

Report No.	19-104
Decision Required	

ZERO CARBON BILL

1. PURPOSE

- 1.1. This report provides members with an overview of the **Climate Change Response (Zero Carbon) Amendment Bill (the Bill)**, and seeks approval of the attached draft submission to Parliament's Environment Committee.

2. EXECUTIVE SUMMARY

- 2.1. The Bill's purpose is to provide a framework to develop clear and stable policies for New Zealand's contribution to global efforts to limit average temperature increase to 1.5° Celsius. It would set emissions targets (split between long- and short-lived gases), and introduce emissions budgets and an emissions reduction plan to support transition to meet the targets. The Bill would also address adaptation through a national risk assessment and a national adaptation plan.
- 2.2. The Bill would establish an independent Climate Change Commission with responsibility to develop these instruments, report on their implementation and review their effectiveness. Legal consequences for failing to meet budgets and targets, or take them into account, are extremely limited.
- 2.3. A draft submission on the Bill is attached as **ANNEX A** for Council's approval. It includes support for the overarching purpose and framework set out in the Bill while raising a number of concerns around matters including lack of clarity on responsibility for implementation, and the role of local government.

3. RECOMMENDATION

It is recommended that Council:

- a. receives the information contained in Report No. 19-104;
- b. notes that the Climate Change Response (Zero Carbon) Amendment Bill would set emissions reduction targets, establish a Climate Change Commission and provide mechanisms to support planning for and implementation of climate change mitigation and adaptation;
- c. approves the Chief Executive's draft submission to Parliament's Environment Committee on the Bill.

4. FINANCIAL IMPACT

- 4.1. There is no impact on existing budgets as a result of this report. However, the enactment of this legislation in its current form would likely generate significant costs for land users, business owners, local authorities and their communities.

5. COMMUNITY ENGAGEMENT

- 5.1. Community engagement around the development of the Bill has been led by the Minister for Climate Change, Hon. James Shaw, and the Ministry for the Environment.

6. SIGNIFICANT BUSINESS RISK IMPACT

- 6.1. While there is no immediate risk associated with this report, uncertainty around climate change impacts and local government roles and responsibilities around adaptation, mitigation and transition will continue to need careful attention and agile responses.

7. OVERVIEW OF THE BILL

- 7.1. The purpose of this Bill is to provide a framework to develop clear and stable policies for New Zealand's contribution to global efforts to limit the global average temperature increase to 1.5° Celsius above pre-industrial levels, to meet its commitment as a signatory to the Paris Agreement.

- 7.2. The key aspects the Bill proposes are:

7.2.1. Set a 'split' emission reduction target for 2050:

- Net zero emissions of greenhouse gases, other than biogenic methane (methane from the waste and agriculture sectors) measured by calendar year from 2050 onwards; and
- Reductions in gross biogenic methane emissions using 2017 emissions as the baseline – 10 percent less by 2030, and at least 24 to 47 percent less by 2050.

These targets would be reviewed regularly but changes in reduction levels or timeframes recommended only if there has been significant change around matters such as science, technology or implications for equity. The only effect of failing to meet the target is that a court may make a declaration to that effect and may award costs.

- 7.2.2. Establish a Climate Change Commission, made up of appointed members with, collectively, a broad range of experience (including local government) and expertise around climate change mitigation and adaptation in the New Zealand context. The Commission's functions would include:

- reviewing (and potentially recommending changes to) the emissions reduction targets;
- advising the Minister¹ around preparation of, and recommending any amendments to, emissions budgets and an emissions reduction plan (described in paragraphs 7.2.3 and 7.2.4 below);
- reporting on progress towards emissions budgets and targets, implementation of the national adaptation plan (see paragraph 7.2.5), and other aspects of mitigation and adaptation at the Minister's request; and
- preparing national climate change risk assessments, which assess the risks to New Zealand's economy, society, environment and ecology, and identify the most significant risks.

The Commission would be required to act independently and make its advice publicly available; however, the Minister would be able to direct it to take Government policy into account for some of its work. There are also requirements for the Minister to respond to advice including, in some cases, explaining the reasons for deviating from it.

