

Climate Change Response (Zero Carbon) Amendment Bill

Government Bill

As reported from the Environment Committee

Commentary

Recommendation

The Environment Committee has examined the Climate Change Response (Zero Carbon) Amendment Bill and recommends by majority that it be passed with the amendments shown.

Introduction

This bill seeks to amend the Climate Change Response Act 2002. The purpose of the bill is to establish a framework that New Zealand can use to develop clear and stable policies which contribute to the effort to limit the global average temperature increase to 1.5°C above pre-industrial levels under the Paris Agreement.¹

The bill as introduced would:

- set a new greenhouse gas reduction target which would require:
 - gross emissions of biogenic methane to be reduced to 10 percent below 2017 levels by 2030
 - gross emissions of biogenic methane to be reduced to at least between 24 percent and 47 percent below 2017 levels by 2050
 - net emissions of all other greenhouse gases to be reduced to zero by 2050

¹ Signatories to the Paris Agreement have committed to holding the increase in the global average temperature to well below 2°C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5°C above pre-industrial levels.

- set up a Climate Change Commission (the Commission), an independent body which would advise and support successive Governments to reach the 2050 target
- require the Government to set emissions budgets every 5 years that would act as stepping stones towards the 2050 target
- establish a range of measures to help New Zealand adapt to climate change.

Proposed amendments

This commentary covers the main amendments we recommend to the bill as introduced. We do not discuss minor or technical amendments.

Purpose statement

Clause 4 sets out the purpose of the bill: to create a framework for New Zealand to contribute to the effort to limit the global average temperature increase to 1.5°C above pre-industrial levels under the Paris Agreement. We recommend amending clause 4 so that the purpose statement also refers to adaptation. This would reflect the bill's adaptation requirements set out in proposed Part 1C. We consider that our recommendation would clearly signal that adaptation is a crucial part of New Zealand's climate change effort.

Our recommendation would insert section 3(1)(aa) into the Act.

Interpretation

Definition of "New Zealand Greenhouse Gas Inventory"

The New Zealand Greenhouse Gas Inventory is an annual estimate of human-generated greenhouse gas emissions and removals that have occurred in New Zealand since 1990.² The inventory is produced by the Inventory Agency, which is the Ministry for the Environment.

The bill relies on the New Zealand Greenhouse Gas Inventory for reporting emissions and removals to meet the 2050 target and emissions budgets, and to trigger the publication of the Commission's annual monitoring report.

We recommend amending the definition of New Zealand Greenhouse Gas Inventory in clause 6 so that it refers to section 32 of the Climate Change Response Act, which requires the preparation of this annual inventory report. We consider our change appropriate to emphasise that the New Zealand Greenhouse Gas Inventory is a report that is prepared in accordance with the statute.

² [New Zealand Greenhouse Gas Inventory](#).

Insertion of new term: “net accounting emissions”

The bill as introduced uses the term “net emissions” when accounting for the 2050 target and “net budget emissions” when accounting for emissions budgets. The difference between the terms is that net emissions do not include offshore mitigation. We see no need for separate definitions since offshore mitigation is intended to be counted towards both the net zero component of the target, and emissions budgets. We therefore recommend replacing these terms with the single term “net accounting emissions”.

Our recommendation would replace the existing terms in clause 6 and clause 8, new sections 5O(1)(a) and 5U(4).

Climate Change Commission

Purpose of the Climate Change Commission

We recommend amending clause 8, new section 5B(a), to clarify that the role of the Commission is to provide advice on “mitigating climate change” rather than “mitigating the effects of climate change”. We consider mitigating the “effects” of climate change to be similar to adaptation. (Adaptation addresses the effects of climate change and mitigation addresses the causes of climate change.) However, the intent of this paragraph is to provide advice on mitigation and the following paragraph, section 5B(b), covers adaptation. Our amendment would reflect this intent by removing the word “effects” from new section 5B(a).

Timeframes for presentation and publication of documents

The purpose of the Commission is to provide independent and expert advice to Government, and to monitor progress towards emissions-reduction and adaptation goals. The bill would require the Commission to fulfil this role by producing a number of documents for the Minister, which would later be presented to the House of Representatives and made publicly available.

As introduced, the bill would require the Minister to present a number of documents to the House as soon as practicable, and no longer than 12 weeks after receiving them. We think this timeframe is too long. We recommend shortening it to 10 working days, or if Parliament is not in session, as soon as possible after the next session begins. We believe our recommended timeframe is manageable and would improve promptness and transparency.

We also recommend specifying a timeframe for making these documents available to the public. The bill as introduced does not put a timeframe on publication. We propose requiring the Commission to publish documents as soon as practicable after presentation to the House, and no later than 20 working days after they have been provided to the Minister. We believe this timing would also be manageable and improve transparency.

We recommend applying these amended timeframes for presentation and publication to the following documents:

- Reports to the Government as set out in clause 8, new section 5K.
- Advice on other target reviews as set out in clause 8, new sections 5OA, 5P, and 5Q.
- Advice on emissions budgets as set out in clause 8, new section 5X.
- Advice on revising emissions budgets as set out in clause 8, new section 5ZB.
- Advice on emissions reduction plans as set out in clause 8, new section 5ZE.
- Progress reports on levels of emissions reductions as set out in clause 8, new section 5ZH.
- Reviews of emissions budget periods as set out in clause 8, new section 5ZI.
- The national climate change risk assessment as set out in clause 8, new section 5ZO.
- Progress reports on national adaptation plans as set out in clause 8, new section 5ZT.

We recommend inserting section 5KA, which would apply the recommended time-frames to the above provisions.

Consistency of Government responses to reports by the Commission

The bill as introduced would require the Government to respond to the Commission's reports in various ways. For consistency and transparency, we recommend several changes to clause 8 to ensure that the Government responds to reports in one of two prescribed ways.

Reports with specific recommendations

For reports by the Commission containing specific recommendations, we recommend that the Government should be required to provide a written response, including any reasons for departures from the Commission's advice. The response should be presented to the House and made publicly available. We recommend amendments to include these response requirements for the following:

- Minister's response to target review recommendations as set out in clause 8, new section 5R.
- Minister's response to advice on an emissions budget as set out in clause 8, new section 5Y.
- Minister's response to an emissions budget review as set out in clause 8, new section 5ZI.

We also recommend that the Minister's response to target review recommendations be presented and made public as soon as practicable, and no later than 10 working days after it has been provided to the Commission.

Reports without specific recommendations

For reports by the Commission without specific recommendations, we recommend that the Government be required to provide a written response, which would be pre-

sented to the House and made publicly available. We recommend amending the response requirements for the following reports:

- The Minister's emissions reduction plan as set out in clause 8, new section 5ZF.
- The Minister's response to progress reports on levels of emissions reductions as set out in clause 8, new section 5ZH.
- The Minister's response to progress reports on national adaptation plans as set out in clause 8, new section 5ZU.

The Green Party member notes the significant number of submissions which propose that the best way to produce scientifically robust, enduring, and depoliticised emissions budgets is to empower the Commission to set emissions budgets itself rather than to advise the Executive, and supports this proposal.

Consideration of Māori interests

Clause 8, new section 5L lists a number of factors the Commission would have to consider when performing its functions and duties, and exercising its powers. We recommend including the Crown-Māori relationship, te ao Māori, and specific effects on iwi and Māori in that list. We consider it important for the Commission to have regard to Māori when performing its functions and duties, and exercising its powers to assist the Crown to give effect to the principles of the Treaty of Waitangi.

Our recommendation would insert subsection (ea) into new section 5L.

Consultation requirements

Consultation requirements for emissions budgets

We recommend amending clause 8, new sections 5X and 5Y, to make the consultation requirements in these sections stronger and clearer.

New sections 5X and 5Y as introduced would require the Commission to have regard to the results of public consultation when preparing advice about emissions budgets. However, they do not prescribe what type of consultation should be carried out. We consider that the Commission should have prescribed consultation requirements so that it gathers information from a wide range of people before providing advice about emissions budgets.

We recommend inserting subsection (2A) into new section 5X to require the Commission to consult before advising on an emissions budget. It would need to give public notice of the proposed advice and invite comments, and then allow adequate time for views to be received, heard, and considered.

We also recommend inserting subsections (1AAA) and (1AAB) into new section 5Y to require the Minister, before setting an emissions budget, to be satisfied that adequate consultation has occurred. The Minister would need to undertake the consultation process outlined above if they were not satisfied that there had been adequate consultation.

Consultation in relation to the Commission's other functions

New section 5M as introduced would empower the Commission to undertake any type of consultation that it considered necessary to fulfil its functions and duties. This provision would allow the Commission to undertake consultation, but does not require it to.

We recommend strengthening this provision so that the Commission must undertake some consultation when fulfilling its functions and duties. Our change would require the Commission to proactively engage with persons it considers relevant to its functions and duties and provide for public participation if necessary. This would facilitate more thorough engagement while still providing the necessary flexibility for the Commission to complete its work.

Consultation requirements for emissions reduction plans

New section 5ZE(3)(a) as introduced would require the Commission to consult widely with New Zealanders, including relevant sector representatives and affected communities, when preparing advice to the Minister on emissions reduction plans.

We recommend removing this requirement as it would be overly constraining, and inconsistent with other provisions in the bill. We consider the general consultation requirements in new section 5M sufficient. Our amendment would remove paragraph (a) and retain the rest of the provision.

Commission's power to request information

New section 5ZV as introduced would empower the Minister to request information about climate change adaptation from the reporting organisations listed in new section 5ZV(4). We recommend amending this section so that the Commission would also have this power.

For the Commission to perform its functions effectively, it will be essential for it to have all the information it needs. We consider that the provisions in the bill, combined with existing legislative provisions, would provide the Commission with the information it requires in most circumstances. However, we wish to avoid the possibility of the Commission being reliant on the Minister exercising their power under new section 5ZV for it to access adaptation information from the listed reporting organisations.

Obligation to maintain confidential information

Section 99 of the Climate Change Response Act requires persons or agencies with certain functions under the Act to keep information confidential. Clause 10 would amend section 99 of the Act to require the Commission also to keep information confidential. The intention of this provision is to maintain the confidentiality of information that has been shared with the Commission under section 99. However, the bill as introduced unintentionally imposes the obligation of confidentiality on the Commission more broadly.

We recommend inserting section 5NA into the Act and removing subclauses (1) and (2) in clause 10. This would narrow the obligation of confidentiality so that it would only maintain the confidentiality of information that was already confidential under section 99 of the Act.

Annual monitoring reports

Clause 8, new section 5ZH, would require the Commission to produce an annual monitoring report which assesses progress toward emissions budgets and the 2050 target, based on data from the New Zealand Greenhouse Gas Inventory. It would also require the Minister to provide a response to each annual monitoring report.

