. **agree** that the Commission may also recommend that existing emissions budgets be revised in light of methodological improvements in the way that emissions are measured and reported
33. **agree** that where the Commission's advice to amend the Target is adopted, the Commission will also advise on any consequential changes to existing emissions budgets that may be necessary
34. **agree** that the Commission's advice must be presented in the House of Representatives
35. **agree** that, when determining whether to revise an existing emissions budget, the responsible Minister must take the Commission's advice and the considerations required when setting emissions budgets (recommendation 23) into account, and must follow the procedure for setting emissions budgets set out in recommendations 27 to 29
36. **agree** that, except in extraordinary circumstances, there is no ability to revise the settings for the current emissions budget period
37. **agree** that the responsible Minister must table an explanation as to why he or she considers it appropriate to revise an existing emissions budget in the House, having regard to the limited circumstances in recommendations 31 to 33, and in respect of the current budget, in addition, the extraordinary circumstances that has led to the decision to revise the budget

Banking and borrowing

38. **agree** that where the emissions budgets for a budget period have been overachieved, a quantity of excess abatement can be carried across (or "banked") to the next emissions budget
39. **agree** that where New Zealand has failed to meet the emissions budget for a budget period, up to one per cent of the quantity of emissions permitted in the subsequent budget period can be carried forward (or "borrowed") where this is necessary to ensure a smooth transition between adjacent budget periods
40. **agree** that the responsible Minister will have the discretion to decide whether banking or borrowing will be permitted across two successive budget periods and the extent to which this will be allowed
41. **agree** that, in determining whether banking or borrowing will be permitted, the Minister must have regard to the advice and recommendations provided by the Commission

42. **agree** that the Commission will provide advice and recommendations on the quantity that can be banked or borrowed between two adjacent budget periods in its report on the success of an entire budget period

Developing a plan to meet emissions budgets

43. **agree** that, following the publishing of the budget in recommendation 28, the responsible Minister must prepare and publish a plan that details policies and strategies for how New Zealand will meet the emissions budget before the commencement of the budget period, noting that this can be continually updated so that it remains fit-for-purpose
44. **agree** that this plan will include
- 44.1. sector-specific policies to lower emissions and/or increase afforestation
 - 44.2. a cross-sector strategy to support the transitional shift to lower emissions and climate resilience
 - 44.3. a strategy to recognise and mitigate impacts on workers, regions, iwi and Māori, and wider communities, including how any action can be funded
 - 44.4. any other plans and policies that the Minister considers necessary
45. **agree** that the Commission provide advice on a plan for meeting the subsequent budget period
46. **agree** that no later than 12 months before the beginning of a budget period
- 46.1. the Commission must provide the responsible Minister with high-level advice on plan, and supporting policies and strategies, to meet the emissions budgets for that period
 - 46.2. the advice must include the plan, and supporting policies and strategies outlined in recommendation 44, and must have taken the matters set out in recommendation 23 into account
 - 46.3. the Commission must consult broadly with New Zealanders, including sector representatives, and affected communities
47. **agree** that in preparing the plan, and supporting policies and strategies, for a budget period, the responsible Minister must
- 47.1. consider the Commission's advice on a plan to meet subsequent emissions budgets
 - 47.2. ensure that New Zealanders, including sector representatives, affected communities, and iwi and Māori have been consulted and undertake further consultation if the responsible Minister considers this is necessary
 - 47.3. prepare this response following the receipt of the Commission's advice
48. **agree** that the responsible Minister will recommend a plan and supporting policies and strategies to Cabinet, who will determine which government agencies will be responsible for leading their implementation
49. **agree** that the plan and supporting policies and strategies for achieving emissions budgets must be published prior to the relevant budget period commencing, and can be updated throughout the budget period to ensure they remain fit-for-purpose

Aligning NZ ETS settings with emissions budgets

50. **agree** that the NZ ETS will remain a key tool for reducing New Zealand's emissions, increasing removals, and meeting the Target established under the Bill

