Purpose

The bill seeks to amend the Climate Change Response Act 2002.

“The purpose of the Climate Change Response (Zero Carbon) Amendment Bill … is to provide a framework by which New Zealand can develop and implement clear and stable climate change policies that contribute to the global effort under the Paris Agreement to limit the global average temperature increase to 1.5 degrees Celsius above pre-industrial levels.”¹

Background

“The Paris Agreement builds upon the Convention and for the first time brings all nations into a common cause to undertake ambitious efforts to combat climate change and adapt to its effects, with enhanced support to assist developing countries to do so. As such, it charts a new course in the global climate effort.

“The Paris Agreement central aim is to strengthen the global response to the threat of climate change by keeping a global temperature rise this century well below 2 degrees Celsius above pre-industrial levels and to pursue efforts to limit the temperature increase even further to 1.5 degrees Celsius…

“The Paris Agreement requires all Parties to put forward their best efforts through nationally determined contributions (NDCs) and to strengthen these efforts in the years ahead.”²

New Zealand submitted its nationally determined contribution to the Paris Agreement in October 2015.³ New Zealand’s target under the Paris Agreement is to reduce greenhouse gas emissions by

² For more information about the Paris Agreement, go to https://unfccc.int/process/the-paris-agreement/the-paris-agreement
30 per cent below 2005 levels by 2030. This target is equivalent to 11 per cent below 1990 levels by 2030.¹

**Departmental disclosure statement**

**Regulatory impact assessment**
http://www.treasury.govt.nz/publications/informationreleases/ria

**Main changes**

**Commencement**
The bill provides for the Act to come into force the day after it receives the Royal assent (clause 2).

**Purpose**
The bill provides for the purpose to include providing a framework for working towards clear and stable climate change policies that contribute to the global effort under the Paris Agreement to limit the global average temperature increase to 1.5 degrees Celsius above pre-industrial levels (Part 1, clause 4 amending section 3).

**Te Tiriti o Waitangi**
The bill provides for amendments relating to Te Tiriti o Waitangi matters so:

- particular attention is paid to seeking nominations from iwi and Māori representative organisations for nominations for the Climate Change Commission
- the Minister has regard to the need for the Commission to have members who have skills, experience, expertise, and innovative approaches, relevant to the Treaty of Waitangi
- the Minister consults iwi and Māori on any emissions reduction plan, and ensures it includes a strategy to recognise and mitigate the impacts of reducing emissions on iwi and Māori
- the Minister must, in preparing a national adaption plan, take into account the economic, social, health, environmental, ecological, and cultural effects of climate change on iwi and Māori (Part 1, clause 5 amending section 3A).

**Interpretation**
The bill provides for a number of new definitions, including the following:

- **2050 target** would mean the emissions reduction target set under proposed new section 5O
- **biogenic methane** would mean all methane greenhouse gases produced from the agriculture and waste sectors
- **Climate Change Commission and Commission** would mean the Climate Change Commission proposed under new section 5A
- **emissions budget** would mean the quantity of emissions that would be permitted in each emissions budget period as a net amount of carbon dioxide equivalent

---

¹ For more information about New Zealand’s targets, go to https://www.mfe.govt.nz/climate-change/climate-change-and-government/emissions-reduction-targets/about-our-emissions
emissions budget period would mean a 5-year period for the years 2022 to 2050, as specified in proposed new section 5U(3) (except that the period 2022 to 2025 is a 4-year period)

emissions reduction plan would mean a plan for achieving an emissions budget prepared in accordance with proposed new sections 5ZD to 5ZF

gross emissions would mean New Zealand’s total emissions from the agriculture, energy, industrial processes and product use, and waste sectors

net emissions would mean gross emissions combined with emissions and removals from land use, land use change, and the forestry sector

New Zealand Greenhouse Gas Inventory would mean the official annual estimate of all greenhouse gas emissions that have been generated in New Zealand since 1990 by human activities

offshore mitigation would mean emissions reductions and removals, or allowances from emissions trading schemes, that originate from outside New Zealand; and are expressed as a quantity of carbon dioxide equivalent; and are robustly accounted for to ensure that, among other things, double counting is avoided; and that either represent an actual additional, measurable, and verifiable reduction of an amount of carbon dioxide equivalent; or are an emissions trading scheme allowance that triggers the reduction of carbon dioxide equivalent.

The bill also provides for replacing the definition of emissions so it would mean in relation to Parts 1A and 1B, carbon dioxide equivalent emissions of greenhouse gases; but in relation to an activity listed in Schedule 3 or 4, carbon dioxide equivalent emissions of greenhouse gases from the activity (Part 1, clause 6 amending section 4).

Climate Change Commission

The bill provides for establishing a Climate Change Commission as a Crown entity (Part 1, clause 8 inserting new Part 1A, Subpart 1, clauses 5A and 5C), as follows:

- The Commission’s purposes would be to provide independent, expert advice to the Government on mitigating, and adapting to, the effects of climate change; and monitoring and reviewing the Government’s progress (Part 1, clause 8 inserting new Part 1A, Subpart 1, clause 5B).

