

Submission on the Climate Change Response (Emissions Trading Scheme Agricultural Obligations) Amendment Bill

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SUBMITTER DETAILS

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Introduction

1. This is a submission of the Environmental Defence Society (**EDS**) on the Climate Change Response (Emissions Trading Scheme Agricultural Obligations) Amendment Bill (**Bill**).
2. EDS is an apolitical, not-for-profit organisation dedicated to achieving improved environmental outcomes for all New Zealanders. It is active as a litigator, policy think tank, and conference organiser. It has dedicated considerable resource over the past few decades to examining climate change issues, including having hosted multiple Climate Change and Business Conferences¹ and recently reporting on options for a new Climate Change Adaptation Act.²
3. EDS opposes the Bill, which seeks to remove agriculture activities from the New Zealand Emissions Trading Scheme (**ETS**), because:
 - a. It is not aligned with New Zealand's climate change emissions reduction targets, budgets, plans and international obligations.
 - b. It is likely to be inconsistent with, or breach, several commitments under New Zealand's free trade agreements (including with the United Kingdom and Europe).
 - c. It will negatively impact New Zealand's international reputation on climate change efforts.
 - d. It increases the likelihood of having to purchase additional offshore mitigation credits to be able to meet our Nationally Determined Contribution (**NDC**) under the Paris Agreement.

¹ <https://eds.org.nz/our-work/events/#events>

² <https://eds.org.nz/our-work/policy/projects/climate-change-adaptation/>

Context

New Zealand's climate change commitments

4. New Zealand has two climate change commitments: one arising from domestic law and one arising from our international obligations.

Our international commitment is to reduce net emissions by **50% below gross 2005 levels by 2030**.

Our domestic commitment is to:

- **Reduce all greenhouse gases (except biogenic methane) to net zero by 2050**; and
- **Reduce emissions of biogenic methane within a range of 24%-47% by 2050 below 2017 levels, including to 10% below 2017 levels by 2030**.

5. In 2016, New Zealand ratified the Paris Agreement³ which seeks to hold global warming below 2°C above pre-industrial levels and pursue efforts to limit temperature increases to 1.5°C above pre-industrial levels.⁴
6. Under that agreement we are required to set NDCs to reduce global greenhouse gas emissions.⁵ Our current NDC is to reduce net emissions by 50% below gross 2005 levels by 2030.⁶
7. The Climate Change Response Act 2002 (**CCRA**) is New Zealand's primary domestic legislation for addressing climate change. In 2019, it was amended to include the 'zero carbon framework' which imposes an emissions reduction target - the 2050 target - of:⁷
 - Reduce all greenhouse gases (except biogenic methane) to net zero by 2050; and
 - Reduce emissions of biogenic methane within a range of 24%-47% by 2050 below 2017 levels, including to 10% below 2017 levels by 2030.
8. Nitrous oxide (**N₂O**) emissions are included in our net-zero 2050 target.

Emissions budgets and reduction plans

9. Global temperatures have already risen above 1°C.⁸ Deep reductions in CO₂ and other greenhouse gas emissions must occur in the coming decades if global warming of 2°C is to be avoided.⁹ The Intergovernmental Panel on Climate Change¹⁰ has stated with *high confidence* that to achieve 1.5°C and 2°C limits, emissions pathways need rapid, deep and, in most cases, immediate emission reductions in all sectors.¹¹

³ The Paris Agreement on climate change was concluded at the 21st conference of parties to the United Nations Framework Convention on Climate Change (COP 21) on 12 December 2015

⁴ Paris Agreement, Art 2(1)(a)

⁵ Paris Agreement, Art 4(2)

⁶ <https://environment.govt.nz/what-government-is-doing/international-action/about-the-paris-agreement/>

⁷ Climate Change Response Act 2002, 5Q

⁸ *Our atmosphere and climate 2020* New Zealand's Environmental Reporting Series p 59

⁹ IPCC 6th assessment, p 33

¹⁰ The Intergovernmental Panel on Climate Change (IPCC) is the United Nations body for assessing the science related to climate change: <https://www.ipcc.ch>

¹¹ IPCC 6th assessment, p 46

10. New Zealand has a series of emissions budgets which act as stepping-stones towards meeting our climate change commitments.¹² These budgets are binding and include all gases.¹³ They are:

Budget Period	2022-25 (Budget 1)	2026-30 (Budget 2)	2031-35 (Budget 3)
All gases, net (AR5)	290 MtCO ₂ e	305 MtCO ₂ e	240 MtCO ₂ e
Annual Average	72.5 MtCO ₂ e	61 MtCO ₂ e	48 MtCO ₂ e