51. **note** that Cabinet paper *Amending the Climate Change Response Act 2002: tranche 1 proposals* included a proposal to coordinate unit supply settings on an annual five-year rolling basis, including setting the proposed price ceiling (a cost-containment reserve) as well as the number of units to be held in the reserve and its trigger
52. **note** that any units released into the NZ ETS market as a result of an activation of the cost-containment reserve would not be taken from the emissions budget
53. **note** that some settings related to unit supply can be set by the making of regulations under the CCRA, subject to statutory requirements including requirements for consultation and matters to be considered
54. **agree** that, before regulations prescribing unit supply settings are made under the CCRA, the Commission must prepare advice on the unit supply settings of the NZ ETS, and provide the responsible Minister with a report detailing its recommendations for the regulations
55. **agree** that the Commission's recommendations on the unit supply settings will be prepared consistent with all requirements that apply to the responsible Minister when he or she makes decisions about unit supply settings of the NZ ETS, including but not limited to the relevant requirements of section 30G and 30GA of the CCRA
56. **agree** that when the Minister recommends to the Governor-General the making of regulations prescribing unit supply settings under the CCRA, the recommendations must
 - 56.1. give effect to the unit supply settings recommended by the Commission in its report; or
 - 56.2. make alternative unit supply settings, in accordance with the requirements of the CCRA
57. **agree** that consultation carried out by the Commission will be permitted to satisfy the requirement for consultation with persons likely to be substantially affected, provided the Minister is satisfied that adequate consultation has occurred
58. **agree** that if the regulations differ to the Commission's recommendations (recommendation 56.2) the responsible Minister must first provide a report giving reasons for any deviation from the Commission's advice, and
 - 58.1. present that report to Parliament
 - 58.2. make that report publicly available

Monitoring progress towards emissions budgets

59. **agree** that the Commission will monitor progress towards emissions budgets on an ongoing basis, using data and methodologies consistent with the government's international reporting obligations and the New Zealand Greenhouse Gas Inventory to the greatest extent possible
60. **agree** that the Commission will publish an annual report that includes:
 - 60.1. measured emissions and removals (ie, from forestry) for the most recent year(s) of the budget period for which GHG inventory data is available
 - 60.2. the latest projections for current and future emissions and removals
 - 60.3. an evaluation of the success of the plan for meeting the emissions budget, including any concerns and new opportunities to reduce emissions
61. **agree** that the responsible Minister must table a report in Parliament within two months of receiving the Commission's annual report giving the Minister's response to the Commission's annual report, including any recommendations made, and describe

progress made in implementing the current plan including any amendments or updates to that plan

62. **agree** that the Commission will prepare and publish a report evaluating the success of an entire budget period no later than two years after its conclusion
63. **agree** that the report will evaluate New Zealand's success in meeting the emissions budgets, the success of the plan for meeting the emissions budgets, and include recommendations on banking and borrowing and the number of international units required
64. **agree** that the responsible Minister must table a report in Parliament within two months of receiving the Commission's evaluation of the full budget period
65. **agree** that the report will detail the responsible Minister's decisions on banking and borrowing and the number of international units needed to meet the budget (subject to the cap identified by the Commission, noting that accessing international units is a last resort rather than a first choice)
66. **agree** that, where New Zealand has failed to meet the emissions budgets for a set period, the responsible Minister must include an explanation of the reasons for this failure in the report at recommendation 64
67. **note** that the government will continue to report progress towards its international targets (NDCs) under the United Nations Framework Convention on Climate Change and the Paris Agreement

SECTION C: Adaptation

68. **note** that currently New Zealand does not have a coherent framework to address, respond or adapt to the impacts of climate change, with risks, impacts and actions dealt with across a number of different legislative and regulatory regimes

National Climate Change Risk Assessment (NCCRA)