- The Commission would consist of 7 members, including a Chair and Deputy Chair, appointed by the Governor-General on the Minister’s recommendation (Part 1, clause 8 inserting new Part 1A, Subpart 1, clauses 5D and 5E).

- There would be a nominating committee to nominate candidates to the Minister for appointment to the Commission (Part 1, clause 8 inserting new Part 1A, Subpart 1, clauses 5F and 5G).

- The Minister would have to take account of certain characteristics needed of members collectively before recommending the appointment of a member (Part 1, clause 8 inserting new Part 1A, Subpart 1, clause 5H).

The bill provides for the Commission’s functions to be to review the 2050 target and, if necessary, recommend changes, provide advice to the Minister to enable the preparation of emissions budgets, recommend any necessary amendments to emissions budgets, provide advice to the Minister about the quantity of emissions that may be banked or borrowed between 2 adjacent emissions budget periods, provide advice to the Minister to enable the preparation of an emissions reduction plan, monitor and report on progress towards meeting emissions budgets and the 2050
target, prepare national climate change risk assessments, prepare reports on the implementation of the national adaptation plan, provide other reports requested by the Minister (Part 1, clause 8 inserting new Part 1A, Subpart 2, clause 5J).

The bill provides for:

- the Minister to request the Commission to prepare reports on matters related to reducing emissions of greenhouse gases and adapting to the effects of climate change (Part 1, clause 8 inserting new Part 1A, Subpart 2, clause 5K)

- the Commission to act independently. However, the Minister may direct the Commission to have regard to Government policy for the purposes of recommending unit supply settings of the New Zealand emissions trading scheme, and providing advice about New Zealand’s nationally determined contributions under the Paris Agreement (Part 1, clause 8 inserting new Part 1A, Subpart 2, clause 5N).

**Emission reduction**

The bill provides for the target for emissions reduction, known as the 2050 target, which requires that:

- net emissions of greenhouse gases in a calendar year, other than biogenic methane, are zero by the calendar year beginning on 1 January 2050 and for each subsequent calendar year

- gross emissions of biogenic methane in a calendar year are 10% less than 2017 emissions by the calendar year beginning on 1 January 2030; and are at least 24% to 47% less than 2017 emissions by the calendar year beginning on 1 January 2050 and for each subsequent calendar year (Part 1, clause 8 inserting new Part 1B, Subpart 1, clause 5O).

The bill provides for:

- the Commission to review the 2050 target when preparing advice to the Minister on setting an emissions budget for an emissions budget period beginning on or after 2036, and at any other time the Minister requests (Part 1, clause 8 inserting new Part 1B, Subpart 1, clause 5P)

- the Commission, as a result of the review, to recommend a change to the time frame for achieving the 2050 target (or part of it); or the levels of emission reductions required by the 2050 target (or part of it); but only if significant change has occurred and the Commission is satisfied that the significant change justifies the change to the target (Part 1, clause 8 inserting new Part 1B, Subpart 1, clause 5Q)

- the Minister to advise the Commission in writing of the Government’s response to the recommendations within 12 months of receiving the recommendation (Part 1, clause 8 inserting new Part 1B, Subpart 1, clause 5R).

**Setting emissions budgets**

The bill provides for:

- the Minister to set a series of emissions budgets with a view to meeting and maintaining the 2050 target, and that provide greater predictability for all those affected by giving advance information on the emissions reductions and removals that will be required (Part 1, clause 8 inserting new Part 1B, Subpart 2, clause 5T)
• the Minister to set an emissions budget for each emissions budget period that does not exceed
the emissions budget for the relevant emissions budget period, and sets out the emissions
budget periods (Part 1, clause 8 inserting new Part 1B, Subpart 2, clause 5U)
• each emissions budget to state the total emissions permitted, expressed as a net quantity of
carbon dioxide equivalent, and to include all greenhouse gases (Part 1, clause 8 inserting new
Part 1B, Subpart 2, clause 5V)
• emissions budgets to be met, as far as possible, through domestic emissions reductions and
domestic removals (Part 1, clause 8 inserting new Part 1B, Subpart 2, clause 5W).