The bill as introduced would require the Commission to make their report publicly available no later than 2 months after the publication of the New Zealand Greenhouse Gas Inventory. It would also require the Minister to present a written response to the Commission's report to the House no later than 2 months after receiving the Commission's report.

We consider 2 months not enough time for the Commission to prepare its report, or for the Minister to prepare their response. Therefore, we recommend amending new section 5ZH to extend both of these timeframes to 3 months.

Adaptation reporting power

Public disclosure of information

The Privacy Act 1993 and the Official Information Act 1982 would apply to some information obtained under the adaptation reporting power in clause 8, new section 5ZV. However, these Acts alone would not provide sufficient grounds to withhold all sensitive information and therefore do not adequately safeguard certain information from public disclosure. Consequently, we recommend strengthening the protection of commercially sensitive information in the bill.

We recommend inserting subsections (3B), (3C), and (3D) into new section 5ZV. This would provide that information obtained through adaptation reporting powers could only be made public if that information was necessary to undertake adaptation functions in the bill, and there had been consultation with the person or organisation responsible for the information.

Content of information requests

We recommend amending clause 8, new section 5ZV(1), to reflect the language used in the Task Force on Climate-Related Financial Disclosures framework. This covers four areas: governance, strategy, risk management, and metrics and targets. The Task Force's framework is widely regarded as best practice for climate-related financial disclosures.

Our recommendation would make it clear that organisations may, where appropriate, repurpose information and formats used to make financial disclosures to answer infor-

mation requests made under the adaptation reporting power in the bill. This would reduce duplication of effort and increase efficiency.

Target

Meeting the target

We recommend inserting new section 5O(1A) to clarify that the target for biogenic methane and all other greenhouse gases would be met if emissions reductions meet or exceed what is required by the target. The bill as introduced could possibly be interpreted as allowing the target to be achieved only if emissions reductions meet the target exactly. We do not consider this to be the intent of the bill and wish to emphasise that the target would be met if emissions reductions exceed the target.

Target reviews by the Commission

We recommend amending clause 8, new section 5Q, to allow the Commission to recommend a change to the form of the target. Our amendment would insert paragraphs (c) and (d) into section 5Q(1). New paragraph 5Q(1)(c) would allow the Commission to recommend a change to the greenhouse gases, emissions, and removals to which the 2050 target (or part of the target) applies. New paragraph 5Q(1)(d) would allow the Commission to recommend a change to how the 2050 target (or part of the target) may be met, including limits on removals, and offshore mitigation.

Empowering the Commission to consider the form of the target would be a useful way of providing flexibility to ensure that the target remains fit for purpose over time. During our consideration, a number of submitters raised concerns about the use of forestry offsets and the negative effects this could have on sectors and communities. Our amendment would allow the Commission to consider this and other matters relevant to the target as part of its target reviews.

Recommendation by the Commission to change the 2050 target

We recommend amending clause 8, new section 5Q(2)(a). As introduced, the Commission may only recommend a change to the 2050 target if a significant change has occurred since the commencement of the section, and that change relates to specified categories. Our amendment would also allow the Commission to recommend a change to the 2050 target if a significant change is likely to occur.

We also recommend inserting new subparagraphs (viii) and (ix) into section 5Q. Our amendment would add two new categories to the factors the Commission may consider if recommending a change to the 2050 target. We consider that this more appropriately captures the broad range of considerations that might trigger a need to change the target.

Offshore mitigation

The bill intends that domestic action would be the primary means of meeting the 2050 target and each emissions budget. However, the bill enables the use of offshore miti-

gation,³ in limited circumstances, to provide flexibility and enable the Government to better manage the effects of transitioning to a low-carbon economy.

We consider this flexibility useful, but we also think that the use of offshore mitigation should be better constrained to prioritise domestic emissions reductions. Therefore, we recommend amending clause 8 to:

- clarify that offshore mitigation should only be used where a change of circumstances has affected the feasibility of reducing emissions domestically
- highlight the domestic focus of emissions budgets
- require the Commission and the Minister to consider the circumstances that would justify the use of offshore mitigation when determining the cap on offshore mitigation.

Our recommendations are outlined below.

The 2050 target

As stated above, we recommend replacing the term “net emissions” in clause 8, new section 5O(1)(a), with “net accounting emissions”. The term “net emissions” in the bill as introduced does not include offshore mitigation. Our change would clarify that offshore mitigation could be counted towards the net zero part of the 2050 target.

Emissions budgets

Clause 8, new section 5T, would require the Minister to set a series of emissions budgets. We recommend amending section 5T to clarify that emissions budgets must be set in a way that allows them to be met domestically.

Clause 8, new section 5W(1), as introduced sets out that emissions budgets are to be met, as far as possible, through domestic emissions reductions and removals. We recommend inserting new subsection 5W(2) to clarify the circumstances in which offshore mitigation could be used to meet an emissions budget. This provision would set out that offshore mitigation could be used only if there was a significant change of circumstance. The change would need to be one that affects the considerations on which the budget was based, and affects the ability to meet the emissions budget domestically.

Commission’s advice on emissions budgets

Clause 8, new section 5X(1)(d) would require the Commission to advise the Minister on what proportion of an emissions budget should be met by offshore mitigation. We recommend removing the reference to offshore mitigation here. Advising on what proportion of an emissions budget could be met by offshore mitigation runs counter to

³ Offshore mitigation is the process of purchasing emissions reductions or removals achieved outside New Zealand and counting them towards achieving New Zealand’s emissions budgets and the net zero component of the 2050 target.

our recommendation to make clear that offshore mitigation should only be used if there was a significant change of circumstances.

We also recommend amending new section 5X(1)(e) to require the Commission to advise the Minister on an appropriate limit on offshore mitigation, and the circumstances in which it may be used to meet an emissions budget. This would ensure that the Minister receives the advice necessary to set emissions budgets in line with our proposed amendments to 5T and 5W.

Emissions from international aviation and shipping

We recommend amending clause 8 to require the Commission to undertake a target review in 2024 to advise on whether emissions from international aviation and shipping (IAS) should be included in the 2050 target and future emissions budgets. If the Commission's advice was that IAS emissions should be included, then the Commission would also be required to advise on how to include those emissions.

We think that IAS emissions should not be included in this bill but should be considered in the 2024 review, for the following reasons:

- IAS emissions are reported in countries' national greenhouse gas inventories, but these emissions are not included in greenhouse gas emissions totals. We consider it appropriate for countries to agree how IAS emissions are accounted for before any decisions are made on whether to include these emissions in the target and emissions budgets.
- At present, the tools for abatement of IAS emissions are limited and often constrained by international rules.
- The effects of including IAS emissions was not included in the economic analysis and consultation that informed the 2050 target set in the bill. We think careful consideration of these effects should be undertaken by the Commission before any decisions are made.

Our recommendation would insert new section 5OA into the Act.

Emissions budgets

Purpose of emissions budgets

We recommend that a reference to New Zealand's obligations under the Paris Agreement be included in clause 8, new section 5T, which sets out the purpose of emissions budgets. This would strengthen the obligation to consider the global response to climate change and the 1.5°C temperature goal outlined in the agreement when setting emissions budgets. It would also better align this provision with the purpose statement of the bill.

Title of Subpart 3

Clause 8 would insert new Parts 1A to 1C into the Act. As introduced, the title of Subpart 3 of Part 1B is "Role of Commission in setting emissions budgets". We recommend renaming it as "Role of Commission to advise on emissions budgets". This

would more accurately reflect the Commission's role to provide advice on emissions budgets but not set them, and should remove any confusion as a result of the title.

Considerations when advising on, and setting, emissions budgets

Clause 8, new section 5Z(2), lists the matters the Commission and the Minister would need to have regard to when advising on, and setting, emissions budgets. We recommend the following changes to the list.

Emissions budgets to be ambitious

As introduced, section 5Z(2)(b)(iv) would require the Minister and the Commission to have regard to “the need for emissions budgets that are ambitious but technically and economically feasible”. We recommend replacing the word “feasible” with “achievable”. We consider that the use of “feasible” could limit how ambitious an emissions budget may be.

Distribution of impacts

We recommend inserting subparagraph (vi) into new section 5Z(2)(b). Our amendment would combine subparagraphs (vi) and (viii) as introduced into a single provision. Our proposed new subparagraph (vi) would require the Commission and the Minister to have regard to the impact of actions taken to achieve emissions budgets, as well as the impact of actions taken to achieve the 2050 target. It would also require them to consider the impact of both such actions on the ability to adapt to climate change.

This change would require the Commission and the Minister to consider the distribution of the impacts from both subparagraphs (vi) and (viii) as introduced. We believe this better reflects the intent of the bill and simplifies the provision.

Land-use change

We recommend inserting a requirement for the Commission and the Minister to have regard to the potential implications of land-use change for communities. As introduced, new section 5Z(2)(b)(vii) would require the Commission and the Minister to consider the impact on communities of decisions about emissions budgets. While this would implicitly require them to consider land-use change, we think that this consideration should be explicit. This would appropriately recognise the risks associated with land-use change and the concern people have for how forestry may affect rural communities.

Our recommendation would insert subparagraph (ixa) into new section 5Z(2)(b).

The Parliamentary Commissioner for the Environment provided advice in which he expressed concerns around the use of forestry offsets. He suggested possible legislative limits on the use of such offsets. We also received advice from the Ministry for the Environment stating that the risk of excess use of forestry is adequately addressed by the bill with previously proposed amendments. In particular, existing provisions deal with advice by the Commission on such matters, the setting of budgets, and the

requirement to take land-use change into account. Government members were satisfied with the advice from the ministry.

Revision of emissions budgets

Change to the 2050 target

Clause 8, new section 5ZB(1), sets out the circumstances in which the Commission would be able to recommend revision of an emissions budget that has been notified. We recommend making it clear that the Commission could recommend that a notified budget be revised any time there was a change to the 2050 target. Even though the bill as introduced would provide for this, we think it is important to make it explicit.

Our recommendation would insert subsection (1A) into section 5ZB.

Restrictions on revisions

We recommend making it clear that revisions to a notified emissions budget should only include those required to address the change in circumstances that empowered the Commission to recommend that the budget be revised under new section 5ZB(1). For example, if a change in economic circumstances empowered the Commission to recommend a budget be revised, then any revisions made by the Minister should relate to that change in economic circumstances.

Our recommendation would insert paragraph (c) into new section 5ZB(6).

Banking and borrowing emissions

Clause 8, new section 5ZC, would provide for emissions to be banked or borrowed.

Banking involves counting excess emissions reductions achieved during one budget period towards the emissions reductions required for the next budget period. It would make the next emissions budget easier to meet.

