

Update on Zero Carbon Bill and agricultural emissions

The Zero Carbon Bill has been passed with bi-partisan support, while the Government has agreed to work with farmers to reduce emissions outside of the Emissions Trading Scheme (ETS).

Zero Carbon Bill

The Government passed the Zero Carbon Bill last week with near unanimous support. The National Party's support was not needed to pass the bill, but the Government wanted National's support to future-proof the bill against any significant changes by a National led government.

The bill:

- sets emissions reduction targets for methane and other greenhouse gases;
- establishes emissions budgets that will act as stepping stones towards these targets, and requires the Government to implement policies to mitigate and adapt to the effects of climate change;
- establishes the Climate Change Commission to provide independent advice to the government and monitor New Zealand's progress.

A number of changes have been made to the bill following the select committee and public consultation process. The select committee received over 10,000 submissions and held 29 hearings across the country. While the changes are important, the overall framework of the bill remains the same. In particular, the original emissions reductions targets have been retained:

- 10% reduction in methane emissions by 2030;
- 24-47% reduction in methane emissions by 2050;
- net zero greenhouse gas emissions by 2050.

While the two-baskets approach to methane and greenhouse gas emissions was widely supported, the methane target for 2050 was (and still is) opposed by farming groups on the basis that it is unachievable with

current technology. The select committee could not decide on whether to recommend a change to the targets, so the Government has stuck with what it believes is required to achieve the goal of limiting global average temperatures to 1.5 degrees above pre-industrial levels.

We highlight below some of the key changes that were recommended by the select committee and have been included in the bill that was passed. You can read our previous article on the Zero Carbon Bill [here](#).

Offshore mitigation

Offshore mitigation is the use of carbon credits purchased from overseas to offset New Zealand's emissions (in addition to the use of domestic carbon credits generated in New Zealand). There is controversy over the use of offshore mitigation, as it does not encourage New Zealand to actually reduce emissions and play its part. It is, however, intended to provide flexibility and better enable the Government to manage the transition to a low-carbon economy.

The bill does contain limitations on the use of offshore mitigation. The original bill specified that, so far as possible, the targets are met through domestic reductions and removals. This is still the case in the amended bill, but it now clarifies that offshore mitigation will contribute to the net zero target for greenhouse gas emissions (it was previously unclear whether or not this was the case). The amended bill also includes some additional constraints:

- offshore mitigation should be used if there has been a significant change of circumstance that affects an emissions budget; and
- the Commission must justify the use of offshore mitigation and set a limit on its use for an emissions budget.

Te Ao Māori

The bill requires the Commission to have regard for the Crown/Māori relationship, Te Ao Māori, and specific impacts on iwi and Māori when performing its functions and exercising its powers. This is important to ensure consistency with the Government in giving effect to the

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principles of the Treaty of Waitangi (Te Tiriti o Waitangi). The Government is intending to develop guidance for how the Commission should engage with Māori.

Reviewing the targets

In the original bill, the Commission could recommend a change to the time frame for achieving the targets and the amount of reductions required. Now, the Commission can also recommend a change to the types of greenhouse gases, emissions and removals that apply to the targets and how the targets can be met. For example, it could limit the amount of forestry offsets and offshore mitigation that could be used to meet a target if it determined that these were being too heavily relied on to meet the targets (i.e. there was widespread conversion of land into forestry and not enough was being done to actually reduce emissions). The intent behind this change is to give the Commission more flexibility to ensure that the right balance is struck between reducing and offsetting emissions.

Land-use change implications

The Commission must now have regard to the potential implications of land-use change on communities. This change has been made in response to a number of submissions (including from the Parliamentary Commissioner for the Environment) raising concerns over the use of forestry offsets and the impact this may have on communities. This is intended to help ensure that this impact can be appropriately managed, which, in practice, could result in the Commission removing some of the incentives for planting trees by limiting the amount of forestry offsets that could be used to meet an emissions budget.

International aviation and shipping

Prior to 2025, the Commission is required to consider whether emissions from international shipping and aviation should be included in the targets. Consistent with other countries, these emissions are not currently included in emissions totals. They are, however, starting to be considered by other countries in their policy frameworks. The 2025 date is intended to allow time for the international community to agree on how

these emissions are to be accounted for before any decisions are made in New Zealand.

