



9 August 2024

OIAD-1125

9(2)(a)

Tēnā koe 9(2)(a)

Thank you for your email of 12 June 2024 to the Ministry for the Environment (the Ministry) requesting the following under the Official Information Act 1982 (the Act):

- *Any advice, briefings, memos, aide memoirs provided to Ministers regarding the decision to keep agriculture out of the ETS, and provide \$400 million in funding to “accelerate the commercialisation of tools and technology to reduce on-farm emissions”*
- *Any Cabinet papers prepared regarding the decision to keep agriculture out of the ETS, and provide \$400 million in funding to “accelerate the commercialisation of tools and technology to reduce on-farm emissions”*
- *Any correspondence, including emails, texts, and instant messages between the Ministry for the Environment and other agencies or entities on the decision to keep agriculture out of the ETS, and provide \$400 million in funding to “accelerate the commercialisation of tools and technology to reduce on-farm emissions”*
- *Any CIPA or advice on the emissions impact of the decision to keep agriculture out of the ETS, and provide \$400 million in funding to “accelerate the commercialisation of tools and technology to reduce on-farm emissions”*

I have identified 12 documents in scope of the first, second, and fourth points of your request, as listed in the attached document schedule.

I am releasing two documents to you in full.

I am providing one document to you as an excerpt as per section 16(1)(e) of the Act, as the remainder of this document is out of scope of your request, with some information withheld under section 9(2)(h) of the Act to maintain legal professional privilege.

I am releasing nine documents to you in part, with some information withheld under the following sections of the Act:

- 9(2)(a) to protect the privacy of natural persons
- 9(2)(f)(iv) to maintain the constitutional conventions for the time being which protect the confidentiality of advice tendered by Ministers of the Crown and officials.
- 9(2)(h) to maintain legal professional privilege
- 18(d) as the information requested is publicly available.

The Ministry is refusing the third point of your request under section 18(f) of the Act, as the information requested cannot be made available without substantial collation or research. Following a search of our records, the Ministry has identified approximately 4000 emails potentially in scope of this part of your request, as well as a large number of Microsoft

Teams messages. The Ministry would be required to individually identify, collate, assess, and provide a decision on these documents, which could not be undertaken in a reasonable timeframe.

In terms of section 9(1) of the Act, I am satisfied that, in the circumstances, the withholding of this information is not outweighed by other considerations that render it desirable to make the information available in the public interest.

You have the right to seek an investigation and review by the Office of the Ombudsman of my decision to withhold information relating to this request, in accordance with section 28(3) of the Act. The relevant details can be found on their website at:  
[www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz).

Please note that due to the public interest in our work the Ministry for the Environment publishes responses to requests for official information on our [OIA responses page](#) shortly after the response has been sent. If you have any queries about this, please feel free to contact our Ministerial Services team: [ministerials@mfe.govt.nz](mailto:ministerials@mfe.govt.nz).

Yours sincerely



**Cheryl Moir**  
Manager – Market Development  
Ministry for the Environment | Manatū Mō Te Taiao

### Document schedule

#	Date	Code	Title	Decision	Public links and additional information
01	15/12/2023	BRF-3978	Briefing: Progressing amendments to the CCRA to repeal NZ ETS obligations for agriculture	Released in part, with some information withheld under section 9(2)(h) of the Act	
02	01/02/2024	BRF-4109	Briefing: Climate change legislation programme bids	Provided as an excerpt under section 16(1)(e) of the Act with some information withheld under section 9(2)(h) of the Act	
03	19/02/2024	BRF-4249	Climate Change Response Act Amendments: New Zealand Emissions Trading Scheme obligations for agriculture	Released in part, with some information withheld under sections 9(2)(f)(iv) and 9(2)(h) of the Act	
04	23/02/2024	BRF-4289	Potential timeframes for Reducing Agricultural Emissions Actions	Released in part, with some information withheld under section 9(2)(f)(iv) of the Act	
05	8/03/2024	BRF-4368	Cover briefing: Cabinet paper on amending the Climate Change Response Act 2002 to repeal agricultural obligations in the New Zealand Emissions Trading Scheme	Released in part, with some information withheld under section 9(2)(f)(iv) of the Act	Contextual notes have been added to the document in red text.
06	21/03/2024	BRF-4464	Approval to lodge: Amending the Climate Change Response Act 2002 to repeal agricultural obligations in the NZ ETS	Released in part, with some information withheld under sections 9(2)(f)(iv) and 9(2)(h) of the Act and one appendix refused under section 18(d) of the Act	<a href="https://environment.govt.nz/assets/publications/Regulatory-Impact-Statement-Amending-the-CCRA-to-repeal-Ag.pdf">https://environment.govt.nz/assets/publications/Regulatory-Impact-Statement-Amending-the-CCRA-to-repeal-Ag.pdf</a>

