

Submission On  
**“Review Of The New Zealand  
Emissions Trading Scheme”**

On Behalf Of  
**The Environmental Defence Society,  
Pure Advantage  
and WWF-New Zealand**



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**SUBMISSION ON “REVIEW OF THE NEW ZEALAND EMISSIONS TRADING SCHEME”**

**on behalf of**

**THE ENVIRONMENTAL DEFENCE SOCIETY, PURE ADVANTAGE and WWF-NEW ZEALAND**

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**1 Introductory comments**

- 1.1 This is a joint submission on behalf of the Environmental Defence Society (**EDS**), Pure Advantage, and WWF-New Zealand (together, ‘we’) in relation to the Ministry for the Environment (**MfE**), Ministry for Primary Industries (**MPI**), and Ministry for Business, Innovation & Employment’s (**MBIE**) consultation on the “Review of the New Zealand Emissions Trading Scheme” (**ETS Review**) Discussion Document (**Discussion Document**).

- 1.2 EDS is a not-for-profit, non-government national environmental organisation. It was established in 1971 with the objective of bringing together the disciplines of law, science, and planning to promote better environmental outcomes in resource management.
- 1.3 Pure Advantage is a registered charity led by business leaders and supported by a collective of researchers and writers who investigate, communicate and promote opportunities for Aotearoa New Zealand to fulfil its potential for green growth.
- 1.4 WWF-New Zealand is a not-for-profit, environmental non-government organisation, and part of the international environmental organisation WWF (World Wide Fund for Nature). Our mission is to stop the degradation of the planet's natural environment and to build a future in which humans live in harmony with nature. We bring together individuals, communities, businesses, and government to develop and implement innovate, evidence-based solutions.
- 1.5 This joint submission is informed by expert input from Dr Christina Hood.

## **2 Summary of submission**

- 2.1 The current design of the New Zealand Emissions Trading Scheme (**NZ ETS**) will not drive urgent and deep gross emissions reductions in line with limiting global warming to within a 1.5°C increase. We therefore agree that it is not fit for purpose.
- 2.2 The equivalent treatment of, and emitters' unlimited access to, forestry removals is:
- (a) Displacing gross emissions reductions in favour of exotic forestry removals on the basis of relative short-term investment cost;
  - (b) Delaying cost-effective low carbon technology investments and discouraging innovation;
  - (c) Driving and locking in unsustainable levels of exotic monocultural afforestation that:
    - i Will not provide a long-term, climate-resilient, biodiverse and regenerative carbon sink necessary to meet Aotearoa New Zealand's climate obligations and biodiversity targets; and
    - ii Is inconsistent with tackling the interrelated climate and biodiversity crises simultaneously and synergistically as we have undertaken to do pursuant to *Te Mana o te Taiao*, the first Emissions Reduction Plan, and the Kunming-Montreal Global Biodiversity Framework;<sup>1</sup>
  - (d) Out of step with emissions trading schemes, and climate action generally, in comparable jurisdictions with the risk of reputational and trade-related repercussions;

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<sup>1</sup> Refer Targets 8 and 10.

- (e) Subject to growing international scrutiny and criticism, with “offsetting” fossil fuel emissions increasingly viewed as “greenwashing”; and
- (f) Intergenerationally inequitable and immoral, constraining land-use flexibility and transferring the burden of economic transformation to future generations, who will be dealing with the worsening effects of climate breakdown and for which we bear responsibility.

2.3 We further agree that addressing these issues necessitates decoupling and recalibrating the incentives for forestry removals vis-à-vis gross reductions.

***What are we trying to achieve: Articulation of desired outcomes critical for proper options analysis***

2.4 The Discussion Document lacks a clear indication of the desired (rather than various potential) outcomes sought against which to properly assess the range and appropriate mix of options proposed. Our comments on the various options proposed are constrained by the absence of such clarity. We look forward to engaging in further, more detailed consultation and feedback when the desired outcomes and level of ambition Government is willing to commit to are clearly identified.

2.5 In this regard, the Climate Change Commission maintains that:

- (a) A clear commitment to a specific level of gross emissions reductions;
- (b) Indicative levels of removals from forestry;
- (c) The separation of incentives for gross emissions reductions and forestry removals in the NZ ETS; and
- (d) Developing “durable” incentives for removals to and beyond 2050;

in respect of which policy choices should align, are “fundamentals for success”.<sup>2</sup>

2.6 We agree with those fundamentals.

2.7 We further submit the need to:

- (a) **Strengthen the legislative purpose of the Climate Change Response Act (CCRA), and the 2050 targets** thereunder, to ensure these mandate an emissions reduction pathway genuinely consistent with a 1.5°C future and from which the adequacy and efficacy of subsidiary regulatory and policy settings derive;

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<sup>2</sup> Climate Change Commission 2023 Draft advice to inform the strategic direction of the Government’s second emissions reduction plan (Climate Change Commission 2023 Draft Advice), April 2023, at 13.

- (b) Adopt **temporal horizons** that:
- i **Prioritise deep and rapid gross emissions reductions by 2030** to avoid locking in emissions-intensive choices with subsequent economic regrets;
  - ii **Incentivise urgent indigenous reforestation (and restoration) now<sup>3</sup>** with a view to **realising a net-negative emissions and nature positive future from 2050 and beyond** and ensuring that nationally determined commitments are indeed realised through the prioritisation of domestic action (consistent with the Government’s stated intent in the first Emissions Reduction Plan<sup>4</sup>); and
  - iii Require strategic consideration and optimisation of the types, roles, location, scale and co-benefits of long-lived greenhouse gas removals, particularly forests,<sup>5</sup> across multiple generations; and
- (c) In light of the above, and recognising the need to support ongoing emissions drawdown and storage, accelerate the development of **a carbon removals strategy** that:
- i Will deliver high quality, risk-adjusted (for climate resilience and adaptive capacity) sequestration through stable and credible financial support for establishment (and restoration) and ongoing maintenance;
  - ii Is designed (and implemented urgently) to secure sustained carbon storage in perpetuity (i.e. for permanence);
  - iii Aligns with robust environmental integrity standards consistent with the best available science and international practice;
  - iv Delivers and optimises biodiversity and other co-benefits and establishes an intergenerational natural infrastructure asset in the public interest; and
  - v Minimises land-use inflexibility by supporting a mosaic land-use approach.

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<sup>3</sup> The Climate Change Commission notes that we will need forestry to meet our future nationally determined contributions and that forests planted in the 2020s could provide a substantial portion of the net emissions reductions require to meet them: Climate Change Commission 2023 Draft Advice, at 42.

<sup>4</sup> *Te hau mārohi ki anamata* - Towards a productive, sustainable and inclusive economy; Aotearoa New Zealand’s First Emissions Reduction Plan, May 2022 (First Emissions Reduction Plan), at 28.

<sup>5</sup> This includes the role of plantation forests, both for removals and for bioenergy, low emissions construction materials, etc.

### 3 **Getting the settings right: (In)Sufficiency of our legislative commitments to limit global warming to 1.5°C**

3.1 As the time of writing, the global north is in the grips of record-breaking and life-threatening terrestrial and marine heatwaves, prompting United Nations Secretary General, António Guterres to announce that “the era of global boiling has arrived.”<sup>6</sup> Catastrophic wildfires and destructive flash flooding are widespread. Devastating global climate impacts are increasingly evident and set to worsen: “Climate change is here. It is terrifying. And it is just the beginning.”<sup>7</sup>

3.2 Doing everything we can, as urgently as we can, to hold the global mean temperature increase to 1.5°C above pre-industrial levels - beyond which science suggests a cascade of even graver and potentially irreversible impacts is probable - has never been more pressing.