Influence on other legislative decision making

The original bill contained a provision that effectively immunised a decision from being invalidated if the relevant decision maker failed to take into account the targets or an emissions budget (regardless of the consequences). This provision has been removed as it would have precluded judicial reviews of decisions and restricted the development of common law.

Consideration of the targets and emissions budgets remain a permissive consideration for decision makers – the bill has not been amended to make them mandatory considerations. The permissive approach was criticised in submissions, as decision making under other legislation may undermine the targets if they are not mandatory considerations. The select committee considered how mandatory considerations could be legislated, but ultimately concluded that this would be impractical.

Role of the Commission

Other changes have been made that strengthen the Commission's role and ability to carry out its functions. For example, the Commission has been given the authority to request information on climate change adaptation from local authorities, council-controlled organisations and other government organisations to make sure that it is not simply reliant on the Minister for the information that it needs to perform its functions.

Agricultural Emissions

Shortly before the Zero Carbon Bill was passed, the Government announced that agriculture will not be brought into the ETS (for now).

The sector has been given until 2025 to develop practical ways to measure and price livestock emissions at the farm level, separate from the ETS. This reflects Option 2 as outlined in our previous summary of the Government's proposals, which you can read [here](#).

A joint action plan between the sector, the Government and iwi/Māori will be developed and a formal agreement entered into based on the Primary Sector Climate

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Change Commitment *He Waka Eke Noa – Our Future in Our Hands*, which you can read [here](#).

It represents a win for farmers who have been trying to convince the Government that this will result in a more effective scheme to reduce emissions at the farm level, rather than simply pricing emissions at the processor level via the ETS.

The Government has acknowledged that the ETS was originally developed for a small number of big companies, and not tens of thousands of individual farmers, and pricing emissions at the processor level via the ETS was unlikely to encourage individual farmers to make practical changes to reduce on farm emissions.

The sector now has the opportunity to design a new pricing mechanism that gives farmers autonomy over their own businesses.

ETS back stop

The Government has, however, given itself a backstop and can bring the sector into the ETS at the processor level if sufficient progress has not been made by 2025. It could even bring the sector in as early as 2022 if it believed that the sector was not moving fast enough. Thanks to the coalition agreement with NZ First, if the sector was brought into the ETS under this backstop, it would receive a 95% discount / free allocation of emissions units.

The backstop has been included in the Climate Change Response (Emissions Trading Reform) Amendment Bill.

New pricing mechanism

The new mechanism is likely to require all farmers to assess and account for the emissions on their own individual farms. This will create a direct incentive for farmers to introduce new technology, develop new ideas, change their practices, or offset their emissions.

Offsets

We expect the new scheme will be designed to allow farmers to offset their emissions by planting trees on their property or by joining community based afforestation schemes.

We also expect that the sector will seek to have smaller areas of trees and on-farm vegetation to be considered for carbon sequestration. These include small woodlots (of both exotic and native trees), shelter belts, pole planting, riparian planting and wetlands.

These areas do not meet the current accounting rules in the ETS for carbon sequestration, as it was previously believed that the costs of associated with measuring and monitoring these areas outweighed the benefit. However, the Interim Climate Change Commission's report on agricultural emissions recommended that the Government revisit the current approach and explore the scope to recognise and reward carbon sequestration from these areas.

The Primary Sector Climate Change Commitment includes a number of actions to support on farm planting, including the development of systems to recognise small scale carbon sequestration (i.e. smaller areas of trees and on-farm vegetation). By 2025, it is intended that all farms will have planting opportunities identified in their Farm Environment Plans, with recognition for small scale carbon sequestration.

The recognition of the carbon sequestration from smaller areas of trees and on-farm vegetation would restore the current imbalance between all emission sources being accounted, but not all carbon sinks being rewarded. It would also help create the right environment to incentivise and support meaningful change on the farm as New Zealand transitions to a low-carbon economy.

Want to know more?

For more information please contact [David Goodman](#) or [Josh Williams](#).