Borrowing is the opposite of banking. If emissions exceed what is permitted in a budget period, the bill as introduced would allow 1 percent of emissions from the next budget period to be used to make up the shortfall. This would make the next emissions budget harder to meet.

We recommend amending section 5ZC to clarify the impact of banking and borrowing on subsequent emissions budgets by stating it explicitly in new subsections (1A), (2A), and (2B).

Emissions reduction plans

New section 5ZD would require the Minister to prepare and publish a plan with policies and strategies for meeting an emissions budget. We recommend amending clause 8, new section 5ZD(1), so that emissions reduction plans could include policies and strategies for future emissions budgets. As introduced, the provision would not allow emissions reduction plans to cover multiple emissions budget periods. We consider that emissions reduction plans should be able to take a longer-term approach where appropriate.

Publication and presentation of emissions reduction plans

Clause 8, new section 5ZF, does not specify any timeframe for preparation and publication of an emissions reduction plan by the Minister. We consider that timeframes should be clearly stated in the bill.

We recommend amending proposed new section 5ZF(4) to require the Minister to publish emissions reduction plans 12 months before the beginning of the relevant emissions budget period. We consider that publishing the plan 12 months in advance would provide businesses, investors, Government agencies, and households with a better forward view of upcoming policies, so that they could have certainty and plan accordingly. Our amendment would also require a copy of each emissions reduction plan to be presented to the House.

Parliamentary scrutiny of emissions budgets

Clause 8, new section 5ZA, would require the Minister to consult with representatives from each political party before an emissions budget was finalised and presented to the House. However, we note that the bill does not frame emissions budgets as legal instruments. Section 5ZA(3) provides that the Gazette notice stating the commencement and end dates of the emissions budget is neither a legislative instrument nor a disallowable instrument. Therefore, an emissions budget would be a policy document which would not be scrutinised by the House in a systematic or ongoing way.

We consider this proposed level of parliamentary scrutiny to be insufficient and think that the Standing Orders should provide for systematic and ongoing parliamentary scrutiny. Emissions budgets would be substantial policy documents which could affect or lead to significant Government decisions and would be integral to meeting and maintaining the 2050 target. Moreover, the intention of the bill is for Governments to be accountable for measurable progress against the emissions budgets. While emissions budgets could be scrutinised by a select committee, this would be a matter for the House to arrange. It would not be appropriate to provide for this in a statute.

We recommend that the House consider whether it agrees that emissions budgets are policy documents that warrant parliamentary scrutiny. If the House does agree, we recommend that it consider the most appropriate and effective means by which Parliament could hold the Government accountable for the content of an emissions budget.

We note that, at present, Parliament regularly and systematically scrutinises significant policy documents, such as the investment statement and budget policy statement⁴. In addition, if the content of an emissions budget was highly technical, the House or one of its committees could ask the Parliamentary Commissioner for the Environment to provide advice.

⁴ Standing Orders 336 and 332.

Information included in emissions reduction plans

Clause 8, new section 5ZD(3)(c), provides that an emissions reduction plan must include a strategy to mitigate the impacts that reducing emissions and increasing removals would have on workers and various other groups. We recommend replacing “workers” with “employees and employers”. We consider that our amendment would more appropriately capture both sides of the employment relationship.

Effect of the 2050 target and emissions budgets

Consideration of the 2050 target and emissions budgets in decision making

Proposed new sections 5ZK(1) and 5ZL(1) allow, but do not require, government entities to take into account the 2050 target and emissions budgets when making relevant decisions. We have given thought to whether this permissive consideration should be changed to mandatory consideration. We recommend that the House take note of the points below.

Hon Simon Upton, Parliamentary Commissioner for the Environment, submitted that mandatory consideration is important to ensure that policy making in relevant sectors aligns with long-term climate objectives. He used the United Kingdom’s experience with similar legislation to highlight that permissive consideration may not result in all relevant public authorities working together to achieve the 2050 target and emissions budgets.

We considered how mandatory consideration could work in legislation, including identifying statutory decisions in respect of which long-term climate objectives should be a mandatory consideration. We considered this impracticable. However, we agree that there would be merit in enabling the Government, through a regulation-making power, to identify specific decisions, under specific Acts, where consideration of the target and budgets should be mandatory. Such a power would provide flexibility for Governments to develop significant policy over time, and to prioritise where emissions reductions should be achieved. However, we are cautious of recommending this approach as it would create a power for delegated legislation to amend an Act of Parliament.⁵

Consideration of emissions reduction plans

We recommend amending new section 5ZK(1). As introduced a person or body may take into account the 2050 target or an emissions budget when exercising a function, power, or duty. Our amendment would allow a person or body to also take into account emissions reduction plans.

⁵ This is known as a Henry VIII provision.

Enabling common law to develop

New subsection 5ZK(2) sets out that a decision would not be invalidated if the 2050 target, emissions budgets, or Ministerial guidance for departments had not been taken into account. We recommend deleting this subsection to remove any restrictions it would have on how common law may develop regarding the status of the target and emissions budgets, and how they should be considered under subsection 5ZK(1).

Removing duplication in matters which must be considered

The bill as introduced would prescribe a number of matters that the Commission and the Minister must have regard to when performing their functions. We recommend rationalising these matters across the bill to remove duplication, as follows.

Consideration of technology

Clause 8, new section 5L, contains the matters the Commission must consider when performing its functions and duties. We recommend amending new section 5L(b) to include consideration of existing technology and anticipated technological developments, including the costs and benefits of early adoption of these in New Zealand.

Our recommendation would make the wording of this provision consistent with new section 5Z(2)(b)(iii) and clearly express the need to consider the costs and benefits of adopting new and existing technologies early.

Consideration of global action

Clause 8, new section 5Z(2)(b), would set out the matters the Commission and the Minister must have regard to when advising on, and setting, emissions budgets. We recommend amending new section 5Z(2)(b)(x) to require the Commission and the Minister to have regard to responses to climate change taken or planned by parties to the Paris Agreement or the United Nations Framework Convention on Climate Change.

Our recommendation would make the wording of this provision consistent with new section 5L(f), which clearly provides for considering global action.

Consideration of how emissions budgets may be met

Proposed new sections 5W, 5X, and 5Z all relate to how emissions budgets and the 2050 target may be met. We recommend rationalising these provisions to remove duplication and make them easier to follow. We recommend the following changes:

- Remove new section 5W(2) and include substantive requirements from this provision in other sections, as discussed below.
- Amend new section 5X(1)(d) to require the Commission to indicate the reductions of each greenhouse gas that will be needed, as part of its advice on the proportion of emissions budgets that will be met through reductions and removals.
- Amend new section 5Z(2)(a) by removing the reference to section 5W(2), and instead requiring the Commission and the Minister to consider the key oppor-

tunities for emissions reductions and removals in New Zealand, and the principal risks and uncertainties involved.

Repeal section 224 of the Climate Change Response Act

We recommend amending clause 11 so that it repeals section 224 of the Climate Change Response Act entirely.

Clause 11 of the bill as introduced would amend section 224 of the Act so that targets for greenhouse gas emissions could not be set under this section because they would be set in new section 50.

Instead of section 224, the bill would provide alternative ways of making formal statements of Government policy targets. The savings provisions in clause 9 would ensure that existing targets for greenhouse gas emissions under section 224 would remain unaltered. Therefore, we consider that section 224 is no longer needed and its inclusion makes the intent of the bill less clear.

New Zealand National Party minority view

Several concerns with the bill were raised by the public, stakeholders, and the Parliamentary Commissioner for the Environment during the select committee process.

National seeks the following changes to the Zero Carbon Bill:

- That the target for biological methane reduction be recommended by the independent Climate Change Commission.
- That the bill make clear that the stated aim of the Paris Agreement is for greenhouse gas reduction to occur in a manner that does not threaten food production. Currently the bill cherry-picks wording from the agreement.
- Strengthen provisions that consider the level of action being taken by other countries and allow targets to be adjusted to ensure we remain in step with the international community.
- That the bill ensure that the Commission consider economic impacts when providing advice on targets and emissions reductions.
- That the bill ensure that the Commission consider the appropriate use of forestry offsets, and have regard for the carbon sink represented by tree crops, riparian planting, and other farm biomass.
- That emissions budgets be split between biogenic methane and carbon dioxide as recommended by the Parliamentary Commissioner for the Environment.
- That the bill include a greater commitment to investment in innovation and research and development, to find new solutions for reducing emissions.

These changes would improve the bill and ensure that it is in line with National's climate change principles of taking a pragmatic technological and science-based approach.

National believes that the bill would have negative impacts on the New Zealand economy and that there would be increased costs to kiwi families, businesses, and slower

GDP growth. We consider those negative impacts should be made clear to New Zealanders.

The changes we are seeking would ensure that incentives drive the right long-term change and that the wider impact on the economy, jobs, and incomes are fully factored in so that we are protecting everyday New Zealanders as our emissions reduce.

Appendix

Committee process

The Climate Change Response (Zero Carbon) Amendment Bill was referred to the committee on 21 May 2019. The closing date for submissions was 16 July 2019. We received and considered about 10,200 submissions from interested groups and individuals.

We heard oral evidence from 800 submitters at hearings in Christchurch, Auckland, Hamilton, Palmerston North, Nelson, Tauranga, Dunedin, and Wellington.

We received advice from the Ministry for the Environment and the Parliamentary Commissioner for the Environment. The Regulations Review Committee reported to us on the powers contained in clause 6 and clause 8.

Committee membership

Dr Duncan Webb (Chairperson, from 25 July 2019)

Dr Deborah Russell (Chairperson until 25 July 2019)

Dr Liz Craig (from 25 July 2019)

Hon Clare Curran (until 25 July 2019)

Sarah Dowie

Hon Nathan Guy (from 7 August 2019)

Jenny Marcroft

Todd Muller (until 7 August 2019)

Hon Scott Simpson

Erica Stanford

Chlöe Swarbrick

Angie Warren-Clark

Climate Change Response (Zero Carbon) Amendment
Bill

Key to symbols used in reprinted bill

As reported from a select committee

text inserted by a majority

~~text deleted by a majority~~

Hon James Shaw

Climate Change Response (Zero Carbon) Amendment Bill

Government Bill

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Climate Change Response (Zero Carbon) Amendment Act **2019**.
- 2 Commencement** 5
This Act comes into force on the day after the date on which it receives the Royal assent.
- 3 Principal Act**
This Act amends the Climate Change Response Act 2002 (the **principal Act**).