#### ***Climate Change Response Act’s ‘aspirational’ approach to 1.5°C-compatible pathway irreconcilable with the existential threat climate change presents***

3.3 Recognising the risk, gravity and pace of impending climate collapse, Parliament passed a motion **declaring a climate emergency** on 2 December 2020. In doing so, it committed to take **urgent action** on greenhouse gas mitigation, referencing the need to avoid more than a 1.5°C global average temperature rise above pre-industrial levels.

3.4 The first Emissions Reduction Plan similarly acknowledged that the challenge of decarbonisation “is as urgent and important as it has ever been” and that “[t]he science tells us that **limiting global warming to 1.5°C above pre-industrial levels gives us the best chance of avoiding the worst effects.**”<sup>8</sup> Within that threshold, it would be easier for ecosystems, food and health systems to adapt, reduce the cost of adaptation, and significantly reduce the number of people exposed to risks associated with sea level rise and climate-induced water constraints.<sup>9</sup>

3.5 However, our primary climate change legislation - the CCRA - which sets out the legal ambition of our mitigation commitments and from which the strength and effectiveness of subsidiary implementation policies and regulatory tools (like the NZ ETS) derive, does not legally *require* our policy makers to design these in accordance with a 1.5°C-compatible pathway.

3.6 In *Lawyers for Climate Action NZ Incorporated (LCANZI) v The Climate Change Commission*,<sup>10</sup> Mallon J found that the purposive wording of the CCRA<sup>11</sup> in relation to limiting the increase

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<sup>6</sup> <https://www.theguardian.com/science/2023/jul/27/scientists-july-world-hottest-month-record-climate-temperatures>

<sup>7</sup> Ibid.

<sup>8</sup> First Emissions Reduction Plan, at 8.

<sup>9</sup> First Emissions Reduction Plan, at 29.

<sup>10</sup> [2022] NZHC [3064].

<sup>11</sup> Section 3(1)(aa)(i) provides that “The purpose of this Act is to – (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”.

in global average temperature to 1.5°C above pre-industrial levels is merely ‘**aspirational**’,<sup>12</sup> not obligatory.

3.7 In light of the:

- (a) Comprehensive body of international scientific evidence on the need to limit the global average temperature increase to 1.5°C above pre-industrial levels for a liveable future;
- (b) IPCC’s “final warning” to the world’s governments on the need to swiftly and drastically reduce emissions; and
- (c) Daily news coverage of its already terrifying impacts,

it seems extraordinary that our primary climate change law does not enshrine a *legal duty* on the Government to ensure that targets and policies are designed and implemented consistent with 1.5°C - what LCANZI submitted should be treated as a climate “bottom line”.

3.8 We do not have the luxuries of time or choice to view the 1.5°C threshold as an aspirational commitment. It is a moral and, indeed, an *existential* obligation. Such a conservative and complacent legislative approach to the pursuit of a liveable future, which materially shapes the strength of endeavour, urgency, and design of all subsidiary regulatory and policy responses, should be urgently revisited.

3.9 Until that happens, and whilst acknowledging that both the Climate Change Commission and policy makers are constrained by the current language of the CCRA, we encourage officials to undertake this ETS Review in a way that will allow for a critical and dramatically increased level of ambition before change to the legislative framework is achieved.

***Our “net zero” 2050 target is not 1.5°C-aligned***

3.10 Our “net zero” and biogenic 2050 emissions targets similarly fall short of that which is necessary to achieve a 1.5°C future. And even against these, we are not on track.<sup>13</sup>

3.11 The IPCC’s 2018 Special Report found that **reducing emissions to net zero by 2050 is not sufficient to limit warming to 1.5°C and deep emissions cuts must be made by 2030 for a 50-60% chance of limiting warming to less than 1.5°C.**<sup>14</sup>

3.12 In other words, the extent of gross emissions reductions over the next 6-7 years really matters. In its most recent draft advice, the Climate Change Commission has echoed the need for prompt and decisive action<sup>15</sup> to reduce **gross emissions** from *all* sources **as much as**

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<sup>12</sup> Per Mallon J, at para [162].

<sup>13</sup> Discussion Document, at 17.

<sup>14</sup> Referenced by Mallon J, in *Lawyers for Climate Action NZ Incorporated v The Climate Change Commission*, op cit above n 9, at para [82].

<sup>15</sup> Climate Change Commission Draft Advice 2023, at 36.

**possible and as soon as possible** (observing that both emission reductions and the effects of delay accumulate over time),<sup>16</sup> rather than relying on offsetting our climate pollution.<sup>17</sup>  
*No gross emissions reduction target and no constraint on removals*

3.13 Contrary to this:

- (a) Our Government has not specified *any* gross emissions reduction target; and
- (b) There is *no constraint on the use of removals* to meet our “net zero” 2050 target.

Technically then, Aotearoa New Zealand could meet its “net zero” 2050 target entirely through forestry offsets, with no gross emissions reductions. As Wilson et al note, such “**large-scale, unfettered deployment of carbon offsets** enabling ongoing exploitation of fossil fuels **severely jeopardises the 1.5 temperature limit.**”<sup>18</sup>

3.14 The United Nations Environment Programme has stated that “at most, offsets should be a temporary measure until 2030 and can lead to complacency towards achieving actual emissions reductions.”<sup>19</sup>

3.15 The IPCC has similarly warned that land-based removals “cannot compensate for delayed emissions reductions in other sectors”.<sup>20</sup> In the most recent IPCC Sixth Assessment report, scenarios that limit warming to 1.5°C with no or limited overshoot achieve “net zero” for fossil fuel emissions through over 91% reduction in gross emissions, with most of the residual emissions balanced by permanent geological storage. Only 4% of the initial fossil fuel emissions are balanced by land-use removals in these scenarios.<sup>21</sup>

3.16 In light of these concerns and aligning with the IPCC’s analysis, the Science Based Targets Initiative’s corporate Net-Zero Standard “asserts that *at least 90%* of a 2050 net zero target should be achieved with *actual emissions reductions* within their value chain, leaving a maximum of 10% that could be addressed through the purchase of offsets.”<sup>22</sup>

#### *Reputational risks in the absence of a specific gross emissions reduction target*

3.17 The Climate Change Commission has warned of increasing international scrutiny of plans to deliver on climate commitments, with many climate researchers and organisations recommending that net zero commitments should:

- (a) Focus foremost on directly reducing emissions; and

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<sup>16</sup> Climate Change Commission Draft Advice 2023, at 36: “even short delays in acting to reduce gross emissions could result in increasing larger shortfalls in future emissions budgets, because the impacts of the delay accumulate” (Discussion Document refers, at 31).

<sup>17</sup> Climate Change Commission Draft Advice 2023, at 1.

<sup>18</sup> Climate Analytics (2023). Why offsets are not a viable alternative to cutting emissions, at 19.

<sup>19</sup> Cited in Climate Analytics (2023). Why offsets are not a viable alternative to cutting emissions, at 46.

<sup>20</sup> IPCC (2022) cited in Climate Analytics (2023). Why offsets are not a viable alternative to cutting emissions, at 46.

<sup>21</sup> IPCC Working Group 3 Summary for Policymakers, Figure SPM.5.