- 7.2.3. Require setting of emissions budgets by the Minister, on the advice of the Climate Change Commission. The first three budgets, covering periods between 2022 and 2035, would be set by 31 December 2021. Budgets would have to be met as far as possible through domestic emission reductions and removals (offsets such as sequestration and storage). If they are changed, the Minister must explain the reasons. The Bill sets out a list of matters that the Commission must take into account in its advice on budgets, including scientific advice, the need to be ambitious but technically and economically feasible, and the results of public consultation. As with the emissions target, the only effect of failing to meet a budget is that a court can make a declaration and award costs.

¹ The Minister given responsibility for administering the legislation by the Prime Minister.

25 June 2019

7.2.4. Prepare an emissions reduction plan, which would set out the policies and strategies for meeting an emissions budget, on the advice of the Commission. This would include:

- Sector-specific policies for emission reduction and increased removals;
- A multi-sector strategy to meet budgets and improve those sectors' ability to adapt to climate change effects; and
- A strategy to mitigate the effects of transition on workers, regions, iwi and Māori, and wider communities, including funding for action.

Wide public consultation by the Commission is required as it develops its advice.

7.2.5. Prepare a national adaptation plan: the Minister would do this in response to the national risk assessment, setting out Government objectives, and strategies, policies, proposals and time frames to meet them. This would include measures and indicators for monitoring and reporting on progress. It would take into account a range of factors including technical and scientific advice, the distribution of effects of climate change across society, and the ability of communities or organisations to undertake adaptation actions and how actions may be funded. The Commission would report on implementation and effectiveness of each plan every two years.

7.2.6. Require information to be provided by 'reporting agencies' (which includes local authorities), both on request to the Minister and through regulations.

8. IMPLICATIONS OF THE PROPOSED LEGISLATION

8.1. The Bill sets emissions targets and sets up a framework to facilitate its achievement through emissions budgets, plans, and monitoring and reporting on progress. It emphasises continuity and stability, aiming to provide a basis for sectors, industries and communities to understand what they will need or be required to do, and plan accordingly. It should be noted that, if passed, there would be considerable further development of strategy and policy required; the Bill includes opportunities to contribute and influence this through public consultation requirements. However, there is a concerning lack of clarity around how and the policy and strategy mechanisms in the Bill will roll-out – who would be implementing them, and their responsibilities would be.

8.2. While the Bill would require public reporting and the Minister to provide information, responses and explanations, the only other mechanism to address failure to meet the emissions targets or budgets is a court declaration. It is unclear who would be responsible for defending any court proceedings taken under this legislation or liable for any award of costs.

8.3. The target and budget provisions are permissive – that is, they can be taken into account when carrying out a public function, power or duty, but failure to do so does not invalidate those actions. The consequences of not implementing the legislation are likely to be to national, Government or organisational reputation.

8.4. Government consulted widely on the policy direction for this legislation during 2018. Horizons gave feedback on the proposals, and endorsed **Local Government New Zealand's (LGNZ)** submission on behalf of the local government sector. LGNZ supported the setting of an emissions reduction target in law, and that this should be a split target of net zero long-lived gases and stabilised short-term gases; the Bill has taken this approach. Government has set the methane targets based on technical advice that they are necessary both to meet the 1.5° C target, and challenging but achievable².

² Office of the Minister for Climate Change (2019). Biogenic methane reductions required under the climate change Bill cabinet paper [2019-C-05435]. Retrieved from <https://www.mfe.govt.nz/sites/default/files/media/Climate%20Change/Biogenic%20methane%20reductions%20required%20under%20the%20climate%20change%20Bill%20Cabinet%20paper%20%5B2019-C-05435%5D.pdf>