Part 1 10

Climate Change Commission, emission reduction, and adaptation

- 4 Section 3 amended (Purpose)**
- Before section 3(1)(a), insert:
- (aa) ~~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° Celsius above pre-industrial levels; and~~ 15
- (aa) provide a framework by which New Zealand can develop and implement clear and stable climate change policies that—
- (i) contribute to the global effort under the Paris Agreement to limit the global average temperature increase to 1.5° Celsius above pre-industrial levels; and 20
- (ii) allow New Zealand to prepare for, and adapt to, the effects of climate change:

5 Section 3A amended (Treaty of Waitangi (Te Tiriti o Waitangi))

After section 3A(a), insert:

- (ab) with respect to **section 5G** (which relates to nominations for the Climate Change Commission), particular attention is required to seeking nominations from iwi and Māori representative organisations: 5
- (ac) with respect to **section 5H** (which relates to appointments of members of the Commission), the Minister must, before recommending the appointment of a member to the Commission, have regard to the need for the Commission to have members who have technical and professional skills, experience, and expertise, and innovative approaches, relevant to the Treaty of Waitangi (Te Tiriti o Waitangi): 10
- (ad) with respect to **sections 5ZD and 5ZF** (which require the Minister to prepare and publish an emissions reduction plan), the Minister must include in a emissions reduction plan a strategy to recognise and mitigate the impacts on iwi and Māori of reducing emissions and must ensure that iwi and Māori have been adequately consulted on the plan: 15
- (ae) with respect to **section 5ZQ** (which requires the Minister to prepare a national adaptation plan), the Minister must, in preparing a plan, take into account the economic, social, health, environmental, ecological, and cultural effects of climate change on iwi and Māori: 20

6 Section 4 amended (Interpretation)

- (1) In section 4(1), insert in their appropriate alphabetical order:

2050 target means the emissions reduction target set in **section 50**

biogenic methane means all methane greenhouse gases produced from the agriculture and waste sectors (as ~~those sectors are defined~~ reported in the New Zealand Greenhouse Gas Inventory) 25

Climate Change Commission and **Commission** mean the Climate Change Commission established under **section 5A**

emissions budget means the quantity of emissions that will be permitted in each emissions budget period as a net amount of carbon dioxide equivalent 30

emissions budget period means a 5-year period for the years 2022 to 2050, as specified in **section 5U(3)** (except that the period 2022 to 2025 is a 4-year period)

emissions reduction plan means a plan for achieving an emissions budget prepared in accordance with **sections 5ZD to 5ZF** 35

gross emissions means New Zealand's total emissions from the agriculture, energy, industrial processes and product use, and waste sectors (as ~~those sectors are defined~~ reported in the New Zealand Greenhouse Gas Inventory)

~~**net emissions** means gross emissions combined with emissions and removals from land use, land use change, and the forestry sector~~ 40

net accounting emissions means the total of gross emissions and emissions from land use, land-use change, and forestry (as reported in the New Zealand Greenhouse Gas Inventory), less—

(a) removals, including from land use, land-use change, and forestry (as reported in the New Zealand Greenhouse Gas Inventory); and

(b) offshore mitigation

New Zealand Greenhouse Gas Inventory means ~~the official annual estimate of all greenhouse gas emissions that have been generated in New Zealand since 1990 by human activities~~ the annual inventory report under Articles 4 and 12 of the Convention and Article 7.1 of the Protocol, prepared in accordance with section 32(1)

offshore mitigation means emissions reductions and removals, or allowances from emissions trading schemes,—

(a) that originate from outside New Zealand; and

(b) that are expressed as a quantity of carbon dioxide equivalent; and

(c) that are robustly accounted for to ensure that, among other things, double counting is avoided; and

(d) that either—

(i) represent an actual additional, measurable, and verifiable reduction or removal of an amount of carbon dioxide equivalent; or

(ii) are an emissions trading scheme allowance that triggers the reduction of carbon dioxide equivalent

Paris Agreement means the agreement adopted in Paris on 12 December 2015, and includes any amendments that are, or will become, binding on New Zealand from time to time

publicly available, in relation to a document or information, means that the document or information is available at all reasonable times, free of charge, on an Internet site

(2) In section 4(1), replace the definition of **emissions** with:

emissions,—

(a) in relation to **Parts 1A and 1B**, means ~~carbon dioxide equivalent~~ emissions of greenhouse gases; but

(b) in relation to an activity listed in Schedule 3 or 4, means carbon dioxide equivalent emissions of greenhouse gases from the activity

(3) In section 4(1), replace the definition of **removals** with:

removals,—

(a) in relation to a removal activity, means carbon dioxide equivalent greenhouse gases that are, as a result of the removal activity,—

(i) removed from the atmosphere; or

	<p>(ii) <u>not released into the atmosphere; or</u></p> <p>(iii) <u>a reduction from emissions reported in—</u></p> <p style="padding-left: 2em;">(A) <u>New Zealand’s annual inventory report under section 32 as required under the Convention or Protocol for any year; or</u></p> <p style="padding-left: 2em;">(B) <u>any emissions report from New Zealand under a successor international agreement; and</u></p> <p>(b) <u>in Part 1B and the definitions of net accounting emissions and offshore mitigation, means greenhouse gases that are removed from the atmosphere</u></p>	5
7	<p>New section 4A inserted (Transitional, savings, and related provisions)</p> <p>After section 4, insert:</p>	10
4A	<p>Transitional, savings, and related provisions</p> <p>The transitional, savings, and related provisions set out in Schedule 1AA have effect according to their terms.</p>	
8	<p>New Parts 1A to 1C inserted</p> <p>After section 5, insert:</p>	15
	<p>Part 1A</p> <p>Climate Change Commission</p> <p>Subpart 1—Establishment and appointments</p>	
5A	<p>Climate Change Commission established</p> <p>The Climate Change Commission is established.</p>	20
5B	<p>Purposes of Commission</p> <p>The purposes of the Commission are—</p> <p>(a) to provide independent, expert advice to the Government on mitigating the effects of climate change (including through reducing emissions of greenhouse gases) and adapting to the effects of climate change; and</p> <p>(b) to monitor and review the Government’s progress towards its emissions reduction and adaptation goals.</p>	25
5C	<p>Commission is Crown entity</p> <p>(1) The Commission is a Crown entity for the purposes of the Crown Entities Act 2004.</p> <p>(2) The Crown Entities Act 2004 applies to, and in relation to, the Commission except to the extent that this Act expressly provides otherwise.</p>	30

5D Membership of Commission

- (1) The Commission consists of—
- (a) a Chairperson;
 - (b) a Deputy Chairperson;
 - (c) 5 other members.
- (2) The members of the Commission are a board for the purposes of the Crown Entities Act 2004.

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5E Process for appointment of members of Commission

- (1) The Minister may recommend to the Governor-General that a person be appointed a member of the Commission if—
- (a) the person has been nominated by the nominating committee; and
 - (b) the Minister has had regard to the matters in **section 5H**; and
 - (c) the Minister has consulted representatives of all political parties in Parliament.
- (2) The Minister may, at any time, recommend to the Governor-General that a current member of the Commission be appointed to the position of Chairperson or Deputy Chairperson of the Commission.

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5F Establishment and membership of nominating committee

- (1) The Minister must establish a committee to nominate candidates to the Minister for appointment as members of the Commission.
- (2) The nominating committee must comprise—
- (a) the Chairperson of the Commission; and
 - (b) 4 or more other people who, in the opinion of the Minister, have the relevant skills or experience to identify suitably qualified candidates.
- (3) If the position of Chairperson is vacant, the nominating committee must comprise 5 or more people who, in the opinion of the Minister, have the relevant skills or experience to identify suitably qualified candidates.

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5G Role of nominating committee

- (1) On request of the Minister, the nominating committee must nominate 1 or more people who, in the opinion of the committee, are suitably qualified to be appointed to be members of the Commission.
- (2) Before nominating a person for appointment, the nominating committee must—
- (a) publicly call for expressions of interest in being appointed; and
 - (b) consult any person or group who may have an interest in being a member of the Commission, including—
 - (i) iwi and Māori representative organisations; and

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(ii)	any person or group that the Minister has identified as having an interest.	
5H	Matters Minister must have regard to before recommending appointment of member of Commission	
(1)	Before recommending the appointment of a member of the Commission, the Minister must have regard to the need for the Commission to have members who, collectively, have—	5
(a)	an understanding of climate change mitigation and adaptation, including the likely effects of any responses to climate change; and	
(b)	experience working in or with local and central government; and	10
(c)	knowledge of the process by which public and regulatory policy is formed and given effect to; and	
(d)	technical and professional skills, experience, and expertise in, and an understanding of innovative approaches relevant to,—	
(i)	the environmental, ecological, social, economic, and distributional effects of climate change and climate change policy interventions; and	15
(ii)	<u>the Treaty of Waitangi</u> (Te Tiriti o Waitangi) and te ao Māori (including tikanga Māori, te reo Māori, mātauranga Māori, and Māori economic activity); and	20
(iii)	a range of sectors and industries, at regional and local levels.	
(2)	In this section,—	
	mātauranga Māori means traditional Māori knowledge	
	te ao Māori means the Māori world	
	te reo Māori means the Māori language	25
	tikanga Māori means Māori custom and protocol.	
5I	Members' term of office	
	In recommending the appointment of a member of the Commission, the Minister must recommend a term of office that ensures that no more than 2 members have their terms of office expire in any calendar year.	30
	Subpart 2—Commission's functions, duties, and powers	
5J	Commission's functions	
	The functions of the Commission are—	
(a)	to review the 2050 target and, if necessary, recommend changes to the target (<i>see sections 5P and 5OA to 5Q</i>):	35

<ul style="list-style-type: none"> (b) to provide advice to the Minister to enable the preparation of emissions budgets (<i>see section 5X</i>): (c) to recommend any necessary amendments to emissions budgets (<i>see section 5ZB</i>): (d) to provide advice to the Minister about the quantity of emissions that may be banked or borrowed between 2 adjacent emissions budget periods (<i>see section 5ZC</i>): (e) to provide advice to the Minister to enable the preparation of an emissions reduction plan (<i>see section 5ZE</i>): (f) to monitor and report on progress towards meeting emissions budgets and the 2050 target (<i>see sections 5ZG to 5ZI</i>): (g) to prepare national climate change risk assessments (<i>see section 5ZN</i>): (h) to prepare reports on the implementation of the national adaptation plan (<i>see section 5ZS</i>): (i) to provide other reports requested by the Minister (<i>see section 5K</i>). 	<p>5</p> <p>10</p> <p>15</p>
5K Reports to Government	
<ul style="list-style-type: none"> (1) The Minister may, at any time, request that the Commission prepare reports to the Government on matters related to reducing emissions of greenhouse gases and adapting to the effects of climate change. (2) Before making a request, the Minister must consult the Commission about the terms of reference for the requested report, which may, without limitation, specify— <ul style="list-style-type: none"> (a) the scope of the report; and (b) requirements concerning consultation; and (c) matters relating to the Commission working jointly with other agencies (including overseas agencies) concerned with the subject matter of the report; and (d) the date by which the Commission must submit its report to the Minister. (3) On receiving a request from the Minister, the Commission must,— <ul style="list-style-type: none"> (a) as soon as practicable, make the terms of reference publicly available; and (b) prepare a report in accordance with the terms of reference; and (c) provide the report to the Minister. (4) The Commission must make the report publicly available after providing it to the Minister. (5) The Minister must present a copy of the report to the House of Representatives as soon as practicable, but within 12 weeks, after receiving it. 	<p>20</p> <p>25</p> <p>30</p> <p>35</p>

5KA Tabling and publication of Commission’s reports

- (1) This section applies in respect of a document (such as advice, a report, a recommendation, or an assessment) provided to the Minister by the Commission under this Act.
- (2) The Minister must present a copy of the document to the House of Representatives by the later of—
- (a) 10 working days after the document is provided to the Minister; and
 - (b) if Parliament is not in session during the 10 working days after the document is provided to the Minister, as soon as practicable after the commencement of the next session of Parliament.
- (3) The Commission must make the document publicly available as soon as practicable after it is presented to the House of Representatives, but no later than 20 working days after providing it to the Minister (even if the document has not been presented to the House by that date).