<sup>22</sup> In Climate Analytics (2023). Why offsets are not a viable alternative to cutting emissions, at 47.



- (b) Specify intended levels of gross emissions reductions.<sup>23</sup>

This would enhance transparency and credibility, and provide more direction and certainty for policy makers on the shape of the transition and how to align policies and tools – including the NZ ETS – in support of this.<sup>24</sup>

3.18 We also share the Minister of Energy and Resources’ concern regarding the sequencing of the ETS Review before identifying the desired levels of gross and net emissions that the ETS redesign options should drive.<sup>25</sup> This in turn relates to, and relies on, the adequacy of our legislative commitments and targets, discussed at paras 3.3 – 3.12 above.

3.19 The adequacy of, and urgency of meeting, our 2050 target can - and, in our view, should - be reviewed. As summarised by Mallon J, the CCRA provides that the Climate Change Commission:<sup>26</sup>

“must review the 2050 Target when preparing advice for a budget period on or after 2036 and any other time the Minister requests such a review (Section 5S(1)). On such a review, **the Commission may recommend a change to the time frame for achieving the 2050 Target; the levels of emission reductions required; the gases, emissions and removals to which the 2050 Target applies; and how the 2050 Target may be met (including limits on removals and offshore mitigation)** (section 5T(1)).”

3.20 However, the grounds upon which the Climate Change Commission can recommend a change (set out in Section 5T(2)(a) of the CCRA) require that a “*significant change*” must have occurred, or is likely to occur, to one or more of the following as they relate to climate change:

- (a) Global action;
- (b) Scientific understanding of climate change;
- (c) New Zealand’s economic or fiscal circumstances;
- (d) New Zealand’s obligations under relevant international agreements;
- (e) Technological developments;
- (f) Distributional impacts;
- (g) Equity implications (including generational equity);
- (h) The principal risks and uncertainties associated with emissions reductions and removals;
- (i) Social, cultural, environmental, and ecological circumstances;

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<sup>23</sup> Climate Change Commission Draft Advice 2023, at 50.

<sup>24</sup> Ibid.

<sup>25</sup> The Cabinet Paper seeking agreement to the scope and process of reviewing the NZ ETS records that the Minister of Energy and Resources recommended sequencing work so that Ministers considered first what balance of gross and net emissions reductions the NZ ETS should drive, and then the options to amend the scheme in support of these levels. Paragraph 120 of that paper refers - see <https://environment.govt.nz/assets/publications/cabinet-paper-and-minute-review-of-the-new-zealand->

<sup>26</sup> *Lawyers for Climate Action NZ Incorporated v The Climate Change Commission*, op cit above n 9, at para [46].

**and** the Commission must be satisfied that the “significant change” justifies the change to the target (Section 5T(2)(b)).

- 3.21 As Aotearoa New Zealand’s current 2050 target is arguably insufficient across most, if not all of those section 5T(2)(a) measures, the threshold of “significant change” appears to be more than met.

*Global action: We are not undertaking our “fair share” in reducing fossil fuel emissions*

- 3.22 The principles of the United Nations Framework Convention on Climate Change and Paris Agreement call on developed nations, including New Zealand, to “take the lead” through national policies consistent with limiting global warming to 1.5°C,<sup>27</sup> protect the climate system “on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities”,<sup>28</sup> “undertake rapid reductions ... in accordance with the best available science”,<sup>29</sup> and to “pursue domestic mitigation measures”.<sup>30</sup>
- 3.23 Mallon J held that Aotearoa New Zealand’s nationally determined contribution (**NDC**) “is the vehicle used to meet the relevant international law obligations arising from the Paris Agreement”<sup>31</sup> and that these do not need “to be met via the emissions budgets”.<sup>32</sup> According to Climate Action Tracker, that target is “insufficient” having regard to our fair share, and reliance on significant offset purchasing to meet our 2030 NDC target. It submits that:

**“New Zealand is set to meet by far the highest proportion of its target (two thirds of the action required) through buying international offsets compared with any other OECD country” which “would set an alarming precedent”.**<sup>33</sup>

- 3.24 This is contrary to the emphasis on meeting our global commitments primarily through domestic efforts (as required under the Paris Agreement and first Emissions Reduction Plan), and our responsibility, capacity, and quite simply the *need* to do so.<sup>34</sup>
- 3.25 It is also a result of having “made little progress reducing gross emissions to meet previous targets”.<sup>35</sup> In this regard, the Climate Change Commission has warned that “[e]nsuring climate policies drive gross emissions down will help avoid a repeat of this situation”<sup>36</sup> and that while emissions reduction plans relate to achieving our emissions budgets, domestic

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<sup>27</sup> UNFCCC, Article 3(1), 4(2)(a).

<sup>28</sup> Ibid.

<sup>29</sup> Paris Agreement, Article 4(1).

<sup>30</sup> Ibid, Article 4(2).

<sup>31</sup> *Lawyers for Climate Action NZ Incorporated v The Climate Change Commission*, op cit above n 9, at para [164].

<sup>32</sup> Ibid.

<sup>33</sup> <https://climateactiontracker.org/countries/new-zealand/> (accessed 26.07.2023).

<sup>34</sup> We note here that we will never be able to meet our global obligations 100% through domestic efforts, nor should we; that is because international funding is part of our obligation as a wealthy developed nation, whether via carbon markets or climate finance. In this respect, it is important to both drive domestic gross reductions as hard as possible *and* still meet out NDC *as well as* to establish a long-term sink so that future NDCs can be met more through domestic efforts.

<sup>35</sup> Climate Change Commission 2023 Draft Advice, at 63.

<sup>36</sup> Climate Change Commission 2023 Draft Advice, at 63.

2050 target, and domestic contribution to limiting warming to 1.5°C, we need to “close the gap” between domestic and global contributions.

- 3.26 The Discussion Document acknowledges that “Aotearoa is still one of the highest-emitting nations in the world per capita.”<sup>37</sup> Affidavit evidence submitted in *LCANZI v The Climate Change Commission* similarly noted that New Zealand ranks 166<sup>th</sup> out of 180 countries when ranked from lowest to highest per capita emitters;<sup>38</sup> and in terms of historic cumulative emissions per capita from 1850 to 2021, New Zealand is one of the highest emitters.<sup>39</sup> We could and should be doing more to account for our historical and current emissions contributions in order to “play our part”.<sup>40</sup>
- 3.27 Other developed countries are focusing on steeper cuts to gross emissions. The risk of being economically, technologically, ecologically, socially, reputationally, and morally left behind should not be understated. Our recent free trade agreement with the European Union - the first under its new framework on trade and sustainable development - requires the parties to hold each other accountable for the commitments both have made under the Paris Agreement.
- 3.28 Carbon border tax adjustments, access to markets and finance, and evolving consumer awareness and preferences could deliver trade advantages or barriers depending on our commitment - or failure - to accelerate the decarbonisation of our economy.

*Global action: Contributing our “fair share” of permanent removals towards future net-negative targets*

- 3.29 Undertaking our fair share in reducing gross fossil fuel emissions is one side of the coin. We also need to scale up our contribution of permanent removals. Together, these will put us in the position to meet future nationally determined contributions with a much greater share of domestic action. We discuss this further in paras 4.11 - 4.27.