- 8.5. Within the Bill, local government's role is explicitly set out only in relation to providing information, as noted in paragraph 7.2.6 above. Incrementally increasing and costly requirements for local government reporting and information provision is a recurring component of central government policy; there is potential for this to be onerous, particularly where new data is needed or different parts of government do not coordinate their requirements.
- 8.6. The Bill covers both adaptation and mitigation of climate change effects. The role of the local government sector in adaptation in particular has not been clarified, contrary to LGNZ's 2018 submission. While in practice the Ministry for the Environment has indicated it expects to work closely with local government as it completes the first National Climate Change Risk Assessment (due June 2020 and already underway) is completed, we cannot be confident this engagement will come from a position of active consideration of implications across the range of obligations and requirements being imposed on local authorities from across government.
- 8.7. Horizons' 2018 feedback stressed the need for Government to make urgent and significant progress to allocate funding for the costs of adaptation, and the roles and responsibilities around that funding. This is not explicitly addressed in the Bill; nor is it particularly clear that it will be addressed through the National Adaptation Plan, which requires only that the Minister take into account communities' or organisations' ability to undertake adaptation action, including how action will be funded, when preparing the Plan. It is clearer that funding to assist transition effects will be a consideration in emissions reduction planning.
- 8.8. The **Emissions Trading Scheme (ETS)** is a key policy mechanism to support achievement of and compliance with emissions targets. However, performance of the ETS is considered to be variable, and not all sectors are included. Improvements to the ETS announced in December 2018 and May 2019 included alignment with any future emissions targets, improved transparency, and strengthened compliance mechanisms; these will be put in place through a further amendment to the Climate Change Response Act. Local authorities do not have a direct role in implementing the ETS; however, there is potential for Horizons' non-regulatory programmes such as SLUI (the Sustainable Land Use Initiative) to be undermined by the proposed changes.
- 8.9. Council has already agreed to the development of a Climate Change Strategy by the organisation, including both mitigation and adaptation. As the mechanisms within the Bill roll out and give direction to the sector, the Strategy would need to be brought into alignment if necessary.

9. HORIZONS' SUBMISSION

- 9.1. A draft submission on the Bill is attached as **ANNEX A** for members' approval. The key points it covers are:
- Support in principle for the legislation's purpose of providing a framework for clear and stable climate change policy development, and the Bill's focus on both mitigation and adaptation;
 - Support for the legislation to set emissions targets and supporting mechanisms including emissions budgets and the emissions reduction plan;
 - Note that the biogenic methane emission target in particular may present significant challenges to our region, particularly when considered alongside other pressures;
 - Support for preparation of a national risk assessment and a national adaptation plan in principle, while seeking explicit clarification of the role of local government;
 - Note that considerable additional policy development is needed to meet the Bill's objectives;
 - Concern that insufficient attention has been paid to aligning this Bill with statutory responsibilities under other legislation;
 - Support for public engagement requirements;

- Expectation that regional variation will be taken into account;
- Concern regarding the lack of clarity around responsibility for the roll-out of implementation of the Bill's mechanisms, and the Bill's recourse provisions;
- Seek clarification of ETS incentives and safeguards, given its variable performance to date and the links between the ETS and this Bill; and
- Concern around further reporting requirements and the significant cost this is likely to generate for local government.

9.2. LGNZ has indicated it expects its draft submission on the Bill to be available by 21 June; this will be circulated to members prior to this meeting. Horizons draft submission includes a placeholder supporting LGNZ's submission.

10. CONSULTATION

10.1. Formal, consultation on the Bill is being conducted through the parliamentary select committee process, with public submissions to be considered by the Environment Committee.

10.2. If passed, there are a number of the mechanisms in the legislation (including setting of emissions budgets and development of the emissions reduction plan) that will require public consultation by the Climate Change Commission.

11. TIMELINE / NEXT STEPS

11.1. Submissions on the Bill close on July 16; the Environment Committee is due to report back to Parliament on 21 October. Following that, the Bill will return to Parliament to be debated and finalised before the decision on whether or not it should become law.

12. SIGNIFICANCE

12.1. This is not a significant decision according to the Council's Policy on Significance and Engagement.

Pen Tucker
SENIOR POLICY ANALYST

Rebecca Tayler
MANAGER POLICY & STRATEGY

ANNEXES

A Draft Horizons Submission on the Climate Change Response (Zero Carbon) Amendment Bill