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5L Matters Commission must consider

In performing its functions and duties and exercising its powers under this Act, the Commission must consider, where relevant,—

- (a) current available scientific knowledge; and
- (b) ~~technology that could be efficiently adopted and the likelihood of any advantages arising from early adoption of the technology; and~~
- (b) existing technology and anticipated technological developments, including the costs and benefits of early adoption of these in New Zealand; and
- (c) the likely economic effects; and
- (d) social, cultural, environmental, and ecological circumstances, including differences between sectors and regions; and
- (e) the distribution of benefits, costs, and risks between generations; and
- (ea) the Crown-Māori relationship, te ao Māori (as defined in **section 5H(2)**), and specific effects on iwi and Māori; and
- (f) responses to climate change taken or planned by parties to the Paris Agreement or to the Convention.

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5M Consultation

- (1) In performing its functions and duties and exercising its powers under this Act, the Commission must—
- (a) proactively engage with persons the Commission considers relevant to the functions, duties, and powers; and
 - (b) where the Commission considers it is necessary, provide for participation by the public.
- (2) The Commission may—

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(a)	publish and invite submissions on discussion papers and draft reports; and	
(b)	undertake any other type of consultation that it considers necessary for the performance of its functions and duties under this Act.	
5N	Commission must act independently	5
(1)	The Commission must act independently in performing its functions and duties and exercising its powers under this Act.	
(2)	However, the Minister may direct the Commission to have regard to Government policy for the purposes of the Commission—	
(a)	recommending unit supply settings of the New Zealand emissions trading scheme; and	10
(b)	providing advice about New Zealand’s nationally determined contributions under the Paris Agreement (in a report requested under section 5K).	
5NA	Obligation to maintain confidentiality	15
(1)	<u>The Commission must keep confidential all information that is disclosed to it under section 99(2)(b)(iiib).</u>	
(2)	<u>The Commission must not disclose the information, except—</u>	
(a)	<u>with the consent of the person to whom the information relates or of the person to whom the information is confidential; or</u>	20
(b)	<u>to the extent that the information is already in the public domain; or</u>	
(c)	<u>for the purposes of, or in connection with, reporting requirements of the Public Finance Act 1989; or</u>	
(d)	<u>as provided under this Act or any other Act; or</u>	
(e)	<u>in connection with any investigation or inquiry (whether or not preliminary to any proceedings) in respect of, or any proceedings for, an offence against this Act or any other Act.</u>	25
(3)	<u>A person who knowingly fails to comply with this section commits an offence under section 130.</u>	
	Part 1B	30
	Emission reduction	
	Subpart 1—2050 target	
5O	Target for 2050	
(1)	The target for emissions reduction (the 2050 target) requires that—	

<p>(a) net <u>accounting</u> 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; and</p> <p>(b) gross-emissions of biogenic methane in a calendar year—</p> <p style="padding-left: 20px;">(i) are 10% less than 2017 emissions by the calendar year beginning on 1 January 2030; and</p> <p style="padding-left: 20px;">(ii) 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.</p> <p>(1A) <u>The 2050 target will be met if emissions reductions meet or exceed those required by the target.</u></p> <p>(2) In this section, 2017 emissions means the gross-emissions of biogenic methane for the calendar year beginning on 1 January 2017.</p> <p>5OA <u>Review of inclusion of emissions from international shipping and aviation in 2050 target</u></p> <p><u>The Commission must, no later than 31 December 2024, provide written advice to the Minister on whether the 2050 target should be amended to include emissions from international shipping and aviation (and, if so, how the target should be amended).</u></p> <p>5P <u>Other 2050 target</u> Target reviews</p> <p>(1) The Commission must review the 2050 target—</p> <p style="padding-left: 20px;">(a) when preparing advice under section 5X on setting an emissions budget for an emissions budget period beginning on or after 2036; and</p> <p style="padding-left: 20px;">(b) at any other time the Minister requests a review.</p> <p>(2) The Commission must advise the Minister in writing of the outcome of any review, including any recommendations made in accordance with section 5Q,—</p> <p style="padding-left: 20px;">(a) at the same time as giving advice to the Minister on setting an emissions budget (in the case of a review required under subsection (1)(a)); or</p> <p style="padding-left: 20px;">(b) as soon as practicable following completion of the review (in the case of a review requested by the Minister).</p> <p>(3) The Commission must make the advice publicly available after providing it to the Minister.</p> <p>(4) The Minister must present a copy of the advice to the House of Representatives as soon as practicable, but within 12 weeks, after receiving it.</p> <p>5Q <u>Recommendations to amend 2050 target</u></p> <p>(1) As a result of a review <u>under section 5P</u>, the Commission may recommend a change to—</p>	<p>5</p> <p>10</p> <p>15</p> <p>20</p> <p>25</p> <p>30</p> <p>35</p>
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<ul style="list-style-type: none"> (a) the time frame for achievement of the 2050 target (or part of the target); or (b) the levels of emission reductions required by the 2050 target (or part of the target);- <u>(c) the greenhouse gases, emissions, and removals to which the 2050 target (or part of the target) applies;</u> <u>(d) how the 2050 target (or part of the target) may be met, including limits on removals and offshore mitigation.</u> 	<p>5</p>
<ul style="list-style-type: none"> (2) The Commission may recommend a change to the 2050 target only if— <ul style="list-style-type: none"> (a) significant change has occurred, <u>or is likely to occur</u>, since the commencement of this section to 1 or more of the following, as they relate to climate change: <ul style="list-style-type: none"> (i) global action: (ii) scientific understanding of climate change: (iii) New Zealand’s economic or fiscal circumstances: (iv) New Zealand’s obligations under relevant international agreements: (v) technological developments: (vi) distributional impacts: (vii) equity implications (including generational equity); and <u>(viii) the principal risks and uncertainties associated with emissions reductions and removals;</u> <u>(ix) social, cultural, environmental, and ecological circumstances; and</u> (b) the Commission is satisfied that the significant change justifies the change to the target. 	<p>10</p> <p>15</p> <p>20</p> <p>25</p>
<p>5R Government response to target review recommendations</p>	
<ul style="list-style-type: none"> (1) If the Minister receives a 2050 target review recommendation under section 5Q, the Minister must advise the Commission in writing of the Government’s response to the recommendations within 12 months of receiving the recommendation. <u>(1) Within 12 months after receiving a recommendation to amend the 2050 target under section 50A or 5Q, the Minister must advise the Commission in writing of the Government’s response.</u> <u>(1A) The response must include reasons for any departure from the Commission’s recommendation.</u> (2) The Minister must <u>make the response publicly available and present a copy of the Government’s response to the target review recommendation</u> to the House 	<p>30</p> <p>35</p>

of Representatives as soon as practicable, but no later than 10 working days after it has been provided to the Commission.

Subpart 2—Setting emissions budgets

5S Interpretation

In this subpart and **subparts 3 and 4**, unless the context otherwise requires,—

advice includes recommendations

banked has the meaning given in **section 5ZC(1)**

borrowed has the meaning given in **section 5ZC(2)**.

~~**net budget emissions** means gross emissions, offset by removals and offshore mitigation~~ 10

~~**removals** means carbon dioxide equivalent greenhouse gases that are removed from the atmosphere.~~

5T Purpose of this subpart

The purpose of this subpart and **subparts 3 and 4** is to require the Minister to set a series of emissions budgets— 15

(a) with a view to meeting ~~and maintaining~~ the 2050 target ~~(see **section 5O**)~~, and contributing to the global effort under the Paris Agreement to limit the global average temperature increase to 1.5° Celsius above pre-industrial levels; and 20

(ab) in a way that allows those budgets to be met domestically; and

(b) that ~~provide~~ provides greater predictability for all those affected, including households, businesses, and investors, by giving advance information on the emissions reductions and removals that will be required.

5U Duty of Minister to set emissions budgets and ensure they are met 25

(1) The Minister must set an emissions budget for each emissions budget period in accordance with this subpart.

(2) From 31 December 2021, there must be 3 consecutive emissions budgets, 1 current and 2 prospective, in place at any one time.