#### **4 Like the CCRA and its 2050 net zero target, the design of the NZ ETS is (consequently) not 1.5°C-compatible**

- 4.1 The NZ ETS is currently our key tool for meeting our 2050 net zero target. Unlike any other emissions trading scheme, it fully incorporates forestry for both removals and emissions and treats both as equivalent.<sup>41</sup>
- 4.2 The NZ ETS’s ambivalent and unlimited approach in respect of whether emitters meet their obligations through removals or gross emissions reductions enables participants to take an investment approach to abatement that minimises the costs they face.

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<sup>37</sup> Discussion Document, at p 6.

<sup>38</sup> At para [311], per Professor Ralph Sims, citing the Yale Centre for Environmental Law and Policy.

<sup>39</sup> At para [311], according to analysis by Carbon Brief.

<sup>40</sup> Discussion Document, at p 6.

<sup>41</sup> Climate Change Commission Draft Advice 2023, at 55.

- 4.3 This ‘net’ emissions approach favours removals by way of extensive *Pinus radiata* afforestation, which is relatively cheap and reliable to grow, and provides rapid sequestration, over reducing gross emissions: it is cheaper in the short term to remove 1 tonne of carbon through forestry than it is to avoid emitting 1 tonne of carbon through investing in low-emissions technology.<sup>42</sup> And it is more lucrative (on an externalisation of downstream costs basis)<sup>43</sup> to plant pines than indigenous forests.
- 4.4 The result has been to encourage industrial plantation (and more recently, exotic ‘carbon’ or ‘permanent’) forestry, in respect of which carbon sequestration and storage (and any co-benefits) are inherently short-term (limited to plantation cycles / natural longevity), and value chain emissions are ignored.
- 4.5 Such a simplistic approach to incentive design thereby narrows the scope of relevant considerations to short-term cost minimisation. It is not designed to interrogate the **quality** or **durability** of removals, which is a missed opportunity to secure co-benefits, particularly in relation to biodiversity, which the Government has undertaken to do pursuant to *Te Mana o te Taiao*, the first Emissions Reduction Plan, the National Adaptation Plan, and in adopting the Kunming-Montreal Global Biodiversity Framework.

***The issue with “equivalence” and the risks of impermanence***

- 4.6 The full equivalence and unlimited availability of forestry removals in the NZ ETS, and resulting over-reliance on them as an abatement strategy, is extremely concerning for a number of reasons:
- (a) The effect of equivalence is to “allow the enablement of continued extraction and burning of fossil fuels”<sup>44</sup> by sanctioning the *displacement* of an equivalent reduction in gross emissions;
  - (b) Fossil fuel emissions have such a long lifetime in the atmosphere that, for practical purposes, the warming they produce is ‘forever’:<sup>45</sup>

“Each tonne released into the atmosphere is long-lived, with around 40% remaining after 100 years, 20-25% remaining after 1,000 years, and up to 20% after 10,000 years. **Land-based offsets do not and cannot guarantee such long-term sequestration.**”

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<sup>42</sup> Discussion Document, at 14.

<sup>43</sup> These are well canvassed in the findings of the Ministerial Inquiry into Land Use on the East Coast. Another cost, is wilding pines which, if left uncontrolled, will pose a \$4.6 billion threat to the national economy: <https://www.wildingpines.nz/assets/Documents/Wilding-Pines-DLE-info-leaflet-WEB.pdf>.

<sup>44</sup> Climate Analytics (2023). Why offsets are not a viable alternative to cutting emissions, at 6.

<sup>45</sup> Ibid, at 14, 4.

To fully compensate for the warming impact of carbon dioxide any removals would need to store these emissions **over millennial timeframes**.<sup>46</sup>

By comparison:<sup>47</sup>

“the majority of land-based carbon dioxide removal has permanence timescales of decades to a century, which substantially undermines the validity of offsetting fossil carbon emissions by these methods. There is therefore a **fundamental difference between directly reducing a source of carbon dioxide emissions by one tonne, and offsetting that same tonne of carbon dioxide emissions through sequestration in trees or soil.**”

- (c) Hotter and drier conditions are likely to compromise the ability of forests to uptake, store and hold carbon;<sup>48</sup>
- (d) Land carbon is inherently reversible through human activities and disturbances, including climate change (with increasing risks of, and susceptibility to, wildfire, pest incursions, disease, windthrow and instability, storm damage, and drought). This renders removals “fundamentally inferior to reducing actual emissions at their source.”<sup>49</sup> In this respect, Wilson et al submit that removals used as offsets for fossil fuel emissions need to be:
  - i **Maintainable in perpetuity** because their ‘reversal’ at any time can invalidate their storage; and
  - ii **Maintained over timescales such that they counteract the effect of an equivalent amount of greenhouse gases emitted to the atmosphere.**<sup>50</sup>
- (e) The reduction of emissions at source is permanent. By contrast, carbon emissions that are captured and stored in trees will at some point be released back into the atmosphere. An “offset” approach to forest sequestration therefore risks *higher levels of carbon dioxide concentrations in the longer term* due to the displacement of reductions at source and the release of stored carbon. And any liability imposed for the loss of stored carbon is unlikely to realise that loss in practice, both in monetary and biophysical terms<sup>51</sup> - this is a fundamental problem; and
- (f) There is “strong and growing opposition to the use of offsets and demands for global action to limit it.”<sup>52</sup>

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<sup>46</sup> Ibid, at 14.

<sup>47</sup> Ibid.

<sup>48</sup> Ibid, at 3, 16.

<sup>49</sup> Ibid, at 9.

<sup>50</sup> Ibid, at 18.

<sup>51</sup> In theory, a forest participant would be required to remove a quantity of CO2 equivalent to the reversal. In practice, specific performance and pecuniary penalties can be frustrated through the protections afforded by the corporate veil: if the value of the carbon credits earned exceed the land value when purchased, limited liability corporate forest owners and investors can liquidate the company to avoid such obligations.

<sup>52</sup> Climate Analytics (2023). Why offsets are not a viable alternative to cutting emissions, at 7.

***Driving deep, rapid and sustained gross emissions reductions must be prioritised***

- 4.7 Proper alignment with limiting global mean temperature increases to 1.5°C requires urgent and substantial reductions in fossil fuel emissions.
- 4.8 Global scenarios consistent with limiting warming to 1.5°C, including those of the IPCC Sixth Assessment Report and the International Energy Agency’s net-zero-energy scenario, require deep reductions in fossil fuel emissions by 2050, with over 90% of the “net zero” goal achieved through gross reductions. The residue is balanced mostly by permanent geological storage, with only a small amount of offsetting from forestry removals in the IPCC scenarios, and none in the IEA’s net-zero energy scenario.
- 4.9 Internationally, other emissions trading schemes similarly focus on driving gross reductions. Any offsetting allowed is minimal. The EU, for example, has significant forestry removals but does not allow these as “offsets” in its emissions trading scheme as it is understood that the task of that scheme is to reduce gross emissions. The EU is currently exploring establishment of a parallel “removals market” that would allow for permanent offsetting of residual emissions once deep gross reductions have been achieved.
- 4.10 By comparison, the NZ ETS’s unlimited access to, and equivalent treatment of, forestry offsets, means it is simply not a credible tool to drive emissions reductions. Aotearoa New Zealand needs to catch up quickly to align with global norms.<sup>53</sup>
- 4.11 Aotearoa New Zealand should not delay its transition to a low-carbon economy because we happen to have land available for afforestation.