69. **agree** that the Bill will include provisions requiring NCCRAs to be prepared by the Commission, in accordance with the following objectives
 - 69.1. to improve New Zealand's understanding of the nature and severity of the risks and opportunities posed by climate change and the likely changes in these risks and opportunities over time
 - 69.2. to enable the prioritisation of action (articulated through a National Adaptation Plan)
70. **agree** that, in preparing a NCCRA, the following matters must be taken into account
 - 70.1. economic, social, health, environmental and cultural impacts of climate change
 - 70.2. the distribution of these impacts across society, taking particular account of vulnerable groups or sectors
 - 70.3. any existing obligations of New Zealand under an international agreement
 - 70.4. alignment and linkages with any other relevant national risk assessments produced by central government
 - 70.5. long-term climate trends
 - 70.6. any reports produced under the adaptation reporting power
 - 70.7. the best available information, including scientific and technical advice
71. **agree** that once a NCCRA has been prepared

- 71.1. the Commission must provide it to the responsible Minister
 - 71.2. the Minister must table it in Parliament within three months of receiving it
 - 71.3. the Commission must make it publicly available, along with any evidence commissioned to support its preparation, but only after the Minister has tabled it in Parliament
72. **agree** that subsequent NCCRAs must be tabled in Parliament, and made publicly available no later than six years following publication of the previous NCCRA

A National Adaptation Plan

73. **agree** that the Bill will include provisions requiring a National Adaptation Plan to be prepared with the objective to signal the planned approach to improving New Zealand's resilience to the effects of climate change
74. **agree** that the responsible Minister must prepare an National Adaptation Plan that sets out matters including
- 74.1. the government's objectives for adapting to the effects of climate change
 - 74.2. the government's strategies, policies and proposals for meeting those objectives
 - 74.3. the timeframes for implementing the strategies, policies and proposals
 - 74.4. how the matters in recommendations 74.1 to 74.3 will address the risks in the most recent NCCRA
 - 74.5. measures and indicators that will enable regular monitoring and reporting on the implementation of the strategies, policies and proposals
75. **agree** that in the preparation of a National Adaptation Plan, the responsible Minister must take into account matters including
- 75.1. economic, social, health, environmental and cultural impacts of climate change, including impacts on iwi and Māori
 - 75.2. the distribution of these impacts across society, taking particular account of vulnerable groups or sectors
 - 75.3. any existing obligations of New Zealand under an international agreement
 - 75.4. any reports produced under the reporting power
 - 75.5. any relevant advice, reports, progress reports, or recommendations from the Commission
 - 75.6. the capacity and capability of communities or entities to undertake adaptation action, including how any actions may be funded
 - 75.7. the best available information, including scientific and technical advice
76. **agree** that in the preparation of an National Adaptation Plan the responsible Minister must
- 76.1. seek input from any stakeholders the Minister considers relevant
 - 76.2. undertake public consultation on the draft National Adaptation Plan
 - 76.3. have regard to any submissions and feedback provided in relation the draft National Adaptation Plan
77. **agree** that the National Adaptation Plan must be completed no later than two years after the most recent NCCRA has been made publicly available

- 78. **agree** that the responsible Minister must table it in Parliament, and make it publicly available
- 79. **agree** that the responsible Minister may, at any time, make minor or technical changes to a current National Adaptation Plan, and must make any new version publicly available
- 80. **note** that a National Adaptation Plan does not preclude more detailed local level risk assessments or prioritisations being undertaken

Monitoring the National Adaptation Plan

- 81. **agree** that the Commission will monitor and report on the implementation of the National Adaptation Plan
- 82. **agree** that the Commission will complete a progress report on the implementation of the National Adaptation Plan and submit it to the responsible Minister every two years after the most recent National Adaptation Plan is made publicly available
- 83. **agree** that the progress report must include
 - 83.1. an assessment of the progress made towards implementing the strategies, policies and proposals included in the most recent National Adaptation Plan
 - 83.2. an assessment of the degree to which the objectives have been achieved and the risks posed by climate change are being successfully addressed by the implementation of the most recent National Adaptation Plan
 - 83.3. an identification of any known barriers to the implementation and effectiveness of the National Adaptation Plan, including recommendations for how those barriers might be addressed or overcome in future
 - 83.4. any other relevant matters required to support the report
- 84. **agree** that once a progress report has been prepared
 - 84.1. the Commission must provide the report to the responsible Minister
 - 84.2. the Minister must table the report in Parliament within three months of receiving it
 - 84.3. the Commission must make the report publicly available, but only after the Minister has tabled the report in Parliament
- 85. **agree** that the responsible Minister is required to respond to the progress report no later than six months after receiving it