(3) An emissions budget must be set and notified, ~~—~~ in the *Gazette* under **section 5ZA** as follows: 30

(a) for the emissions budget period 2022 to 2025, by 31 December 2021:

(b) for the emissions budget period 2026 to 2030, by 31 December 2021:

(c) for the emissions budget period 2031 to 2035, by 31 December 2021:

(d) for the emissions budget period 2036 to 2040, by 31 December 2025: 35

(e) for the emissions budget period 2041 to 2045, by 31 December 2030:

(f)	for the emissions budget period 2046 to 2050, by 31 December 2035:	
(g)	for any subsequent emissions budget period, by 31 December not less than 10 years before that emissions budget period commences.	
(4)	The Minister must ensure that the net budget-accounting emissions do not exceed the emissions budget for the relevant emissions budget period.	5
5V	Contents of emissions budgets	
(1)	Each emissions budget must state the total emissions that will be permitted for the relevant emissions budget period, expressed as a net quantity of carbon dioxide equivalent.	
(2)	Each emissions budget must include all greenhouse gases.	10
5W	How emissions budgets <u>are</u> to be met	
(1)	Emissions budgets must be met, as far as possible, through domestic emissions reductions and domestic removals.	
(2)	In considering how an emissions budget may realistically be met, the Commission and the Minister must include consideration of the following:	15
(a)	the amount by which each greenhouse gas must be reduced to meet the emissions budget and the 2050 target:	
(b)	the amount by which greenhouse gas emissions must be removed to meet the emissions budget and the 2050 target:	
(c)	identification of key opportunities for emissions reductions and removals in New Zealand, and the principal risks and uncertainties involved with emissions reductions and removals.	20
(2)	<u>However, offshore mitigation may be used if there has been a significant change of circumstance—</u>	
(a)	<u>that affects the considerations on which the relevant emissions budget was based; and</u>	25
(b)	<u>that affects the ability to meet the relevant emissions budget domestically.</u>	
	Subpart 3—Role of Commission in setting <u>to advise on</u> emissions budgets	30
5X	Commission to advise Minister	
(1)	The Commission must advise the Minister on the following matters relevant to setting an emissions budget:	
(a)	the recommended quantity of emissions that will be permitted in each emissions budget period; and	35
(b)	the rules that will apply to measure progress towards meeting emissions budgets and the 2050 target; and	

- (c) how the emissions budgets, and ultimately the 2050 target, may realistically be met, including by pricing and policy methods; and
- ~~(d) an indication of the proportion of the emissions budget that will be met by greenhouse gas reductions, removals, and offshore mitigation; and~~
- (d) the proportions of an emissions budget that will be met by domestic emissions reductions and domestic removals, and the amount by which emissions of each greenhouse gas should be reduced to meet the relevant emissions budget and the 2050 target; and 5
- ~~(e) the appropriate limit on the amount of offshore mitigation that may be used to meet the emissions budget, including the reasons for the proposed limit and how the limit meets the requirement of **section 5W(4)**.~~ 10
- (e) the appropriate limit on offshore mitigation that may be used to meet an emissions budget, and an explanation of the circumstances that justify the use of offshore mitigation (see **section 5W**). 15
- (2) In preparing advice for the Minister under **subsection (1)**, the Commission must have regard to the matters set out in **section 5Z**. 15
- (2A) Before the Commission provides advice to the Minister on an emissions budget, it must—
- (a) make the proposed advice publicly available and invite comments on that advice; and 20
- (b) allow adequate time and opportunity for any submissions to be received, heard, and considered by the Commission.
- (3) The Commission must provide its advice to the Minister,—
- (a) in the case of the first 3 emissions budgets, not later than 1 February 2021: 25
- (b) in the case of all subsequent emissions budgets, at least 12 months before an emission budget must be notified under **section 5ZA** (or at least 15 months before, if a general election is to take place in that year).
- ~~(4) The Commission must make its advice publicly available after providing it to the Minister.~~ 30
- ~~(5) The Minister must present a copy of the advice given under **subsection (1)** to the House of Representatives as soon as practicable, but within 12 weeks, after receiving it.~~
- 5Y Minister's response to Commission**
- (1AAA) Before the Minister sets an emissions budget, the Minister must be satisfied that there has been adequate consultation. 35
- (1AAB) If the Minister is not satisfied that there has been adequate consultation, the Minister must—
- (a) make the proposed emissions budget publicly available; and

- (b) allow adequate time and opportunity for any submissions to be received, heard, and considered by the Minister.
- (1) At the time when the Minister sets and notifies an emissions budget under **section 5ZA** in accordance with the dates set out in **section 5U(3)**, the Minister must provide a written response that— 5
- (a) responds to the advice received from the Commission; and
- (b) includes a proposed emissions budget for the relevant emissions budget period; and
- (c) is presented to the House of Representatives and made publicly available. 10
- (2) If the proposed emissions budget departs from the advice of the Commission, the Minister must—
- (a) decide whether it is necessary to further consult persons likely to have an interest in the emissions budget; and
- ~~(b) in making that decision, consider whether the scope of the consultation undertaken by the Commission has been adequate; and~~ 15
- (c) explain the reasons for any departures from the Commission’s advice in the response provided under **subsection (1)**.
- 5Z Matters relevant to advising on, and setting, emissions budgets**
- (1) This section applies to— 20
- (a) the Commission, when it is preparing advice for the Minister under **section 5X**;
- (b) the Minister, when the Minister is determining an emissions budget.
- (2) The Commission and the Minister must—
- (a) have particular regard to how the emissions budget and 2050 target may realistically be met, including consideration of ~~the matters set out in **section 5W(2)**~~; and 25
- (i) the key opportunities for emissions reductions and removals in New Zealand; and
- (ii) the principal risks and uncertainties associated with emissions reductions and removals; and 30
- (b) have regard to the following matters:
- (i) the emission and removal of greenhouse gases projected for the emissions budget period:
- (ii) a broad range of domestic and international scientific advice: 35
- (iii) existing technology and anticipated technological developments, including the costs and benefits of early adoption of these in New Zealand:

- (iv) the need for emissions budgets that are ambitious but likely to be technically and economically ~~feasible~~ achievable;
- (v) the results of public consultation on an emissions budget;
- (vi) the likely impact of ~~the~~ actions taken to achieve an emissions budget and the 2050 target, including on the ability to adapt to climate change; 5
- (vii) the distribution of those impacts across the regions and communities of New Zealand, and from generation to generation;
- ~~(viii) the implications of that distribution for mitigating, and adapting to, climate change;~~ 10
- (ix) economic circumstances and the likely impact of the Minister's decision on taxation, public spending, and public borrowing;
- (ixa) the implications, or potential implications, of land-use change for communities;
- ~~(x) the responses to the threat of climate change by all parties to the Paris Agreement or to the Convention;~~ 15
- (x) responses to climate change taken or planned by parties to the Paris Agreement or to the Convention;
- (xi) New Zealand's relevant obligations under international agreements. 20

5ZA Publication of emissions budgets

- (1) Before an emissions budget is notified in the *Gazette* and presented to the House of Representatives, the Minister must consult the appropriate representative of each of the political parties represented in the House of Representatives.
- (2) When an emissions budget has been finalised by the Minister in accordance with this subpart, the emissions budget must be— 25
 - (a) notified in the *Gazette*, stating the date on which the emissions budget period commences and ends; and
 - (b) presented by the Minister to the House of Representatives; and
 - (c) made publicly available at the direction of the Minister. 30
- (3) A *Gazette* notice published under this section is neither a legislative instrument nor a disallowable instrument for the purposes of the Legislation Act 2012, and does not have to be presented to the House of Representatives under section 41 of that Act.

Revision of emissions budgets

5ZB When emissions budgets may be revised

Notified emissions budgets

- (1) The Commission may, when providing advice and recommendations on a future emissions budget under **section 5X**, recommend that any emissions budgets notified under ~~section 5U(3)~~ **section 5ZA** be revised if, since the emissions budgets were originally set,—
- (a) there have been methodological improvements to the way that emissions are measured and reported; or
- (b) 1 or more significant changes have affected the considerations listed in **section 5Z(2)** on which ~~the an~~ emissions budgets were ~~budget was~~ based.
- (1A) At any time the 2050 target is revised, the Commission may provide advice recommending that the relevant emissions budgets be revised to reflect the change in the 2050 target.
- (2) An emissions budget notified under ~~section 5U(3)~~ **section 5ZA** may be revised only if the Commission recommends the revision.
- ~~(3) The Commission must make its advice publicly available after providing it to the Minister.~~
- ~~(4) The Minister must present the advice of the Commission given under **subsection (1)** to the House of Representatives as soon as practicable, but within 12 weeks, after receiving it.~~
- Minister's determination*
- (4) After receiving advice from the Commission, the Minister must determine whether to revise an emissions budget.
- ~~(5) When determining whether to revise a notified emissions budget after receiving advice from the Commission, the The Minister must—~~
- (a) take into account—
- (i) the Commission's advice; and
- (ii) the matters set out in **section 5Z(2)**; and
- (b) follow the procedure set out in **sections 5Y and 5ZA**.
- (6) However, the Minister must not revise an emissions budget—
- (a) after an emissions budget period has begun, unless the circumstances are exceptional; or
- (b) after the end of the emissions budget period to which it relates; or
- (c) in any way other than that required if any of the circumstances described in **subsection (1) or (1A)** apply.

- (7) 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, having regard to—
- (a) the matters described in **subsection (1)(a) and (b)**; and
 - (b) the prohibition on revising an emissions budget (*see* **subsection (6)**) and any exceptional circumstances that led to the Minister’s decision (*see* **subsection (6)(a)**).

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Banking and borrowing

5ZC Power to bank or borrow

Banking

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- (1) 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**).

(1A) Banking provides that the emissions budget for the next emissions budget period will be increased by the amount carried forward.

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Borrowing

- (2) If the total emissions in ~~a particular~~ an emissions budget period are greater than the emissions budget for that ~~particular~~ emissions budget period, ~~up to 1% of an amount from~~ the next emissions budget may be carried back ~~to the preceding emissions budget period~~ (**borrowed**) ~~to make up the excess emissions in that particular emissions budget period.~~

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(2A) Borrowing provides that the emissions budget for the next emissions budget period will be reduced by the amount carried back.

(2B) The amount carried back under **subsection (2)** must not exceed 1% of the emissions budget for the next emissions budget period.

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- (3) The Minister must decide whether to bank or borrow, and must determine the extent to which banking or borrowing is permitted.

- (4) Before the Minister makes a decision under **subsection (3)**,—

- (a) the Commission must, in its report on an emissions budget period, provide advice on the quantity of emissions that may be banked or borrowed between 2 adjacent emissions budget periods; and

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- (b) the Minister must have regard to that advice.