***However, we still need to incentivise long-term permanent forestry removals***

- 4.12 Whilst forestry removals, from both existing forests and new planting, are not (and should not be treated as) a substitute for emissions reductions at source, they are critical to meeting Aotearoa New Zealand’s emissions budgets, our 2050 “net zero” target, and our nationally determined contributions under the Paris Agreement.
- 4.13 That is because, even with steeper gross emissions reductions, our near-term emissions budgets have been set assuming some reliance on forestry removals. There are also emissions currently outside the NZ ETS that are part of the net-zero target, as well as fossil fuel emissions from international aviation and marine transport. This means that longer-term assessments of demand for forestry removals should not only consider existing ETS emitters.
- 4.14 To protect New Zealand’s role as a food producing nation, we should also anticipate that agricultural emissions may need to be significantly reduced and residual emissions offset in

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<sup>53</sup> We note that the Climate Change Commission’s demonstration path includes far more forestry offsetting than in global 1.5°C-consistent scenarios. This is not a criticism of the Commission, but indicative of the legislative constraints - including the current 2050 net zero target - within, and in respect of which, its advice must be provided. It did not, therefore, have the mandate to recommend **truly 1.5°C-consistent** pathways.

the near future. The Science Based Targets initiative has developed a new methodology and sector guidance in support of this,<sup>54</sup> and pressure to take action is already evident from customers.<sup>55</sup>

*Future proofing our removals strategy: the need to look well beyond 2050 to address global emissions overshoot*

- 4.15 It is this need to build a long-term enduring carbon sink **for the second half of this century**, when the Paris Agreement requires global emissions to be net-negative, that is often overlooked.
- 4.16 In IPCC scenarios consistent with keeping temperature to 1.5°C in 2100 there is overshoot: the world over-emits and then needs to remove CO<sub>2</sub> from the atmosphere with technology and nature-based solutions.
- 4.17 The Sixth Assessment Report (Working Group III Summary for Policymakers Table C.SPM.2, C1 and C2 scenarios)<sup>56</sup> puts the quantity of net-negative emissions from mid-century to 2100 at 360Gt in scenarios where there is a larger overshoot.
- 4.18 The more we overshoot, the greater level of net-negative emissions is needed later, as shown in the following graph from the IPCC special report on Global Warming of 1.5°C<sup>57</sup>. Note that the quantity of removals needed globally is even higher, as there is also a small quantity of residual emissions to offset.

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<sup>54</sup> <https://sciencebasedtargets.org/sectors/forest-land-and-agriculture>

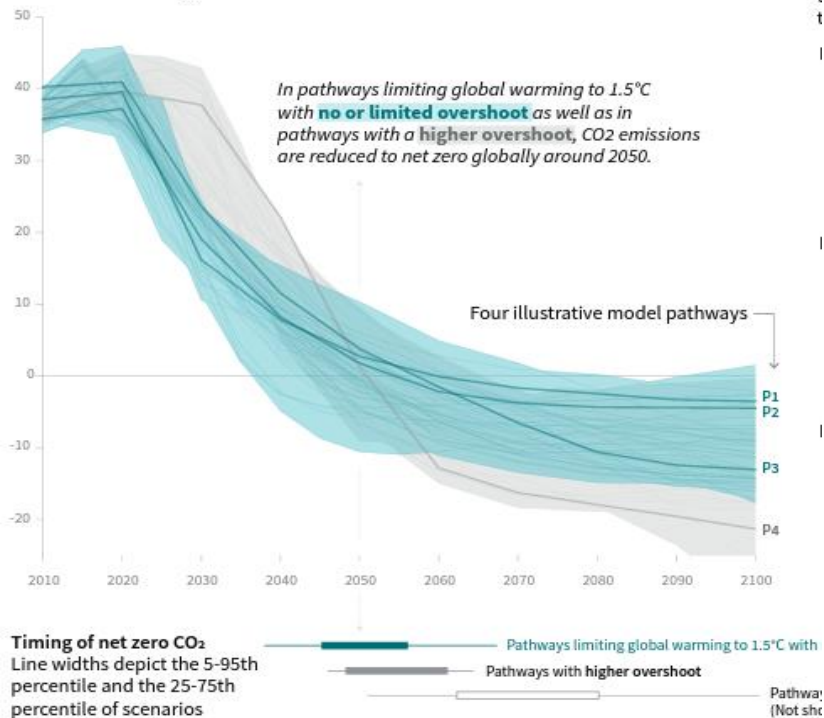
<sup>55</sup> <https://www.newsroom.co.nz/fonterra-sets-new-emissions-intensity-target-for-dairy-farmers> refers.

<sup>56</sup> IPCC, 2022: Summary for Policymakers [P.R. Shukla, J. Skea, A. Reisinger, R. Slade, R. Fradera, M. Pathak, A. Al Khourdajie, M. Belkacemi, R. van Diemen, A. Hasija, G. Lisboa, S. Luz, J. Malley, D. McCollum, S. Some, P. Vyas, (eds.)]. In: *Climate Change 2022: Mitigation of Climate Change. Contribution of Working Group III to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change* [P.R. Shukla, J. Skea, R. Slade, A. Al Khourdajie, R. van Diemen, D. McCollum, M. Pathak, S. Some, P. Vyas, R. Fradera, M. Belkacemi, A. Hasija, G. Lisboa, S. Luz, J. Malley, (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA. doi: 10.1017/9781009157926.001, C.SPM.2: Scenarios C1 and C2.

<sup>57</sup> <https://www.ipcc.ch/sr15/>

## Global total net CO<sub>2</sub> emissions

Billion tonnes of CO<sub>2</sub>/yr



*“Taking the lead”, “playing our part”, and undertaking our “fair share”*

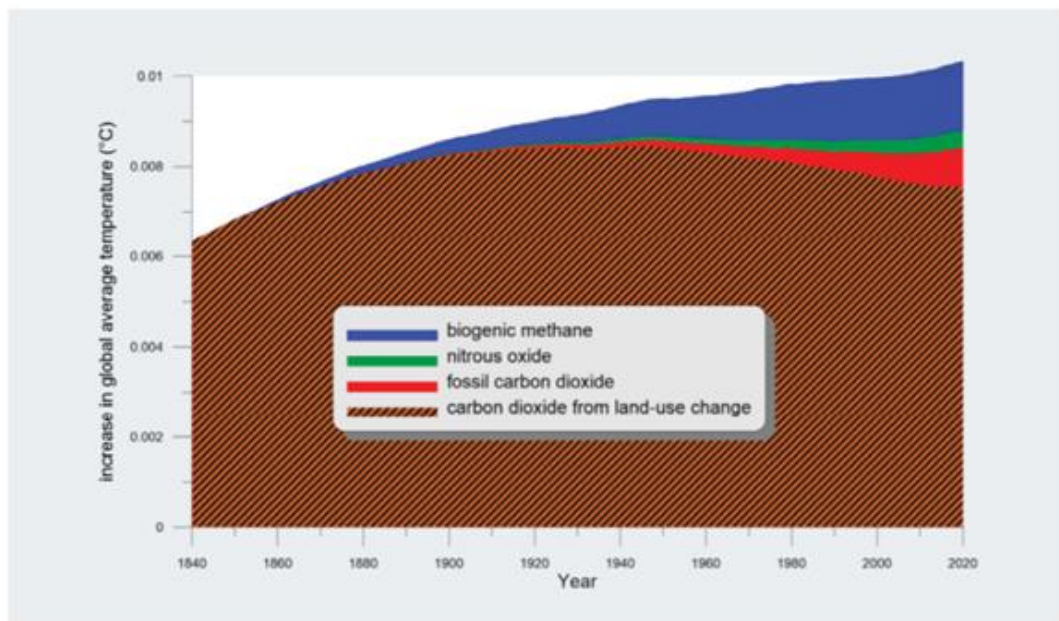
- 4.19 Aotearoa New Zealand has contributed to this overshoot. On a per-capita basis, our CO<sub>2</sub> emissions since pre-industrial are well above the global average, through a combination of fossil fuel use and land clearing. The New Zealand Agricultural Greenhouse Gas Research Centre (as quoted in the Climate Change Commission’s *Ināia Tonu Nei* advice<sup>58</sup>) estimates that Aotearoa New Zealand has contributed close to 0.3% of warming since pre-industrial times. Just for carbon dioxide, our share is 2.6 times the global per-capita average.<sup>59</sup>
- 4.20 Aotearoa New Zealand, like other developed countries and large emitters, should take responsibility for our ‘fair share’ of correcting this overshoot. Our ‘fair share’ is an ethical judgement and will not just be our per-capita contribution to the overshoot, but would also take into account our capacity as a relatively wealthy developed country, and our ability to act (as a country with deforested land able to be restored).
- 4.21 Even on a per-capita basis, our ‘share’ (at 2.6 times the global per-capita average) could be over 500Mt of net-negative emissions by 2100, or 10-20Mt per annum out to 2100. And the need for removals does not end in 2100 - it continues.