An Adaptation Reporting Power

- 86. **note** that where public services and infrastructure are significant to people and communities it is appropriate to have information about the vulnerability of those public services and infrastructure to climate change impacts, and the proposed plans for adapting
- 87. **agree** that the Bill will provide that the Minister may request a report from any central government organisation (including relevant Crown entities), local government and critical infrastructure providers ('lifeline utilities' as defined in the Civil Defence Emergency Management Act 2002) (together, 'Reporting Organisations')
- 88. **agree** that the responsible Minister may, at any time, require that a specified Reporting Organisation provide a report, by advising the organisation in writing
- 89. **agree** that any report required by the Minister must contain the following information, as a minimum

- 89.1. an assessment of the current and predicted impact of climate change in relation to the organisation's functions
- 89.2. a statement of the organisation's proposals and policies for adapting to climate change and the timeframes for introducing those measures
- 89.3. an assessment of the progress made by the organisation towards implementing previous proposals and policies
- 89.4. any matters specified in regulation
- 90. **agree** that the responsible Minister may make regulations that cover any of the following matters
 - 90.1. specific information requirements for the reports, which could be differentiated by sector, class of activity or geographical area
 - 90.2. deadlines for the submission of reports to the Minister
 - 90.3. any ongoing or recurring reporting requirements
 - 90.4. any other administrative matters relating to the reports
- 91. **agree** that in preparing the regulations, the responsible Minister must consider
 - 91.1. the ability to tailor the reporting request in relation to the size and capability of the Reporting Organisation
 - 91.2. the potential extent and significance of climate change impacts on the functions of the Reporting Organisation
 - 91.3. the avoidance of unnecessary duplication with existing reporting frameworks
- 92. **agree** that, before making the regulations, the responsible Minister must consult with the Commission and Reporting Organisations that the Minister considers may be affected by the proposed regulations
- 93. **agree** that, if a Reporting Organisation receives a requirement to report, the Reporting Organisation is required to respond to the Minister and fulfil the requirements of the request
- 94. **agree** that any reports produced under the Adaptation Reporting Power will be shared with the Commission on a confidential basis as soon as possible after the responsible Minister receives them

SECTION D: Functions and form of an independent Climate Change Commission

- 95. **agree** that the Bill establish an independent Commission with the objectives to
 - 95.1. provide independent, expert advice to government climate policy in relation to both emissions reduction and climate resilience
 - 95.2. monitor and review the government's progress toward its emissions-reduction and climate-resilience goals

Functions of the Commission in relation to Sections A, B and C

- 96. **note** that the functions of the Commission so far outlined in these recommendations are summarised as
 - 96.1. Target (*see section A*)
 - 96.1.1. monitor and review progress towards meeting the Target
 - 96.1.2. advise on any revisions to the Target (if the criteria in recommendation 12 are met)