Emissions reduction plan to be prepared

5ZD Requirement for emissions reduction plan

- (1) The Minister must prepare and ~~publish~~ make publicly available a plan setting out the policies and strategies for meeting ~~an~~ the next emissions budget, ~~and may include policies and strategies for meeting emissions budgets that have~~

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<p>been notified under section 5ZA in accordance with the dates set out in section 5U(3).</p> <p>(2) The plan must be prepared and published—</p> <p style="padding-left: 20px;">(a) after the relevant emissions budget has been published<u>notified</u> under section 5ZA; but</p> <p style="padding-left: 20px;">(b) before the commencement of the relevant emissions budget period.</p> <p>(3) The plan must include—</p> <p style="padding-left: 20px;">(a) sector-specific policies to reduce emissions and increase removals; and</p> <p style="padding-left: 20px;">(b) a multi-sector strategy to meet emissions budgets and improve the ability of those sectors to adapt to the effects of climate change; and</p> <p style="padding-left: 20px;">(c) a strategy to mitigate the impacts that reducing emissions and increasing removals will have on workers<u>employees and employers</u>, regions, iwi and Māori, and wider communities, including the funding for any mitigation action; and</p> <p style="padding-left: 20px;">(d) any other policies or strategies that the Minister considers necessary.</p> <p>5ZE Commission to advise on emissions reduction plans</p> <p>(1) Not later than 12<u>24</u> months before the beginning of an emissions budget period, the Commission must provide to the Minister advice on the direction of the policy required in the emissions reduction plan for that emissions budget period.</p> <p>(2) Despite subsection (1), the first advice must be given no later than 1 February 2021.</p> <p>(3) In preparing its advice, the Commission must—</p> <p style="padding-left: 20px;">(a) consult widely with New Zealanders, including relevant sector representatives and affected communities; and</p> <p style="padding-left: 20px;">(b) apply section 5Z(2) as if it referred to preparing an emissions reduction plan.</p> <p><u>(3) In preparing its advice, the Commission must apply section 5Z(2) as if it referred to preparing an emissions reduction plan.</u></p> <p>(4) The Commission must make its advice publicly available after providing it to the Minister.</p> <p>(5) The Minister must prepare and present to the House of Representatives a copy of the advice of the Commission as soon as practicable, but within 12 weeks, after receiving it.</p> <p>5ZF Minister to prepare and publish<u>make</u> emissions reduction plan <u>publicly available</u></p> <p>(1) In preparing a plan and supporting policies and strategies for an emissions budget period, the Minister must—</p>	<p></p> <p>5</p> <p>10</p> <p>15</p> <p></p> <p>20</p> <p>25</p> <p>30</p> <p>35</p>
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- (a) consider the advice received from the Commission under **section 5ZE** for meeting emissions budgets; and
- (b) ensure that the consultation has been adequate, including with sector representatives, affected communities, and iwi and Māori, and undertake further consultation as the Minister considers necessary. 5
- (2) Before the relevant emissions budget period commences, the Minister must publish in the *Gazette* the plan, policies, and strategies.
- (3) The Minister may, at any time, amend the plan and supporting policies and strategies to maintain their currency,—
 - (a) using the same process as required for preparing the plan; or 10
 - (b) in the case of a minor or technical change, without repeating the process used for preparing the plan.
- ~~(4) An amended plan must be published in full in the *Gazette*.~~
- (4) The Minister must—
 - (a) make an emissions reduction plan publicly available 12 months before the commencement of a budget period; and 15
 - (b) present a copy of each emissions reduction plan to the House of Representatives.

Subpart 4—Monitoring

- 5ZG Commission to monitor progress towards meeting emissions budgets** 20
- (1) The Commission must regularly monitor and report on progress towards meeting an emissions budget and the 2050 target in accordance with **sections 5ZH and 5ZI** (which relate to reporting requirements).
 - (2) The Commission must carry out its monitoring function in accordance with the rules referred to in **section 5X(1)(b)** (which relates to measuring progress towards meeting emissions budgets and the 2050 target). 25
- 5ZH Commission to report annually on results of monitoring**
- (1) The Commission must prepare an annual report that includes, for the most recent year of the emissions budget period for which data is available from the New Zealand Greenhouse Gas Inventory,— 30
 - (a) measured emissions; and
 - (b) measured removals.
 - (2) The report must also include—
 - (a) the latest projections for current and future emissions and removals; and
 - (b) an assessment of the adequacy of the emissions reduction plan and progress in its implementation, including any new opportunities to reduce emissions. 35

- ~~(3) Not later than 2 months after the publication of a New Zealand Greenhouse Gas Inventory report,—~~
- ~~(a) the Commission must make its annual report publicly available after providing it to the Minister; and~~
- ~~(b) the Minister must present the annual report to the House of Representatives as soon as practicable, but within 12 weeks, after receiving it.~~ 5
- (3) Not later than 3 months after the publication of a New Zealand Greenhouse Gas Inventory report, the Commission must provide its annual report prepared under **subsection (1)** to the Minister.
- (4) Not later than ~~2~~ 3 months after receiving the Commission’s annual report under **subsection (3)**, the Minister must present to the House of Representatives and make publicly available a report that— 10
- (a) sets out the Minister’s response to the Commission’s report and recommendations; and
- (b) describes the progress made in implementing the current emissions reduction plan; and 15
- (c) notes any amendments to that plan.
- 5ZI Commission to report at end of emissions budget period**
- (1) Not later than 2 years after the end of an emissions budget period, the Commission must prepare a report for the Minister evaluating the progress made in that emissions budget period towards meeting the emissions budget in the next emissions budget period, including— 20
- (a) an evaluation of how well the emissions reduction plan has contributed to that progress; and
- (b) recommendations on any banking and borrowing that would be appropriate; and 25
- (c) an assessment of the amount of offshore mitigation required to meet the emissions budget for the period to which the report relates, subject to the limit proposed by the Commission under **section 5X(1)(e)**.
- ~~(2) The Commission must provide a copy of the report to the Minister and make that report publicly available after it is provided to the Minister.~~ 30
- ~~(3) The Minister must present a copy of the report to the House of Representatives as soon as practicable, but within 12 weeks, after receiving it.~~
- ~~(4) Not later than 3 months after receiving the Commission’s report, the Minister must present a report to the House of Representatives in which the Minister sets out a response to the Commission’s report, including the Minister’s decisions on—~~ 35
- ~~(a) any banking or borrowing; and~~

<p>(b) the amount (if any) of offshore mitigation that has been required to meet the relevant emissions budget (subject to any limit on the amount proposed by the Commission under section 5X(1)(c)).</p>	
<p>(5) If the emissions budget for the relevant emissions period has not been met, the Minister must explain why in the report.</p>	5
<p>(5) <u>The Minister must present a report to the House of Representatives setting out the Minister’s response to the Commission’s report—</u></p> <p style="padding-left: 20px;">(a) <u>not later than 3 months after receiving the Commission’s report; or</u></p> <p style="padding-left: 20px;">(b) <u>if Parliament is not in session, as soon as practicable after the commencement of the next session of Parliament.</u></p>	10
<p>(6) <u>The Minister’s response to the Commission’s report must—</u></p> <p style="padding-left: 20px;">(a) <u>provide reasons for any failure to meet the relevant emissions budget and for any departures from the Commission’s recommendations; and</u></p> <p style="padding-left: 20px;">(b) <u>be made publicly available.</u></p>	
<p style="padding-left: 40px;">Subpart 5—Effect of 2050 target and emissions budgets</p>	15
<p>5ZJ Effect of failure to meet 2050 target and emissions budgets</p>	
<p>(1) 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 as set out in this section.</p>	
<p>(2) 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.</p>	20
<p>(3) If a declaration is made and becomes final after all appeals or rights of appeal expire or are disposed of, the Minister must, as soon as practicable, present to the House of Representatives a document that—</p> <p style="padding-left: 20px;">(a) brings the declaration to the attention of the House of Representatives; and</p> <p style="padding-left: 20px;">(b) contains advice on the Government’s response to the declaration.</p>	25
<p>5ZK 2050 target and emissions budget are permissive considerations</p>	
<p>(1) A person or body may, if they think fit, take the 2050 target or an emissions budget into account in the exercise or performance of a public function, power, or duty conferred on that person or body by or under law (subject to other requirements that apply by or under law).</p> <p><u>If they think fit, a person or body may, in exercising or performing a public function, power, or duty conferred on that person or body by or under law, take into account—</u></p> <p style="padding-left: 20px;">(a) <u>the 2050 target; or</u></p> <p style="padding-left: 20px;">(b) <u>an emissions budget; or</u></p>	30 35

(c)	<u>an emissions reduction plan.</u>	
(2)	However, a failure by any person or body to take the 2050 target, an emissions budget, or guidance issued under section 5ZL into account does not invalidate anything done by that person or body.	
5ZL	Guidance for departments	5
(1)	The responsible Minister may issue guidance for departments on how to take the 2050 target or an emissions budget into account in the performance of their functions, powers, and duties (or classes of those functions, powers, and duties).	
(2)	The responsible Minister must, as soon as practicable after issuing the guidance, make it publicly available.	10
Part 1C Adaptation		
<i>National climate change risk assessment</i>		
5ZM	National climate change risk assessment	15
(1)	A national climate change risk assessment must—	
(a)	assess the risks to New Zealand’s economy, society, environment, and ecology from the current and future effects of climate change; and	
(b)	identify the most significant risks to New Zealand, based on the nature of the risks, their severity, and the need for co-ordinated steps to respond to those risks in the next 6-year period.	20
(2)	Sections 5ZN and 5ZO apply to all national climate change risk assessments except the first one.	
(3)	Section 5ZP applies to the first national climate change risk assessment.	
5ZN	Preparation of national climate change risk assessment	25
(1)	The Commission must, no later than 6 years after the date on which the most recent national climate change risk assessment was made publicly available, make the next national climate change risk assessment publicly available.	
(a)	<u>provide the next national climate change risk assessment to the Minister;</u> <u>and</u>	30
(b)	<u>make that assessment publicly available.</u>	
(1A)	<u>At the same time as making a national climate change risk assessment publicly available (in compliance with subsection (1)(b) and section 5KA(3)), the Commission must make any evidence commissioned to support its preparation publicly available.</u>	35

- (2) In preparing a national climate change risk assessment, the Commission must take into account the following:
- (a) economic, social, health, environmental, ecological, and cultural effects of climate change:
 - (b) the distribution of the effects of climate change across society, taking particular account of vulnerable groups or sectors: 5
 - (c) New Zealand’s relevant obligations under international agreements:
 - (d) how the assessment aligns or links with any other relevant national risk assessments produced by central government entities:
 - (e) ~~long term climate change trends~~ current effects and likely future effects of climate change: 10
 - (f) any information received as a result of requests made under **section 5ZV**:
 - (g) scientific and technical advice.
- (3) The Commission may also take into account— 15
- (a) opportunities arising for New Zealand’s economy, society, and environment as a result of the effects of climate change; and
 - (b) any other factor that it thinks is relevant or appropriate.
- ~~**5ZO Assessment must be presented to Parliament and made publicly available**~~
- (1) ~~The Commission must provide to the Minister a copy of an assessment made under **section 5ZN** and, after providing the assessment to the Minister, make the assessment and any evidence commissioned to support its preparation publicly available.~~ 20
- (2) ~~The Minister must present a copy of the Commission’s assessment to the House of Representatives as soon as practicable, but within 12 weeks, after receiving it.~~ 25
- 5ZP Minister must prepare first national climate change risk assessment**
- (1) The Minister must, no later than 1 year after the commencement of this Part,—
- (a) prepare the first national climate change risk assessment; and
 - (b) present the assessment to the House of Representatives; and 30
 - (c) make the assessment and any evidence commissioned to support its preparation publicly available.
- (2) **Section 5ZN(2) and (3)** applies with the necessary modifications for the purposes of this section.