The bill provides for the role of the Commission in setting emissions budgets:
• The Commission must advise the Minister on particular matters relevant to setting an
emissions budget, in the case of the first three emissions budgets, not later than 1 February
2021: in the case of all subsequent emissions budgets, at least 12 months before an emission
budget must be notified (or at least 15 months before, if a general election is to take place in
that year) (Part 1, clause 8 inserting new Part 1B, Subpart 3, clauses 5X and 5Z).
• The Minister must provide a response to the Commission’s advice that includes a proposed
emissions budget, and, if the proposed emissions budget departs from the advice of the
Commission, decide whether it is necessary to further consult persons likely to have an interest
in the emissions budget, and whether the scope of the consultation undertaken has been
adequate; and explain the reasons for any departures from the Commission’s advice (Part 1,
clause 8 inserting new Part 1B, Subpart 3, clause 5Y).
• Emissions budgets can be revised if the Commission recommends they should be because
since the emissions budgets were originally set, there have been methodological
improvements to the way that emissions are measured and reported, or significant changes
have affected the considerations on which the emissions budgets were based. If the Minister
determines to revise an emissions budget, the Minister must present to the House of
Representatives an explanation of the reasons for revising the original emissions budget (Part 1,
clause 8 inserting new Part 1B, Subpart 3, clause 5ZB).

The bill provides that:
• if the total emissions in an emissions budget period are lower than the emissions budget for
that period, the excess reduction may be carried forward to the next emissions budget period
(banked); if they are greater, up to one per cent of the next emissions budget may be carried
back (borrowed) to make up the excess emissions in that particular emissions budget period
(Part 1, clause 8 inserting new Part 1B, Subpart 3, clause 5ZC)
• the Minister must prepare and publish a plan setting out the policies and strategies for meeting
an emissions budget (Part 1, clause 8 inserting new Part 1B, Subpart 3, clause 5ZD)
• not later than 12 months before the beginning of an emissions budget period, the Commission
must provide the Minister advice on the direction of the policy required in the emissions
reduction plan for that emissions budget period (Part 1, clause 8 inserting new Part 1B,
Subpart 3, clause 5ZE)
• in preparing a plan and supporting policies and strategies for an emissions budget period, the
Minister must consider the Commission’s advice, and ensure consultation has been adequate
(Part 1, clause 8 inserting new Part 1B, Subpart 3, clause 5ZF).
Monitoring
The bill provides for the Commission to:

- monitor progress towards meeting emissions budgets (*Part 1, clause 8 inserting new Part 1B, Subpart 4, clause 5ZG*)
- report annually on results of monitoring (*Part 1, clause 8 inserting new Part 1B, Subpart 4, clause 5ZH*)
- report at the end of an emissions budget period evaluating the progress made (*Part 1, clause 8 inserting new Part 1B, Subpart 4, clause 5ZI*).

Effect of 2050 target and emissions budgets
The bill provides:

- no remedy or relief is available for failure to meet the 2050 target or an emissions budget, and the 2050 target and emissions budgets are not enforceable in a court of law, except that if the 2050 target or an emissions budget is not met, a court may make a declaration to that effect, together with an award of costs (*Part 1, clause 8 inserting new Part 1B, Subpart 5, clause 5ZJ*)
- a person or body may, but is not require to, take the 2050 target or an emissions budget into account in the exercise or performance of a public function, power, or duty (subject to other requirements that apply by or under law) (*Part 1, clause 8 inserting new Part 1B, Subpart 5, clause 5ZK*)
- the responsible Minister may issue guidance for departments on taking the 2050 target or an emissions budget into account (*Part 1, clause 8 inserting new Part 1B, Subpart 5, clause 5ZL*).

Adaptation
The bill provides for:

- a national climate change risk assessment to assess the risks to New Zealand from the current and future effects of climate change, and identify the most significant risks and the need for coordinated steps to respond to those risks in the next 6-year period (*Part 1, clause 8 inserting new Part 1C, clause 5ZM*)
- the Commission to make the next national climate change risk assessment publicly available every six years (*Part 1, clause 8 inserting new Part 1C, clause 5ZN*)
- Minister to prepare the first national climate change risk assessment no later than 1 year after the commencement of this Part (*Part 1, clause 8 inserting new Part 1C, clause 5ZP*)
- the Minister must prepare a national adaptation plan in response to each national climate change risk assessment (*Part 1, clause 8 inserting new Part 1C, clause 5ZQ*)
- the Commission, for each national adaptation plan, to provide the Minister with a progress report that evaluates the implementation of the adaptation plan and its effectiveness two years, four years, and six years after the adaptation plan is made publicly available (*Part 1, clause 8 inserting new Part 1C, clause 5ZS*)
- the Minister to request certain organisations to provide information on climate change adaptation (*Part 1, clause 8 inserting new Part 1C, clause 5ZV*)
- regulations to be made in respect of requirements that relate to information the Minister requests (*Part 1, clause 8 inserting new Part 1C, clause 5ZW*).
Gazetting of targets under s224 does not apply

- Section 224 provides for setting and gazetting a target. The bill provides that it does not apply to a target for greenhouse gas emissions *(Part 2, clause 11).*

Section 225 repealed (Regulations relating to targets)

The bill provides for repealing section 225 of the Climate Change Response Act 2002, which provides for the making regulations setting a target *(Part 2, clause 12).*

Notice revoked

The bill provides for revoking the Climate Change Response (2050 Emissions Target) Notice 2011 *(Part 2, clause 14).*