11. As can be seen from the above, emissions budgets get smaller over time.
12. Accompanying each of the emissions budgets is an Emissions Reduction Plan (ERP).¹⁴ This plan sets out the policies and strategies for reducing emissions and meeting our budgets, the 2050 target and our NDC. The first ERP was finalised in 2022 to align with our first emissions budget. The Government has recently called for feedback on its second ERP.
13. The country is not on track to meet its 2050 target.¹⁵
14. The Government's second draft ERP has New Zealand no longer on track to meet its 2050 net zero emissions target, nor the third emissions budget in 2031 to 2035. The 2050 methane reduction target is also not on track to be met, and the Plan is heavily reliant on untested technologies as a means of abating biogenic methane.¹⁶
15. It also sets New Zealand on a pathway that is not NDC-aligned.
16. Even if the Government achieves its first and second domestic emissions budgets, New Zealand will fall short of meeting its NDC by 99 Mt CO₂e.¹⁷ If we don't fill this gap, we will have to buy offshore carbon credits which is expected to cost the country between \$3.3 billion and \$23.7 billion.¹⁸ With only 7 years to go before our NDC comes due, it is too late for removals to significantly address the deficit (because the trees will take too long to grow). The only way to significantly reduce our NDC liability between now and then will be to drive down gross emissions.

Agricultural emissions

17. Agricultural emissions make up half of New Zealand's total greenhouse gas emissions. Approximately 91% of our biogenic methane emissions and 94% of our N₂O emissions come from agriculture.¹⁹

¹² Climate Change Response Act 2002, 5X

¹³ Climate Change Response Act 2002, 5X(4)

¹⁴ An Emissions Reduction Plan is required under the Climate Change Response Act 2002, 5ZG

¹⁵ Review of ETS, Discussion Doc, p 17

¹⁶ A 2023 report on agricultural greenhouse gas mitigation technologies prepared for the Climate Change Commission outlines that mitigation technologies that appear to have lower costs, including methane vaccines, are still in the potential or discovery stage and face a long time before they are adoptable.

¹⁷ Ministry for the Environment, Ministry for Primary Industries and Ministry of Business, Innovation and Employment, 2023, *Te Arotake Mahere Hokohoko Tukunga Review of the New Zealand Emissions Trading Scheme*, Discussion Document, Wellington, Ministry for the Environment, p 17

¹⁸ Ministry for the Environment, Ministry for Primary Industries and Ministry of Business, Innovation and Employment, 2023, *Te Arotake Mahere Hokohoko Tukunga Review of the New Zealand Emissions Trading Scheme*, Discussion Document, Wellington, Ministry for the Environment, p 17

¹⁹ Ministry for the Environment, 2022, *Aotearoa New Zealand's First Emissions Reduction Plan*, at 249

18. Reducing agricultural emissions is required to meet our climate change commitments.²⁰ There are potential trade and legal risks of not reducing agricultural emissions.²¹
19. Pricing agricultural emissions is required to incentivise emitters to adopt cost-effective mitigation measures and to accelerate emissions reductions.²²
20. The industry has skin in the game when it comes to climate change as agriculture is one of the sectors most exposed to climate change impacts due to its reliance on climate-sensitive natural resources.²³

Removing agricultural obligations from the ETS

The backstop

21. Notwithstanding their inclusion in the CCRA in 2008, agricultural emissions have never been priced. To incentivise their eventual inclusion, the CCRA imposed a 'backstop' timeline for when agricultural emissions would be priced, namely:
 - a. By 1 January 2025, processor level surrender obligations in the ETS would commence for animal and fertiliser processors;
 - b. By 1 January 2026, animal farmer reporting obligations would commence; and
 - c. By 1 January 2027, animal farmer surrender obligations would commence.
22. The backstop would apply in the event that an alternative pricing system (outside the ETS) was not agreed to. The Bill seeks to remove the backstop and thus remove agricultural emissions from the ETS.
23. Instead, the Government has committed to implementing a pricing system outside the ETS for on farm agricultural emissions by 2030.

An alternative approach outside the ETS

24. In theory, EDS supports farm level pricing outside the ETS, given its potential to be more cost-effective, acceptable, and effective than including all farms in the ETS.²⁴ However, this is premised on ambitious farm-level pricing being achievable and implemented without delay.
25. EDS remains far from convinced that it will actually happen.
26. The Government's previous alternative system, He Waka Eke Noa, failed to produce any tangible results and wasted valuable emissions reduction time. The agricultural sector continues to push back on being accountable for its fair share of emissions (ongoing debate about methane targets is a case in point). There is no indication that the sector is actively championing pricing of its emissions.

²⁰ Regulatory Impact Statement: Amending the Climate Change Response Act to repeal New Zealand Emission Trading Scheme agricultural obligations (RIS), at p 1

²¹ RIS, at p 7

²² RIS, para 10

²³ Treasury and Ministry for the Environment, 2023, *Climate Economic and Fiscal Assessment 2023*, at 41

²⁴ EDS submission on "Deferral of Emissions Trading Scheme (ETS) reporting obligations for animal farmers" available here: <https://eds.org.nz/wp-content/uploads/2023/09/Deferral-of-ETS-reporting-obligations-for-animal-farmers-Final.pdf>

27. As the Bill's Regulatory Impact Statement (**RIS**) states, because an alternative system has not been developed "there is limited evidence about the effectiveness of the Ministers' preferred option."²⁵