#	Date	Code	Title	Decision	Public links and additional information
07	02/04/2024	CAB-378	Final policy decisions on amending the Climate Change Response Act 2002 to repeal agricultural obligations in the New Zealand Emissions Trading Scheme	Released in part, with some information withheld under sections 9(2)(f)(iv) and 9(2)(h) of the Act and one appendix refused under section 18(d) of the Act	<a href="https://environment.govt.nz/assets/publications/Regulatory-Impact-Statement-Amending-the-CCRA-to-repeal-Ag.pdf">https://environment.govt.nz/assets/publications/Regulatory-Impact-Statement-Amending-the-CCRA-to-repeal-Ag.pdf</a> Contextual notes have been added to the document in red text.
08	15/05/2024	BRF-4613	Cover Briefing: Climate Change Response (Emissions Trading Scheme Agricultural Obligations) Amendment Bill.	Released in part, with some information withheld under section 9(2)(a) of the Act and two appendices refused under section 18(d) of the Act	<a href="https://disclosure.legislation.govt.nz/assets/disclosures/bill_government_2024_62.pdf">https://disclosure.legislation.govt.nz/assets/disclosures/bill_government_2024_62.pdf</a> <a href="https://www.legislation.govt.nz/bill/government/2024/0062/latest/LMS967595.html">https://www.legislation.govt.nz/bill/government/2024/0062/latest/LMS967595.html</a>
09	28/05/2024		Talking Points Legislation Cabinet Committee Backstop Repeal	Release in part, with some information withheld under section 9(2)(f)(iv) of the Act	
10	04/06/2024	CAB-436	Final Policy Decisions to Repeal Agricultural Obligations in the New Zealand Emissions Trading Scheme	Released in part, with some information withheld under section 9(2)(h) of the Act and two appendices refused under section 18(d) of the Act.	<a href="https://disclosure.legislation.govt.nz/assets/disclosures/bill_government_2024_62.pdf">https://disclosure.legislation.govt.nz/assets/disclosures/bill_government_2024_62.pdf</a> <a href="https://www.legislation.govt.nz/bill/government/2024/0062/latest/LMS967595.html">https://www.legislation.govt.nz/bill/government/2024/0062/latest/LMS967595.html</a> Contextual notes have been added to the document in red text.
11	13/06/2024		Legislative Statement CCRA Amendment Bill	Released in full	
12	13/06/2024		First Reading Speech for CCRA Amendment Bill	Released in full	The final version of this document can be found here: <a href="https://www.parliament.nz/en/pb/hansard-debates/rhr/combined/HansDeb_20240625_20240626_40">https://www.parliament.nz/en/pb/hansard-debates/rhr/combined/HansDeb_20240625_20240626_40</a>

## CLASSIFICATION

Office of the Minister of Agriculture

Office of the Minister of Climate Change

Cabinet Legislation Committee

### **Climate Change Response (Emissions Trading Scheme Agricultural Obligations) Amendment Bill: Approval for Introduction**

#### **Proposal**

1. This paper seeks approval for the introduction of the Climate Change Response (Emissions Trading Scheme Agricultural Obligations) Amendment Bill to the House of Representatives (see Appendix 1).

#### **Policy**

2. On 2 April 2024, Cabinet agreed to amend the Climate Change Response Act 2002 (CCRA) to repeal all New Zealand Emissions Trading Scheme (NZ ETS) obligations for agricultural activities [CAB-24-MIN-0109.02 refers].
3. A Bill is required to amend the CCRA prior to NZ ETS surrender obligations for these activities beginning on 1 January 2025.
4. This proposal supports the Government's coalition agreements and National Party's manifesto commitment to keep agriculture out of the NZ ETS; and aligns with Action 12 'Finalise policy to keep agriculture out of the ETS' of the Coalition Government's Action Plan for New Zealand.

#### **Impact analysis**

5. A Regulatory Impact Statement was prepared in accordance with the necessary requirements, and was submitted to Cabinet along with the Cabinet paper seeking approval for final policy decisions on the Climate Change Response Amendment Bill [CAB-24-MIN-0109.02 refers]. This Regulatory Impact Statement achieved a 'partially meets' from the Regulatory Impact Assessment Panel.

#### **Compliance**

6. This Bill complies with:
  - I. the principles of the Treaty of Waitangi;
  - II. the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993

- III. the disclosure statement requirements. A disclosure statement has been prepared and is attached to this paper (see Appendix 2)
- IV. the principles and guidelines set out in the Privacy Act 2020
- V. relevant international standards and obligations and;
- VI. the Legislation Guidelines (2021 edition), which are maintained by the Legislation Design and Advisory.