<sup>58</sup> Climate Change Commission, *Ināia tonu nei: a low emissions future for Aotearoa - Advice to the New Zealand Government on its first three emissions budgets and direction for its emissions reduction plan 2022 – 2025* (31 May 2021), at p 189.

<sup>59</sup> <https://environment.govt.nz/what-government-is-doing/cabinet-papers-and-regulatory-impact-statements/consistency-of-ndc1-with-efforts-to-limit-global-warming-to-1-5-degrees/>, at p 15, Table 2, see net 1850-2019.



- 4.22 The graph on the following page from *Inaia Tonu Nei* shows Aotearoa New Zealand’s contributions to warming: land use change (brown) has a higher impact on current warming than all fossil fuels ever emitted (red).
- 4.23 It is also interesting to observe that current warming from agricultural emissions (blue + green) is greater than warming from all fossil fuels (red) we have ever emitted.<sup>60</sup>



**Figure 9.2: The contribution Aotearoa made to warming since 1840**

Source: New Zealand Agricultural Greenhouse Gas Research Centre.

*Premium removals: Taking the lead on addressing climate change and biodiversity loss together*

- 4.24 A significant part of Aotearoa New Zealand’s contribution to warming is a result of deforestation. As the first Emissions Reduction Plan noted:<sup>61</sup>

“Since human arrival in Aotearoa, deforestation to make space for settlements, farms and other land uses has decreased native forest cover from around 80 per cent to 23 per cent. **That deforestation has released an estimated 12 Gt CO<sub>2</sub> into the atmosphere. Today, native forests cover around 7.8 million hectares and store approximately 1.8 Gt CO<sub>2</sub>.**”

<sup>60</sup> Current warming is the level shown at the right-hand side of the graph for 2020. This is warming in 2020 caused by all historical emissions.

<sup>61</sup> First Emissions Reduction Plan, at 85.

4.25 The first Emissions Reduction Plan further recommends that:<sup>62</sup>

**“Looking after these forests is one of the most important contributions Aotearoa can make to combatting global climate change. We also have a significant opportunity to develop native forests that both act as long-term carbon sinks and support biodiversity, which aligns with the goals of the Biodiversity Strategy.”**

In doing so, we can bring ourselves back into balance with the atmosphere, as well as within our domestic ecosystems, by restoring native forests that should never have been cut down.

4.26 The ability of biodiverse indigenous forests to remove and store large volumes of carbon dioxide over much longer time horizons, and their natural resilience and adaptive capacity, make them critical to achieving net-negative emissions from 2050 and beyond.

4.27 Indigenous forests are also our pathway to reversing the catastrophic decline of our indigenous flora and fauna, and thereby present a scalable nature-based solution that would realise the Government’s commitments to take an integrated approach to addressing the interrelated issues climate change and biodiversity loss.<sup>63</sup>

4.28 But because indigenous forests are slower and more expensive to establish in the short term, the availability of credible and enduring financial support (including through biodiversity payments) is urgent to ensure indigenous reforestation and restoration at scale starts *now* so that they are well established by 2050.

4.29 To this end, differential incentives that properly recognise the relative carbon sequestration and storage over time, natural resilience and adaptive capacity, and relative biodiversity, erosion control, and socio-cultural benefits as between indigenous forests and exotic plantations would better ensure the right tree in the right place for the right purpose. And would thus see the development of a premium indigenous forest-generated NZU.

4.30 If we act now to establish this long-term carbon sink, it will be in place when we need it. Indigenous forests take decades to reach peak growth, so we need to be putting them in the ground now. If we do, we will avoid the position we are in now of having to pay other countries to help us meet our nationally determined contributions as these reach net-zero and net-negative levels. Even at the lower end of Treasury estimates, reliance on international markets presents a major offshoring of wealth, with attendant access, reputational and environmental integrity risks.

4.31 Technological removals such as direct air capture (DAC) and bioenergy carbon capture and storage (BECCS) are only at experimental and demonstration phase - they are not currently commercially feasible or scalable. From a risk management perspective, it is prudent to establish this nature-based, relatively low cost, long-term carbon sink now.

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<sup>62</sup> First Emissions Reduction Plan, at 85.

<sup>63</sup> And there is a growing movement of support coalescing around this opportunity: <https://pureadvantage.org/recloaking-papatuanuku/#intro>

- 4.32 Establishing a long-term indigenous forest carbon sink should thus be viewed as a strategic natural infrastructure investment in the public interest that would put Aotearoa New Zealand in a much better position for the rest of the century, as well as putting right our own balance with the atmosphere and restoring local ecosystems. And it should be financed accordingly.
- 4.33 There is little risk in doing so, as high-quality carbon removals will have long-term international value: many other countries do not have Aotearoa’s land availability to reforest. With the need to remove 7200Mt per year globally (360Gt/50yrs), Aotearoa New Zealand’s high-quality removals will be sought after by countries without the options that we have.

***Thus, we should not seek to “balance” incentives for gross emissions reductions against removals: both are needed***

- 4.34 The Minister’s introduction states that “[w]e need the NZ ETS to incentivise both emissions reductions and carbon removals from forestry”. However, the NZ ETS cannot do both of these things on its own. That is because we are reaching a point, as explained in the Discussion Document, where ETS emitters will not provide sufficient demand for the forestry units generated.
- 4.35 We consider how this demand-side deficit could be addressed to incentivise high-quality, enduring forestry removals generated after 2035 in our high-level feedback on the Discussion Document detailed below (again noting that the lack of detail presented in the proposed options makes it difficult to assess their merits in achieving the objectives already outlined).

#### **High-level feedback on the Discussion Document**

##### ***Chapters 1 and 2***

- 4.36 We agree that the current design of the NZ ETS:
- (a) Is unlikely to drive material gross emissions reductions; and
  - (b) Will encourage reliance on removals, mainly from exotic forestry, for Aotearoa New Zealand to meet its domestic and international commitments (none of which are 1.5°C-aligned).
- 4.37 We also agree with the summary of exotic afforestation impacts. And while the “right tree in the right place for the right purpose” is important (in relation to the supply of wood, biofuels in a low carbon economy, etc), the primary focus for assessing forestry outcomes and options in the NZ ETS redesign needs to be on strengthening support for high-quality, enduring sequestration for removals beyond 2050 - i.e. indigenous reforestation and restoration.