- 96.2. Emissions budgets (*see Section B*)
- 96.2.1. recommend emissions budgets
 - 96.2.2. advise on any revisions to existing emissions budgets
 - 96.2.3. advise at a high level on the plan and supporting policies and strategies to meet emissions budgets, including a desirable price path(s)
 - 96.2.4. provide independent recommendations on the settings of the NZ ETS
 - 96.2.5. monitor and review progress towards meeting the emission budgets
 - 96.2.6. advise of the level of 'banking' or 'borrowing' of abatement between budgets
- 96.3. Adaptation (*see Section C*)
- 96.3.1. prepare the National Climate Change Risk Assessment (every six years)
 - 96.3.2. monitor and evaluate implementation of the National Adaptation Plan, publishing a progress report every two years following the approval of the most recent National Adaptation Plan
97. **agree** that the Commission will also prepare reports and advice from time to time on matters related to emissions reductions and climate resilience, at the request of government, including advising on New Zealand's NDC under the Paris Agreement
98. **agree** that the Commission may make recommendations to the government for the commission of reports or advice
99. **agree** that as part of its advice about Target and emissions budgets, the Commission will describe (and update) plausible pathways along which the New Zealand economy could develop so as to achieve the Target
100. **agree** that all reports of the Commission will be tabled in Parliament and published within three months of receiving them
- 100.1. the Minister must table the report in Parliament
 - 100.2. the Commission must make the report publicly available, but only after the Minister has tabled the report in Parliament
101. **agree** that in performing its functions, the Commission will consider the following matters
- 101.1. current available science
 - 101.2. available technology that can be efficiently adopted, and any early-mover advantages
 - 101.3. economic impacts
 - 101.4. social and environmental circumstances, including regional and sector differences at local level
 - 101.5. global responses, noting that decisions must consider the global response and as such any actions must be proportional to that global response
 - 101.6. any other matter required by the Bill in relation to specific functions
102. **agree** that in relation to plausible pathways, the Commission will assess

- 102.1. options for the plausible pathways and the challenges, opportunities and benefits, and costs of each pathway
 - 102.2. the implications of these options for the feasibility of achieving the Target by domestic reductions
 - 102.3. at a high level, policy measures that would achieve a particular target or emissions budget, such as emission pricing and other regulatory interventions
 - 102.4. efficient and cost-effective emissions-reduction opportunities such as through technological change and structural economic adjustment
 - 102.5. broader economic objectives for increasing wellbeing and achieving higher living standards, including sustainability, economic growth (including productivity growth), improving equity, social cohesion, and resilience to risk
103. **agree** that in giving advice on New Zealand's NDC under the Paris Agreement, the Commission will consider, among other things
- 103.1. the contributions of other developed-country Parties
 - 103.2. carbon market developments
 - 103.3. foreign policy objectives

Institutional form of the Climate Change Commission

Provisions for the entity

104. **agree** that the Commission be established as an independent Crown entity for the purposes of section 7 of the Crown Entities Act 2004 (Crown Entities Act)
105. **agree** that the Crown Entities Act will apply to the Commission except to the extent that the Bill provides otherwise
106. **agree** that except as expressly provided in primary legislation, the Commission must act independently in performing its functions and duties
107. **agree** that the Bill will provide for the responsible Minister to direct the Commission to have regard to government policy, for the purpose of recommending unit supply settings of the NZ ETS (recommendations 54 to 56) and for the purpose of giving advice on New Zealand's NDC under the Paris Agreement
108. **note** that under section 115 of the Crown Entities Act, as soon as it is practicable after giving the direction described at recommendation 107, the responsible Minister will be required to publish the direction in the *Gazette* and present a copy of it to Parliament
109. **agree** that in order to carry out its functions, the Commission will require access to certain information held by government agencies
110. **agree** that the Commission will share certain information with government agencies
111. **authorise** officials to work out a way for the Bill to balance access to and sharing of this information with the need to safeguard the information
112. **agree** that the Commission will have access to information under the CCRA, specifically that
- 112.1. for the purposes of the information-sharing provisions of the CCRA, the Commission shall have access to any information necessary for the performance of any of its functions
 - 112.2. in respect of information obtained under the CCRA, the Commission will be subject to obligations of confidentiality equivalent to those applying to an administering agency under the CCRA

