



PROACTIVE RELEASE COVERSHEET

Minister	Minister Shaw	Portfolio	Minister of Climate Change
Name of package	2023 update to the New Zealand Emissions Trading Scheme: limits and price control settings for New Zealand Units	Date to be published	30 August 2023

List of documents that have been proactively released

Date	Title	Author
5 May 2023	Approval to consult on annual updates to New Zealand Emissions Trading Scheme limits and price control settings for units	Office of the Minister of Climate Change
10 May 2023	Minute of Decision	Cabinet Economic Development Committee
3 April 2023	Draft Cabinet paper, Approval to consult on the annual update to New Zealand Emissions Trading Scheme unit limit and price control settings	Ministry for the Environment
21 July 2023	2023 update to the New Zealand Emissions Trading Scheme: limits and price control settings for New Zealand Units	Office of the Minister of Climate Change
24 July 2023	Minute of Decision	Cabinet Office

Information redacted

YES

Any information redacted in this document is redacted in accordance with the Ministry for the Environment's policy on proactive release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Summary of reasons for redaction

The following redactions have been applied in these documents in line with the Act:

- S9(2)(f)(iv) - the confidentiality of advice tendered by Ministers of the Crown and officials.
- S9(2)(h) - maintain legal professional privilege.



Cabinet

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

2023 Update to the New Zealand Emissions Trading Scheme: Limits and Price Control Settings for New Zealand Units

Portfolio Climate Change

On 24 July 2023, Cabinet:

Statutory requirements

- 1 **noted** that the Minister of Climate Change (the Minister) is required under section 30GB of the Climate Change Response Act 2002 (the Act) to update limit and price settings (unit settings) for New Zealand Units (NZUs) under the New Zealand Emissions Trading Scheme (NZ ETS) so that they continue to cover five calendar years at all times;
- 2 **noted** that regulations extending these settings need to be made and published in the New Zealand Gazette before 30 September 2023;
- 3 **noted** that the Minister is required to be satisfied:
 - 3.1 either that NZ ETS unit settings are in accordance with New Zealand's emissions budgets, nationally determined contribution (NDC) under the Paris Agreement, and 2050 target under the Act;
 - 3.2 or, if not strictly in accordance, that the discrepancy is justified by reference to criteria set out in sections 30GC(5) and (6) of the Act;
- 4 **noted** that an analysis of the options presented below against the criteria set out in section 30GC is attached as Appendix Three to the paper under CAB-23-SUB-0330;
- 5 **noted** that the Minister must consider the recommendations made by the Climate Change Commission (the Commission) on unit settings on an annual basis;
- 6 **noted** that under section 5ZOA of the Act, if the Minister recommends prescribing unit settings that differ from the recommendations made by the Commission, the Minister must as soon as reasonably practicable prepare a report of the reasons for the difference and present this to the House of Representatives;
- 7 **noted** that the Minister of Climate Change intends to progress work to consider making the Commission the decision-maker for NZ ETS unit settings;

The Commission's 2023 advice on unit settings

- 8 **noted** that the Commission's 2023 advice was provided to the Minister and tabled in the House, and was the subject of consultation in May and June 2023;
- 9 **noted** that the Commission has expressed concerns that under current unit settings, a large surplus of NZUs has been accumulated by NZ ETS participants, and that this risks the achievement of New Zealand's emissions budgets;
- 10 **noted** that in response to these concerns, the Commission has recommended reductions in NZUs offered at auction, and increases in the auction reserve price and cost containment reserve trigger price;
- 11 **noted** that in the absence of additional measures to reduce the risk posed to meeting emission budgets by the stockpile, the Minister of Climate Change does not consider that maintaining current unit settings accords with emissions targets, and so considers the status quo option does not satisfy the legal requirements of the Act;
- 12 **agreed** that, in line with the Commission's advice, current unit settings are posing a material risk to achieving emissions budgets and that, for this reason, changes to unit settings are required;

Legal challenge

- 13 **noted** that since Cabinet's 2022 decisions on unit settings, a legal challenge was successful against the Minister by Lawyers for Climate Action New Zealand Incorporated (LCANZI) on the basis that the decisions did not meet legal requirements;
- 14 **noted** the 2022 decisions were held to be unlawful by the High Court, which ordered the decisions to be remade in its judgment issued on 13 July 2023, and that therefore the paper under CAB-23-SUB-0330 is seeking decisions on unit settings for 2023-2028;
- 15 **agreed** that there are three options for decisions on unit settings:
- 15.1 status quo: leave settings unchanged for 2024 to 2027, with an extension to 2028;
 - 15.2 option 1: adopt the Commission's recommended settings in full for 2024 to 2028, and also remake 2023 settings;
 - 15.3 option 2: as consulted on, apply the Commission's latest recommendations from 2026 to 2028 while retaining status-quo settings for 2023-2025;
- 16 **noted** that the Minister considers the status quo option does not satisfy the legal requirements of the Act;
- 17 **noted** that the Minister considers that option two has a significant risk of not being in accordance with emission targets, and would also have negative impacts on the proper functioning of the NZ ETS;

Limit settings for NZUs

- 18 **noted** that it is important for the accordance with the emission targets that options on unit settings with emission targets are decided as a consistent package across unit limits and price controls settings;

- 19 **agreed** to update limits for units as follows:

Unit limits (millions) – option one	2023	2024	2025	2026	2027	2028
NZUs available by auction	23.0	21.9	19.7	17.2	15.0	12.3
Approved overseas units used	0	0	0	0	0	0
Overall limit on units	29.2	28.0	25.8	23.2	20.9	18.1

Price settings for NZUs

- 20 **agreed** to update price settings for units offered at auction as follows:

Option one – preferred	2023	2024	2025	2026	2027	2028
Cost Containment Reserve volume (millions of NZUs)						
Tier 1	8.0	2.8	2.6	2.3	2.1	1.9
Tier 2	-	4.9	4.5	4.2	3.8	3.4
Total	8.0	7.7	7.1	6.5	5.9	5.4
Cost Containment Reserve prices (NZD)						
Tier 1	\$173	\$184	\$194	\$205	\$215	\$226
Tier 2	\$216	\$230	\$243	\$256	\$269	\$283
Auction reserve price (NZD)	\$60	\$64	\$68	\$72	\$75	\$79

- 21 **noted** that mid-options for the price control settings were considered and disregarded as the Minister is not satisfied they accord with meeting emission budgets because of the risk of triggering the cost containment reserve;
- 22 **noted** that the dollar values referred to above have been rounded to the nearest dollar, and that the Minister intends to continue this for the regulations;
- 23 **noted** that the Commission's recommended Cost Containment Reserve and Auction Reserve prices have been updated to reflect more recent inflation forecasts from the Treasury;

Legislative implications

- 24 **authorised** the Minister to issue drafting instructions to the Parliamentary Counsel Office to amend the Climate Change (Auctions, Limits, and Price Controls for Units) Regulations 2020 to incorporate the above update to unit settings;
- 25 **authorised** the Minister to further clarify and develop policy matters relating to the amendments outlined above, in a manner not inconsistent with Cabinet's decisions;

Addressing the distributional impacts of emissions prices

- 26 **noted** that the distributional impacts of emissions pricing are more effectively and efficiently addressed via separate measures that target households directly, rather than by reducing the effectiveness of the NZ ETS;

- 27 **noted** that advice on measures for addressing the distributional impacts of emissions prices will be discussed at the Climate Response Ministerial Group (CRMG) meeting on 26 July 2023.

Rachel Hayward
Secretary of the Cabinet