### **Consultation**

- 7. The following agencies were consulted on this paper - The Treasury, Te Puni Kōkiri, Te Arawhiti, and the Environmental Protection Authority (EPA), Ministry of Foreign Affairs and Trade, Ministry of Transport, Public Service Commission, Ministry of Business, Innovation and Employment, Department of Conservation. The Department of the Prime Minister and Cabinet was informed.
- 8. We have not consulted publicly on amending the CCRA to 'keep agriculture out of the Emissions Trading Scheme' although we have clearly signalled our intention to do this. There will be opportunity to hear from the public as part of the Select Committee process.
- 9. Whilst specific consultation has not been undertaken for this Bill, previous consultation on related policy proposals is relevant and has been considered. Last year, the Government consulted on deferring NZ ETS reporting obligations for animal farmers with 1,225 submissions received. Analysis of submissions identified that most agricultural sector submitters continued to support an agricultural emissions pricing system outside of the NZ ETS as they considered it would provide greater opportunities to develop a more effective solution.
- 10. Māori submitters identified there would be increased administrative costs as a result of animal farmers' obligations under the NZ ETS. The majority of submissions received who opposed the deferral expressed concern about delays to pricing agricultural emissions and the associated impact that would have on agricultural emissions reductions.

### **Binding on the Crown**

- 11. This Bill will bind the Crown.

### **Creating new agencies or amending law relating to existing agencies.**

- 12. This Bill does not create new agencies.
- 13. Fertiliser and animals processors are currently NZ ETS participants reporting their emissions in accordance with the CCRA. This Bill will require the EPA to update their operational systems and to notify fertiliser and animals

processors that they have been removed from the NZ ETS participant register. This will not affect those participants remaining on the register for non-agricultural activities.

14. Note that fertiliser and animals processors will no longer be NZ ETS participants immediately following royal assent. The Bill enables the EPA to record in their systems a deregistration date for these processors of 1 December 2023. This is so the EPA's systems do not automatically send these processors notices that they need to submit emissions returns, as these will no longer be required due to them no longer being NZ ETS participants.

9(2)(h)

**Note:** The 1 December 2023 date is an error. In the Bill, the date the participant register may record a date is 31 December 2024.

### **Allocation of decision-making powers**

15. This draft legislation does not involve the allocation of decision-making powers between the executive, the courts, and tribunals.

### **Associated regulations**

16. This Bill will not require subsequent regulations to bring the Bill into operation.

### **Other instruments**

17. This Bill does not include any provision empowering the making of other instruments that are deemed to be legislative instruments or disallowable instruments (or both).

### **Definition of Minister/department**

18. This Bill does not contain a definition of Minister, department (or equivalent government agency), or chief executive of a department (or equivalent position).

### **Commencement of legislation**

19. This Bill will come into force the day after Royal assent.

### **Parliamentary stages**

20. To align with Government priorities, the Bill should be introduced on 17 June 2024 for a first reading in the House in the sitting week of 25 June 2024.
21. The Bill should be referred to the Environment select committee for a report back date in November to enable for the Bill to proceed through the House and obtain Royal assent before 31 December 2024.

**Note:** this Bill was later referred to the Primary Production Committee

### Proactive Release

22. The Ministers proposes to release the paper proactively within 30 business days on the Ministry for the Environment website.

### Next Steps

23. We propose to announce this amendment to the CCRA to 'keep agriculture out of the ETS' at Fieldays.
24. This will be followed by the introduction of the Bill on 17 June, with a first reading in Parliament between 25 and 27 June.

### Recommendation

25. We recommend that the Cabinet Legislation Committee:
  - 1 **note** the Climate Change Response (Emissions Trading Scheme Agricultural Obligations) Amendment Bill holds a category 2 priority on the 2024 Legislation Programme and must be passed this year to keep agriculture out of the ETS;
  - 2 **note** the Bill will amend the Climate Change Response Act 2002 to repeal all New Zealand Emissions Trading Scheme obligations for agricultural activities;
  - 3 **approve** the Climate Change Response (Emissions Trading Scheme Agricultural Obligations) Amendment Bill for introduction, subject to the final approval of the government caucus and sufficient support in the House of Representatives;
  - 4 **agree** the Bill be introduced on 17 June 2024;
  - 5 **agree** the government propose that the Bill be:
    - 5.1 referred to the Environment committee for consideration;  
**Note: this Bill was later referred to the Primary Production Committee**
    - 5.2 enacted by 31 December 2024.

Authorised for lodgement

Hon Todd McClay

Minister of Agriculture

Hon Simon Watts

Minister of Climate Change



# Departmental Disclosure Statement

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Appendix 1 withheld under section 18(d) as it is already publicly available

**Climate Change Response (Emissions Trading Scheme  
Agricultural Obligations) Amendment Bill**

Government Bill

Appendix 2 withheld under section 18(d) as it is already publicly available