113. **note** that, consistent with recommendation 112.2, the penalties for breaching obligations under the CCRA which are that a person who knowingly acts in contravention of the obligations of confidentiality under section 99 of the CCRA commits an offence and is liable on conviction to
- 113.1. imprisonment for a term not exceeding six months, or
 - 113.2. a fine not exceeding \$15,000, or
 - 113.3. both
- will apply to the Commission
114. **agree** that the Commission may consult broadly in carrying out its functions, including if the Commission deems it necessary to do so, by publishing and inviting submissions on discussion papers and draft reports
115. **agree** that the Commission must undertake consultation before doing any of the following
- 115.1. recommending an emissions budget or revised emissions budget and
 - 115.2. giving advice about plans and policies for meeting an emissions budget
116. **agree** that (without limiting the power of the Commission to consult broadly in preparing any of its advice) in order to satisfy the consultation requirement described at recommendation 115, the Commission must
- 116.1. consult with persons the Commission considers are likely to be substantially affected by any decisions made in accordance with the advice
 - 116.2. consider matters raised in consultation
117. **note** that, consistent with the recommendation 104, the Commission will be added to the lists of entities in
- 117.1. Part 3 of Schedule 1 of the Crown Entities Act (Independent Crown Entities)
 - 117.2. Part 2 of Schedule 1 of the Ombudsmen Act 1975 (Organisations other than local organisations)
118. **agree** that the Ministry for the Environment is the monitoring department for the Commission, supporting the responsible Minister to undertake its duties in regards to the Commission

Composition of the Commission

119. **agree** that the members of the Commission are a board for the purposes of the Crown Entities Act, and that
- 119.1. the board has seven members (including the chairperson)
 - 119.2. members hold office for five years or any shorter period stated in the notice of appointment
 - 119.3. appointments are made such that no more than two appointments expire in the same year
 - 119.4. the board is comprised of experts in relevant fields, rather than of representatives of stakeholders or sectors
120. **agree** that before recommending appointments, the responsible Minister must have regard to the following matters
- 120.1. the need for the Commission to have

- 120.1.1. an understanding of climate change mitigation and adaptation, including the effects and implications of any responses to climate change
- 120.1.2. experience working in or with government at national and subnational levels
- 120.1.3. knowledge of broad public and regulatory policy direction
- 120.2. the need for the Commission to include technical and professional skills experience, expertise and innovative approaches relevant to
 - 120.2.1. the environmental, social, economic and distributional impacts of climate change, including regional and sector differences at a local level, and climate change policy interventions
 - 120.2.2. Te Tiriti o Waitangi, te reo me ona tikanga Māori, te ōhanga Māori, mātauranga Māori, and other Māori interests
 - 120.2.3. a range of sectors and industries, regions and people
- 121. **agree** that, in addition to the restrictions in section 29 of the Crown Entities Act, the responsible Minister may only recommend for appointment as a member of the Commission a person who has been nominated by a nominating committee
- 122. **agree** that the nominating committee (recommendation 121)
 - 122.1. must be established by the responsible Minister to nominate candidates for appointment as members of the Commission
 - 122.2. will comprise no fewer than five persons with proven skills or relevant work experience that will enable them to identify candidates for appointment to the Commission who are suitably qualified
 - 122.3. shall include the chairperson of the Commission (unless that position is vacant)
- 123. **agree** that the responsible Minister must notify the nominating committee of persons who the Minister considers to have an interest in appointments to the Commission, and the nominating committee must consult with those persons or representatives of those persons;
- 124. **agree** that, in addition to recommendation 123, the nominating committee will also:
 - 124.1. publicly seek nominations for potential Commission members
 - 124.2. seek nominations from iwi and Māori representative organisations, and others who might have an interest
 - 124.3. collate and advise the Minister on a list of potential candidates
- 125. **agree** that before recommending that the Governor-General appoints a person as a member of the Commission (including as chairperson or deputy chairperson of the Commission), the responsible Minister must consult with representatives of other political parties in Parliament

Review of Commission's effectiveness

- 126. **direct** the Ministry for the Environment to initiate an independent review of the effectiveness of the Commission seven years after the Commission becomes operational, which could include the effectiveness of the Ministry in its monitoring department capacity
- 127. **agree** that on completion of the review, the Ministry for the Environment will publish a review report