### Chapter 3

- 4.38 We note that the Climate Change Commission’s position regarding the likely risk of emissions-leakage is that these concerns - and therefore the justification for the quantum and slow phase-out rate for free allocations for emissions-intensive trade-exposed industries - are likely disproportionate to the risk.
- 4.39 Allowing for “a slower transition”<sup>64</sup> is not consistent with the climate emergency unfolding in real time. Whilst there are challenges associated with driving change quickly, there is an existential threat of being too complacent and economically ‘protective’ in the short term. There is moral risk too: Government must ensure decisions are taken that are in the public interest, not short-term commercial interests.
- 4.40 There has been no shortage of warnings that we are running out of time to limit global warming for a survivable future: we have had time to transition, and the opportunity and ability to mitigate any short-term sector-specific challenges associated with doing so.<sup>65</sup>
- 4.41 Further deferring a transition to low-emissions technology risks locking in emissions-intensive infrastructure and land-use to (mostly) exotic forestry, making reductions more expensive in the future and missing health benefits and economic savings from low-emitting activities in the meantime.<sup>66</sup> A path that may look “cost effective” in a blinkered short-term sense will be more costly in the long run.
- 4.42 Allowing for such deferral underestimates the innovative capacities to transform born from necessity to do so and ignores that our global partners are requiring their industries to do more. In light of our ‘overshare’ in contributing to historical global emissions, our current under-commitment and reticence to act presents a significant credibility and ethical deficit.
- 4.43 A strong, stable and increasing price on emissions is necessary to drive emissions reductions and can be influenced through existing levers controlling unit supply and price corridor, provided they are set carefully. We disagree with the Discussion Document’s suggestion that the “[e]xisting price corridor indicates the price range that would support reductions in line with the emissions budgets and the 2050 target.”<sup>67</sup> The Climate Change Commission’s December 2022 analysis recommended a higher price corridor. The effect of ignoring that advice significantly impacted market confidence and the carbon price.
- 4.44 However, it is important to note that it is not the role of Government to identify “the exact prices required to drive gross emissions reductions”.<sup>68</sup> The price corridor (which the Government *can* adjust) is meant to enable price discovery by the market. The focus should

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<sup>64</sup> Discussion Document, at 38.

<sup>65</sup> Including support through the Government Investment in Decarbonising Industry Fund.

<sup>66</sup> Climate Change Commission Advice on Unit Limits 2024-2028, at 27.

<sup>67</sup> Discussion Document, at 34.

<sup>68</sup> Discussion Document, at 34.

instead be on the quantity of gross emissions and the right target to reduce these. These can in turn inform the preferred price pathway to achieve these.

- 4.45 We agree that regressive effects of emissions pricing on households and social and economic equity are best addressed and mitigated through initiatives outlined in the Equitable Transitions Strategy, including targeted support and carbon dividends. Use of complementary policies to achieve some of the emissions reductions can also moderate ETS prices.

### **Chapter 5**

- 4.46 The reference to helping “drive more emissions reductions .... than the status quo”<sup>69</sup> is an inadequate and unambitious yardstick against which the options proposed should be assessed for it fails to convey the need for significantly deeper cuts in fossil fuel emissions.
- 4.47 In this regard, a clearly articulated gross emissions reductions target is necessary to properly assess the options: the level of ambition will determine the extent of redesign required, from tweaks to major reform.
- 4.48 Similarly for removals, the assessment of options depends on identifying how much sequestration we need across different temporal horizons - particularly from 2050 and beyond, and the desired quality and durability attributes of those removals.
- 4.49 We disagree with the suggestion that “trade-offs will be necessary between some criteria” and that “the main trade-off will be between the primary assessment criteria, namely: prioritising gross emissions reductions; and driving emissions removals.”<sup>70</sup> This would defeat the very purpose of the ETS Review. We need to redesign the NZ ETS and complementary policies such that gross emissions reductions *and* high-quality, durable removals (particularly from 2050) are incentivised as *both* are needed.

### **Chapters 6 and 7 - Options analysis**

#### *Separation of incentives critical (Option 4)*

- 4.50 It is clear that the only way to drive gross emissions reductions *and* removals is to ensure these are strongly but *separately* incentivised, as proposed in Option 4. This presents a large departure from the current ETS architecture and involves the most complexity in terms of implementation, but conceptually is the right thing to do.
- 4.51 To do this effectively, however, clear targets and appropriately calibrated (and independently assessed) incentives for each will be needed.

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<sup>69</sup> Discussion Document, at 48.

<sup>70</sup> Discussion Document, at 49.

4.52 Additionally, and recognising that removals from forestry take time to generate (particularly indigenous), the Climate Change Commission has identified the need for clear direction on, and objectives for, the role of forests in Aotearoa New Zealand, including the amount and type of forestry required to meet the 2050 target,<sup>71</sup> our nationally determined contributions, and our obligation under the Paris Agreement to be net-negative beyond 2050. Defining how (and what type of) forestry will contribute to environmental, economic, social, cultural and climate resilience objectives is essential for designing policies to deliver optimal outcomes.<sup>72</sup>

4.53 To this end, we support the proposed development of a “carbon removals strategy” that will set out:<sup>73</sup>

- (a) How many removals we need to complement ambitious gross emissions reductions;
- (b) What types of removals should be prioritised, including with regard to how biodiversity, climate resilience and broader co-benefits could be realised simultaneously; and
- (c) How new removal activities can be recognised and rewarded over time.

This strategy should support the first Emissions Reduction Plan’s stated prioritisation of nature-based solutions that address climate change and biodiversity loss in tandem.

4.54 The temporal horizons in respect of which incentives for removals are designed should be multi-generational, ensuring that not only are short to mid-term targets met, but that a long-term and enduring carbon sink is in place by and beyond 2050.

4.55 They should also be designed in accordance with best-practice international environmental integrity standards and optimising broader nature-positive co-benefits. This will favour indigenous reforestation and restoration, as well as the restoration and protection of other land-based and marine carbon sinks.

4.56 The strength of incentives for removals will be important to realise their desired objectives and outcomes. How this might be achieved is not explored in the Discussion Document, but will obviously be a critical consideration for the development of an effective biodiversity credit scheme, which is the subject of a separate but interrelated consultation.

*Existing levers will also be important (Option 1)*

4.57 The Government’s ability to control auction unit supply and the price corridor within which these are auctioned (existing levers) can help drive gross emissions reductions. But it can only do this effectively with the removal of (or significant constraints on the generation, accounting of, or access to) forestry units, and a clear and stable commitment to a 1.5°C-aligned glide path.

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<sup>71</sup> Climate Change Commission 2023 Draft Advice, at 126.

<sup>72</sup> Climate Change Commission 2023 Draft Advice, at 129.

<sup>73</sup> Discussion Document, at 74.

4.58 The Government’s December 2022 decision on unit limits and price control settings were at odds with expectations set in the first Emissions Reduction Plan that the NZ ETS would deliver gross emissions reductions<sup>74</sup>. Procedural flaws that underpinned this decision were successfully challenged by LCANZI, but the impacts on market confidence and associated delays on investment decisions, have hindered progress in the interim. It is critical that these levers are deployed in support of a 1.5°C-aligned target, not selectively with unintended (but foreseeable) consequences.