National adaptation plan

5ZQ National adaptation plan

- (1) In response to each national climate change risk assessment, the Minister must prepare a national adaptation plan.
- (2) A national adaptation plan must set out— 5
 - (a) the Government’s objectives for adapting to the effects of climate change; and
 - (b) the Government’s strategies, policies, and proposals for meeting those objectives; and
 - (c) the time frames for implementing the strategies, policies, and proposals; and 10
 - (d) how the matters in **paragraphs (a) to (c)** address the most significant risks identified in the most recent national climate change risk assessment; and
 - (e) the measures and indicators that will enable regular monitoring of and reporting on the implementation of the strategies, policies, and proposals. 15
- (3) A national adaptation plan may include any other matter that the Minister considers relevant.
- (4) In preparing a national adaptation plan, the Minister must take into account the following: 20
 - (a) economic, social, health, environmental, ecological, and cultural effects of climate change, including effects on iwi and Māori:
 - (b) the distribution of the effects of climate change across society, taking particular account of vulnerable groups or sectors: 25
 - (c) New Zealand’s relevant obligations under international agreements:
 - (d) any information received as a result of requests made under **section 5ZV**:
 - (e) any relevant advice or reports received from the Commission:
 - (f) the ability of communities or organisations to undertake adaptation action, including how any action may be funded: 30
 - (g) scientific and technical advice.
- (5) The Minister may also take into account any other matter that the Minister thinks is relevant or appropriate.
- (6) In preparing a national adaptation plan, the Minister must undertake public consultation on the draft plan. 35

5ZR National adaptation plan must be presented to Parliament and made publicly available

- (1) The Minister must, no later than 2 years after the date on which the most recent national climate change risk assessment is made publicly available,—
- (a) present the national adaptation plan to the House of Representatives; and
 - (b) make the national adaptation plan publicly available.
- (2) The Minister may make minor or technical changes to a national adaptation plan and must make any new version publicly available (but need not present the new version to the House of Representatives).

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Progress reports

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5ZS Progress reports on national adaptation plan

- (1) For each national adaptation plan, the Commission must provide the Minister with a progress report that evaluates the implementation of the adaptation plan and its effectiveness—
- (a) 2 years after the adaptation plan is made publicly available; and
 - (b) 4 years after the adaptation plan is made publicly available; and
 - (c) 6 years after the adaptation plan is made publicly available.
- (2) Each progress report must include—
- (a) an assessment of the progress made towards implementing the strategies, policies, and proposals included in the plan; and
 - (b) an assessment of the degree to which the objectives of the plan have been achieved and how well the plan responds to the most significant risks posed by climate change; and
 - (c) an identification of any known barriers to the implementation and effectiveness of the current plan, including recommendations for how those barriers might be addressed or overcome in future; and
 - (d) any other relevant matters required to support the report.
- (3) The Commission is not required to provide the Minister with a progress report if the date for providing the report to the Minister under **subsection (1)** is more than 1 year after the date on which a subsequent adaptation plan is made publicly available.

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~~**5ZT Progress reports must be presented to Parliament and made publicly available**~~

- ~~(1) The Minister must present a progress report to the House of Representatives as soon as practicable, but within 12 weeks, after receiving it.~~
- ~~(2) The Commission must make the report publicly available after providing it to the Minister.~~

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5ZU Minister must respond to progress report

~~The Minister must publicly respond, in writing, to a progress report no later than 6 months after the date on which the Minister receives it.~~

The Minister must, no later than 6 months after the date on which the Minister receives a progress report,—

- (a) respond in writing to the progress report; and
- (b) make the response publicly available and present it to the House of Representatives.

Power to request provision of information

5ZV Minister or Commission may request certain organisations to provide information on climate change adaptation

(1) The Minister or the Commission may, in writing, request that a reporting organisation provide all or any of the following information:

~~(a) an assessment of the current and future effects of climate change in relation to the organisation's functions, including any metrics and costs used to understand and benchmark the effects of climate change in relation to the functions;~~

~~(b) a statement of the organisation's proposals and policies for addressing the effects of climate change in relation to the organisation's functions, including—~~

~~(i) targets set by the organisation to address the effects of climate change;~~

~~(ii) controls that the organisation has put in place to address the effects of climate change;~~

~~(iii) the time frames for implementing those proposals, policies, targets, and controls;~~

~~(e) an assessment of the progress made by the organisation towards implementing its proposals, policies, and controls and achieving its targets;~~

(a) a description of the organisation's governance in relation to the risks of, and opportunities arising from, climate change;

(b) a description of the actual and potential effects of the risks and opportunities on the organisation's business, strategy, and financial planning;

(c) a description of the processes that the organisation uses to identify, assess, and manage the risks;

(ca) a description of the metrics and targets used to assess and manage the risks and opportunities, including, if relevant, time frames and progress;

(d) any matters specified in regulations.

- (2) The reporting organisation must comply with a request made under **subsection (1)**.
- (3) The Minister must, as soon as practicable, provide the Commission with a copy of any information received in response to a request made by the Minister.
- (3A) The Commission must, as soon as practicable, provide the Minister with a copy of any information received in response to a request made by the Commission. 5
- (3B) The Minister and the Commission must not publicly disclose any information received in response to a request, unless disclosure of the information is necessary to enable the Minister or the Commission to perform a function or duty imposed by this Part. 10
- (3C) **Subsection (3B)** does not apply in respect of information that is already in the public domain.
- (3D) Before publicly disclosing any information received in response to a request, the Minister or Commission must consult with the person to whom the information relates. 15
- (4) For the purposes of this section and **section 5ZW**, the following are **reporting organisations**:
- (a) the Public Service, as defined in section 27 of the State Sector Act 1988:
 - (b) local authorities, as defined in section 5(1) of the Local Government Act 2002: 20
 - (c) council-controlled organisations, as defined in section 6(1) of the Local Government Act 2002:
 - (d) Crown entities, as defined in section 7(1) of the Crown Entities Act 2004, but excluding school boards of trustees:
 - (e) companies listed in Schedule 4A of the Public Finance Act 1989: 25
 - (f) organisations listed in Schedule 1 of the State-Owned Enterprises Act 1986:
 - (g) lifeline utilities listed in Schedule 1 of the Civil Defence Emergency Management Act 2002:
 - (h) the New Zealand Police: 30
 - (i) the New Zealand Defence Force.

5ZW Regulations relating to requiring provision of information

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations specifying all or any of the following:
- (a) requirements that relate to information that is provided in response to a request under **section 5ZV(1)**, including different requirements for different sectors, classes of activity, or geographical areas: 35
 - (b) a date by which or time within which requested information must be provided to the Minister:

- (c) ongoing or recurring reporting requirements (for example, requiring the provision of further information at regular intervals following a request);
 - (d) any administrative matters relating to responses to requests.
 - (2) In preparing the regulations, the Minister must consider—
 - (a) the ability to tailor a request to reflect the size and capability of the reporting organisation; and
 - (b) the potential extent and significance of climate change effects on the functions of the reporting organisation; and
 - (c) the avoidance of unnecessary duplication of information provided within existing reporting frameworks.
 - (3) Before recommending the making of the regulations, the Minister must consult the Commission and the reporting organisations that the Minister considers may be affected by the proposed regulations.
- 9 New Schedule 1AA inserted**
- Insert the **Schedule 1AA** set out in **Schedule 1** of this Act as the first schedule to appear after the last section of the principal Act.

Part 2 Consequential amendments

- 10 Section 99 amended (Obligation to maintain confidentiality)**
- (1) ~~After section 99(1)(a), insert:~~
 - ~~(ab) to the Climate Change Commission, in respect of the performance of its functions or exercise of its powers under **Parts 1A to 1G**, and~~
 - (2) ~~In section 99(2)(a), replace “this Part and Part 5” with “the relevant Part of this Act”.~~
 - (1) In section 99(2)(b), replace “may” with “must”.
 - (3) After section 99(2)(b)(iiia), insert:
 - (iiib) to the Climate Change Commission for the purpose of assisting the Commission to perform its functions and duties and exercise its powers under this Act; or
- ~~**11 Section 224 amended (Gazetting of targets)**~~
- ~~After section 224(5), insert:~~
- ~~(6) This section does not apply to a target for greenhouse gas emissions.~~
- 12 Sections 224 and 225 repealed (Regulations relating to targets)**
- Repeal sections 224 and 225.

13 Amendments to other enactments

Amend the enactments specified in **Schedule 2** as set out in that schedule.

14 Notice revoked

The Climate Change Response (2050 Emissions Target) Notice 2011 (*Gazette* 2011, p 987) is revoked.

5

Schedule 1
New Schedule 1AA inserted

s 9

Schedule 1AA
Transitional, savings, and related provisions

5

s 4A

Part 1
Provisions relating to Climate Change Response (Zero Carbon)
Amendment Act 2019

- 1 Appointment of first members of Commission** 10
- (1) This clause applies in respect of the appointment of the first 7 members of the Commission.
- (2) The Minister may recommend to the Governor-General that a person be appointed as a member if the Minister has, either before or after the commencement of **Part 1A**,— 15
- (a) had regard to the matters in **section 5H**; and
- (b) consulted representatives of all other political parties in Parliament.
- (3) This clause overrides **section 5E**.
- 2 Preparatory work for first national climate change risk assessment**
- (1) This clause applies if, before the commencement of **Part 1C**, the Minister takes any steps referred to in **section 5ZP(1)**. 20
- (2) **Part 1C** must be treated as if it were in force when the steps are taken.
- (3) If the Minister makes a national climate change risk assessment publicly available before the commencement of **Part 1C**,— 25
- (a) the national climate change risk assessment must be treated as the first national climate change risk assessment under **Part 1C**; and
- (b) the Minister must present the first national adaptation plan to the House of Representatives and make it publicly available no later than 2 years after the date on which **Part 1C** commences.
- 3 Savings of targets for greenhouse gas emissions made under section 224** 30
- (1) A target for greenhouse gas emissions made under section 224 before the commencement of ~~**section 224(6)**~~ the Climate Change Response (Zero Carbon) Amendment Act 2019—
- (a) continues in force as if ~~**section 224(6)**~~ had not been ~~enacted~~ repealed; and 35

- (b) may be amended or revoked as if **section 224(6)** had not been ~~enacted~~
repealed.
- (2) This clause does not apply to the target set in the Climate Change Response
(2050 Emissions Target) Notice 2011 (*Gazette* 2011, p 987).

Schedule 2
Amendments to other enactments**s 13****Crown Entities Act 2004 (2004 No 115)**

In Schedule 1, Part 3, insert in its appropriate alphabetical order: 5

Climate Change Commission

Ombudsmen Act 1975 (1975 No 9)

In Schedule 1, Part 2, insert in its appropriate alphabetical order:

Climate Change Commission

Remuneration Authority Act 1977 (1977 No 110)

10

In Schedule 4, insert in its appropriate alphabetical order:The members of the Climate Change Commission**Legislative history**8 May 2019
21 May 2019Introduction (Bill 136–1)
First reading and referral to Environment Committee