SECTION E: Transitional provisions

128. **agree** that implementation of the Climate Change framework will require one-off arrangements to operationalise the framework to provide certainty and allow businesses, households and individuals to start taking action to reduce their emissions, minimise the costs while maximising the benefits, and understand the risks we face due to historic levels of emissions
129. **agree** that the statutory timeframes established in the Act (and any subsequent regulations) will apply to the provision of Commission advice and requirements to respond once the framework is fully operational
130. **note** that following the implementation requirements and timeframes provided in recommendations 131 to 150, I anticipate the framework to be fully operational by the end of 2021

Establishing the Climate Change Commission

131. **agree** that the Bill will allow the first appointments to be made without a statutory nominating committee
132. **agree** that the first appointment process be supported by officials, and require officials to
 - 132.1. publicly seek nominations for potential Commission members
 - 132.2. seek nominations from iwi and Māori and others who might have an interest
 - 132.3. collate and advise the Minister for Climate Change on a list of potential candidates
133. **agree** that the Minister for Climate Change will then undertake consultation on the list of potential candidates with representatives of other parties in Parliament following the process set out in the Bill
134. **note** that I intend to then recommend appointments through the Cabinet Appointments and Honours Committee shortly after the Bill is passed
135. **direct** the Ministry for the Environment to convene an establishment team to undertake preparatory work prior to the Commission taking office, in order to stand up the Commission and its operations as soon as possible after the Bill is passed
136. **agree** the work of the establishment team can include, but is not limited to
 - 136.1. undertaking the appointment process in recommendation 132 to identify a list of potential candidates for the Commission members
 - 136.2. initiating the process for appointing the chief executive – so the Commission can consider candidates and make an appointment immediately on taking office
 - 136.3. working with the Interim Committee and its Secretariat to design a process for the transfer of analysis, evidence and necessary staff, and investigate operational matters such as premises, office equipment
 - 136.4. preparing potential organisational structures and processes for the Commission based on the functions being proposed

Implementation provisions to establish the first three emissions budgets

137. **agree** that the government must signal its commitment to transition to a low emissions and climate-resilient New Zealand as soon as possible to provide the confidence that businesses need to invest in low emissions technologies and forestry

138. **agree** that to signal New Zealand's transition pathway, officials develop a provisional emissions allowance for 2020-2025 by late-2019
139. **agree** that the responsible Minister return to Cabinet in late-2019 seeking approval for a provisional emissions allowance
140. **agree** that the responsible Minister return to Cabinet in late-2019 seeking approval to set annual unit supply volumes for the NZ ETS in line with the provisional emissions allowance, noting that these decisions need to be made ahead of the first emissions budget entering into force (2022-2025)
141. **agree** that the responsible Minister must establish the first three emissions budgets as soon as possible to provide certainty to businesses and communities, and begin to drive action to reduce emissions
142. **agree** that the Commission provides advice and recommendations on the first three emissions budgets (2022-2025, 2026-2030, 2031-2035) in line with the considerations in recommendation 23, and the high level plans and policies for meeting the first emissions budget (2022-2025), by February 2021
143. **agree** that, should circumstances prevent the Commission from recommending the first three emissions budgets within the timeframes set out in recommendation 142, then officials will provide the advice to the Minister in line with the same considerations by February 2021
144. **agree** that in the case of officials providing advice, that the Commission review the emissions budgets as soon as practicable after it has been stood up
145. **agree** that the responsible Minister must determine the first three emissions budgets through the parliamentary process, and notify these by 31 December 2021
146. **agree** that the responsible Minister must publish plans and policies to meet the first budget period no later than 31 December 2021

Preparing the first National Climate Change Risk Assessment (NCCRA)

147. **agree** that the responsible Minister will prepare the first NCCRA, to allow it to be completed without delay
148. **agree** that the responsible Minister will prepare the first NCCRA in accordance with the requirements in recommendation 70
149. **agree** that once the first NCCRA has been prepared, the Minister must
 - 149.1. table it in Parliament
 - 149.2. make it publicly available in an appropriate manner, along with any evidence commissioned to support its preparation
150. **agree** that the first NCCRA must be tabled and made publicly available no later than one year after the Bill comes into force