Risks to our targets

28. New Zealand has a split-gas 2050 target for biogenic methane and other gases because of the different physical characteristics of those gases. However, it has all gases emissions budgets and our NDC is all gases. Biogenic methane (and N₂O) is therefore included in these calculations.
29. As stated in the RIS, removing agricultural emissions from the ETS may result in New Zealand not meeting its domestic and international commitments, including our NDC.²⁶
30. The Government has no clear plan or framework to achieve a 10% reduction in biogenic methane in the next seven years, let alone meeting our 2050 methane target, and our net-zero 2050 (which includes N₂O) target.
31. Further, approximately a quarter of New Zealand's agricultural emissions are N₂O emitted from livestock, with an additional 3.9% coming from fertilisers.²⁷ These emissions are included in New Zealand's net zero by 2050 target for greenhouse gases.
32. Achieving the net-zero target for N₂O means reducing "net" N₂O emissions (i.e. emissions balanced with CO₂ removals) in line with a pathway that reaches net-zero in 2050. The only current policy tool that enables a "net" approach to N₂O is via removals in the ETS. It is completely short-sighted to remove N₂O from the ETS with no alternative plan in place to enable its net zero target to be achieved. Setting up an parallel system of offsetting outside the ETS would be costly and duplicative when the ETS architecture is already there. There is no reason, based on the science of the gases, why N₂O should be treated any differently to CO₂.
33. Removing N₂O from the ETS jeopardises New Zealand's ability to meet the net-zero 2050 target.
34. Failing to meet our domestic and international targets would significantly undermine New Zealand's credibility and market access.

The societal cost of removing the backstop

35. The cost-benefit analysis in the RIS states that pricing agricultural emissions at the processor level in the ETS yields a value of \$974 million, with a benefit cost ratio of 1.24. Removing the backstop will result in a net economic loss to New Zealand society.²⁸
36. That is a powerful statement and demonstrates that the Government is intent on subsidising one sector to the detriment of other industries and society more broadly. It raises serious concerns about equity and policy capture.

²⁵ RIS, at p 5

²⁶ RIS, at p 30

²⁷ Ministry for the Environment, 2022, *Aotearoa New Zealand's First Emissions Reduction Plan*, at 249

²⁸ RIS, at p 4

37. Further, the RIS states that “repealing the backstop obligation without an alternative pricing system in place will create a delay to the timeline for pricing agricultural emissions.”²⁹ The Climate Change Commission has warned that a small delay to action can increase cumulative emissions.³⁰ In other words, every year of delay increases our contribution to global warming and our climate change liabilities.
38. Conversely, modelling has shown that pricing agricultural emissions could support the sector to secure green product premiums and retain access to high-value export markets.³¹

The market cost of removing the backstop

39. New Zealand has obligations under several Free-Trade Agreements (**FTAs**) in areas such as sustainable agriculture and climate change. These include obligations:
 - a. Not to weaken, reduce, waive, or otherwise derogate from environmental laws to encourage trade or investment.³²
 - b. To take measures to, and promote efforts to, reduce greenhouse gas emissions from agricultural production.³³
 - c. Requirement to effectively implement the United Nations Framework Convention on Climate Change and the Paris Agreement.³⁴
 - d. Requirement for evidence-based decision making.³⁵
40. New Zealand is also a part of the Global Methane Pledge, where participants agree to take voluntary actions to collectively reduce global methane emissions by at least 30% from 2020 levels by 2030.³⁶
41. Removing agricultural emissions from the ETS without a clear and actionable alternative plan for reducing agricultural emissions and meeting targets poses a high risk to New Zealand’s FTAs, and presents reputational and economic risks to exporters.
42. These risks are identified in the RIS, which states that the Bill “runs the risk of claims that NZ is not acting to reduce agricultural emissions and climate change impacts. Internationally, this could have reputation risks for New Zealand”.³⁷
43. These risks are not fanciful. The international marketplace, particularly, the European Union, is increasingly concerned about the emissions profile of products.³⁸

Conclusion

44. EDS opposes the Bill. It jeopardises New Zealand’s ability to meet both our domestic and international targets and budgets, and poses significant reputational and market risks. It subsidises the agricultural sector to the detriment of New Zealanders.

²⁹ RIS, at p 19

³⁰ See Climate Change Commission 2023 Draft advice

³¹ Treasury and Ministry for the Environment, 2023, *Climate Economic and Fiscal Assessment 2023*, at 55

³² NZ-UK FTA, Article 22.4(3), NZ-EU FTA, Article 19.2(4)

³³ UK-NZ FTA, Article 22.10 (3)(a)

³⁴ NZ-EU FTA, Article 19.6(2)-(3)

³⁵ NZ-EU FTA, Article 19.3(1)

³⁶ <https://www.globalmethanepledge.org/resources/global-methane-pledge>

³⁷ RIS, at p 17

³⁸ <https://www.nzagrc.org.nz/news-and-events/race-on-to-reduce-emissions-from-new-zealand-livestock/>

45. Instead, the Government should proceed to activate the backstop pending the creation of a meaningful and effective alternative pricing mechanism.