4.59 The justification for, and current industrial free allocation settings, should also be revisited, which the Climate Change Commission states are disproportionate to the risk of emissions leakage<sup>75</sup> and “inconsistent with the NZ ETS incentivising net zero long lived gases emissions by 2050.”<sup>76</sup>

*Demand for removals: The Government will need to purchase removals to meet our NDCs (variation of Option 2)*

4.60 In addition to Options 4 and 1, we further agree that demand for removals will need to be assured to ensure there is sufficient and sustained support for investment in high quality removals. Such demand could derive from:

- (a) Meeting our nationally determined contributions by prioritising domestic mitigation, including long-term carbon sinks;
- (b) The Government’s Carbon Neutral Government Programme; and
- (c) The development of a domestic voluntary carbon market.

4.61 If carefully incentivised in accordance with international best practice for environmental integrity (which would favour indigenous reforestation), we expect there could also be international demand for premium New Zealand removals for long-term drawdown of emissions overshoot (i.e. not as an “offset” to international fossil fuel emissions). The “carbon removals strategy” should be designed with this possibility in mind.

4.62 As a transitional measure in support of Option 4, emitter access to forestry removals in the ETS could be increasingly restricted and ultimately phased out (Option 3) to allow for a smoother transition from the status quo. This would, however, need to be carefully calibrated so as not to frustrate the purpose and effect of moving to a separate incentives model.

*Co-benefits: Differentiating incentives according to quality of removals (variation of Option 3)*

4.63 Option 3 canvasses the idea of discounting or awarding fewer forestry units if forestry removals remained in the NZ ETS. There would need to be a clear rationale and

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<sup>74</sup> Climate Change Commission 2023 Draft Advice, at 56.

<sup>75</sup> Climate Change Commission 2023 Draft Advice, at 9, 69.

<sup>76</sup> Climate Change Commission 2023 Draft Advice, at 68.

methodology for this approach informed by, and differentiated according to, considerations of equivalence, permanence (or durability) and co-benefits.

- 4.64 Restrictions on the proportion of forestry units emitters can surrender could be feasible at low levels without corrupting the emissions cap. But this would require additional support for forestry removals outside the NZ ETS, with the risk of differential pricing (and associated inequities) and complexities of multiple systems.
- 4.65 However, Option 3 introduces the concept of changing the incentives for removals. A variation or more nuanced version of this approach, which is considered in Chapter 7, is to differentiate incentives for removals according to a suite of desired outcomes in addition to sequestration, including broader ecological co-benefits. We fully support this approach.
- 4.66 We disagree, however, with the Discussion Document’s reductionist concern that “prioritising removals with co-benefits may not be the most cost-effective way to reduce net emissions” and to this end invites feedback on “the extent to which ... co-benefits should be prioritised over emissions.” The first Emissions Reduction Plan was clear that the Government would prioritise nature-based solutions to address the climate and biodiversity crises together and, in support of this, would “investigate how to best ensure that a biodiversity lens is applied to climate change policy development and planning.”<sup>77</sup> It is critical, therefore, that the pursuit of broader ecological benefits and climate resilience are not traded off against enduring sequestration. Both must be achieved.

## **5 Transitional considerations**

- 5.1 The effectiveness of the NZ ETS relies on clear direction from Government on long term goals and objectives, and commitment to a policy framework to deliver these. To restore a degree of certainty and therefore market confidence, we encourage Government to communicate some ‘in-principle’ decisions regarding the direction of ETS reforms as soon as possible, and consider whether the deployment of transitional measures to ensure incentives and decision-making in the interim supports the direction of change. This means ensuring strong incentives in the short term both for gross emissions reductions and for investment in long-term native reforestation, while policies are finalised and legislation updated.
- 5.2 The Discussion Document acknowledges the cumulative effect of delays in terms of costs (to change and increased climate risks/adaptation) and effects. Policy design and implementation need to be commensurate with the climate emergency we have declared and that is in evidence worldwide. The next 18-24 months cannot be a period of further delay and market uncertainty, especially given long lead times for forestry investment decisions and their realisation in terms of sequestration and co-benefits.

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<sup>77</sup> First Emissions Reduction Plan, at 89. This is also consistent with *Te Mana o te Taiao* and targets under the Kunming-Montreal Global Biodiversity Framework, which Aotearoa New Zealand has adopted as a party to the Convention on Biological Diversity.



- 5.3 It is unclear what the impacts of recent market uncertainty have been in terms of delayed action on emissions and investment in forestry, and reform decisions will need to adequately account and correct for these.
- 5.4 We agree that the stockpile may also limit or delay the effectiveness of reforms options.<sup>78</sup> This too will need to be adequately accounted and compensated for.
- 5.5 *Te Tiriti* implications and the extent, and therefore effect, of grandparenting (for units already issued or for forests already registered in the ETS) for existing investors (whether Māori or not) will also need to be clearly understood as this will determine the effectiveness of any reforms to drive gross emissions reductions and the establishment of optimal long-term carbon sinks, and the timeframes within which its successfulness will be realised.
- 5.6 The perceived fairness of a policy outcome that creates separate incentives for gross reductions and forestry will depend on the implementation, in respect of which there is insufficient detail to comment. However, it is unreasonable and impractical to expect the NZ ETS to solve everything and its integrity should not be unduly complicated by shoe-horning in issues that are better addressed outside the scheme's design parameters.
- 5.7 There are viable pathways outside the NZ ETS to resolve or mitigate concerns in relation to preserving or improving land productivity, including through separate compensation where appropriate, together with opportunities to make indigenous reforestation and restoration comparably attractive (*vis-à-vis* exotic afforestation) (including by way of biodiversity payments, and Jobs for Nature support).

## **6 Concluding remarks**

- 6.1 Reform of the NZ ETS is critical and urgent.
- 6.2 Its redesign must prioritise gross emissions reductions as well as supporting indigenous reforestation and restoration for durable, long term, nature-positive carbon sequestration and storage. This necessitates separating the incentives for each, with both being independently compelling.
- 6.3 A concerted effort and innovative approaches to strengthen the incentives for permanent indigenous reforestation is needed but is possible through:
- (a) Increased demand under the Government's carbon neutral programme and to meet Aotearoa New Zealand's domestic and international<sup>79</sup> targets;
  - (b) The qualitative differentiation of forestry removals (with regard to environmental integrity and co-benefits);
  - (c) Restricting the permanent forest category to indigenous forests;

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<sup>78</sup> Discussion Document, at 19.

<sup>79</sup> Which assumes that the cost of incentivising domestic abatement will be cheaper than purchasing offshore units: Climate Change Commission's 2023 Draft Advice, at 54.

- (d) The formalisation of a voluntary carbon market;
- (e) Anticipated international demand for premium offsets;
- (f) Increased auction revenue; and
- (g) Introducing a credible biodiversity credit scheme.

6.4 Importantly, reform of the NZ ETS should not be constrained by a lack of legislative ambition (and, seemingly, obligation) to align our domestic targets (and policies to meet them), with a 1.5°C-compatible future, nor the failure of our domestic efforts and international commitments to properly reflect our “fair share”.

6.5 Preserving (or indeed restoring) our reputational credibility, fulfilling our duties to protect future generations, and taking actions commensurate with the existential threat and global emergency that climate change presents behoves us to do much more, urgently.

6.6 We look forward to engaging further to ensure that the reform options pursued will see to it that we do.