SECTION F: Consultation and implications

151. **invite** the Minister for Climate Change to issue drafting instructions to the Parliamentary Counsel Office (PCO) to implement the proposals set out in the above recommendations through a Climate Change Bill in consultation with relevant portfolio Ministers where appropriate
152. **agree** that the Minister for Climate Change, in consultation with relevant portfolio Ministers, can make any technical and administrative changes required to finalise the Bill prior to its submission to the Cabinet Legislation Committee

153. **authorise** the Minister for Climate Change to issue drafting instructions to the PCO to make consequential amendments to the Climate Change Response Act 2002, Crown Entities Act 2004, and other affected statutes, and regulations to give effect to Cabinet decisions on the contents of the Bill to ensure workability of the agreed amendments
154. **agree** that mitigations for new avenues to legal challenge of executive action as a result of the Bill will be considered during the drafting process
155. **authorise** the Minister for Climate Change to release an exposure draft of the Bill for targeted consultation with key stakeholders and Māori on the proposed legislation
156. **authorise** the Minister for Climate Change to develop commencement, transitional and any savings provisions with PCO, through the legislative drafting process
157. **invite** the Minister for Climate Change to report back to Cabinet Legislative Committee, by May 2019, with a draft Climate Change Bill for introduction into the House
158. **note** that the timeframes for progressing this Bill are tighter than usual timeframes for legislative drafting
159. **agree** that the Minister for Climate Change may make this Cabinet Paper and accompanying RIS publicly available, subject to appropriate redactions, no later than when the draft Bill is introduced into the House

Financial implications

160. **note** that the contingency “Establishment of the Independent Climate Change Commission” of \$2.207 million operating and \$0.150 million capital was established as part of Budget 2018 [CAB-18-MIN-0158.10 refers]
161. **agree** to establish the following new appropriation

Vote	Appropriation Minister	Title	Type	Scope
Vote Environment	Minister for Climate Change	Independent Climate Change Commission Setup Costs	Departmental Output Expense	This appropriation is limited to the set up costs for an independent Climate Change Commission

162. **approve** the following changes to appropriations to produce a National Climate Change Risk Assessment, with a corresponding impact on the operating balance

Vote Environment Minister for Climate Change	\$m – increase/(decrease)				
	2018/19	2019/20	2020/21	2021/22	2022/23 & Outyears
Multi-Category Expense and Capital Expenditure: Climate Change MCA					
Departmental Output Expense: Domestic Climate Change Programme Policy Advice (funded by revenue Crown)	1.391	0.300	-	-	-

163. **agree** that the proposed change to appropriations for 2018/19 above be included in the 2018/19 Supplementary Estimates and that, in the interim, the increase be met from Imprest Supply
164. **agree** that the expenses incurred under recommendation 162 be a charge against the Establishment of an Independent Climate Change Commission tagged contingency, established as part of Budget 2018

165. **approve** the following changes to appropriations to enable the Ministry for the Environment to undertake necessary work to facilitate the creation of the Climate Change Commission, as agreed to in recommendation 95, with a corresponding impact on the operating and capital balances

Vote Environment Minister for Climate Change	\$m – increase/(decrease)				
	2018/19	2019/20	2020/21	2021/22	2022/23 & Outyears
Departmental Output Expense:					
Independent Climate Change Commission Set Up Costs (funded by revenue Crown)					
Total operating	0.516	-	-	-	
Total capital	0.150				

166. **agree** that the proposed changes to appropriations for 2018/19 above be included in the 2018/19 Supplementary Estimates and that, in the interim, the increase be met from Imprest Supply
167. **agree** that the expenses incurred under recommendation 165 above be a charge against the Establishment of an Independent Climate Change Commission tagged contingency, established as part of Budget 2018
168. **note** that funding for the establishment and ongoing operation of the Climate Change Commission and for the government to respond to the Commission's advice and develop new policy will be sought through Budget 2019

Authorised for lodgement.

Hon James Shaw
Minister for Climate Change