



COVERSHEET

Minister	Hon Dr Megan Woods	Portfolio	Energy and Resources
Title of Cabinet paper	Sustainable Biofuels Mandate: final policy design	Date to be published	15 December 2021

List of documents that have been proactively released

Date	Title	Author
October 2021	Sustainable Biofuels Mandate: final policy design	Office of the Minister of Energy and Resources
28 October 2021	Sustainable biofuels mandate: final policy design ENV-21-MIN-0058 Minute	Cabinet Office
August 2021	Regulatory Impact Statement: Sustainable biofuels mandate: final policy design	MBIE

Information redacted

YES / NO

Any information redacted in this document is redacted in accordance with MBIE'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.

Some information has been withheld for the reason of free and frank opinions.



Cabinet Environment, Energy and Climate Committee

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.

Sustainable Biofuels Mandate: Final Policy Design

Portfolios **Energy and Resources / Transport**

On 28 October 2021, the Cabinet Environment, Energy and Climate Committee:

Background

1 **noted** that in April 2021, the Cabinet Business Committee:

1.1 agreed to the release of a consultation document *Increasing the Use of Biofuels in Transport: Consultation Paper on the Sustainable Biofuels Mandate* which sought feedback on the preferred design of the Sustainable Biofuels Mandate;

1.2 invited the Minister of Energy and Resources and the Minister of Transport to report back on the outcome of the consultation;

[CBC-21-MIN-0046]

Greenhouse gas emissions reduction mandate for all liquid transport fuels

2 **agreed** to proceed with a sustainable biofuels mandate based on greenhouse gas (GHG) emissions reductions, which would require obligated fuel suppliers to reduce the total GHG emissions of the fuels they sell by a set percentage each year through the supply of biofuels;

3 **agreed** that the mandate apply to all liquid fossil fuel for transport produced in New Zealand or imported into New Zealand;

4 **agreed** that fuel suppliers should have flexibility to deploy any type of biofuels in any location in New Zealand, as long as they meet the sustainability criteria;

A separate mandate for aviation

5 **noted** that the Ministry of Business, Innovation and Employment is collaborating with Air New Zealand on a feasibility study on the potential for domestic production of sustainable aviation fuel;

6 **invited** the Minister of Energy and Resources and the Minister of Transport to report back on the proposed settings of the sustainable aviation fuel (SAF)-specific mandate by December 2022, once the findings of Air New Zealand's SAF feasibility study are available;

- 7 **noted** that the Climate Change Commission is due to consider whether international aviation and marine emissions should be included in New Zealand's emission budgets by 2024;
- 8 **agreed** that once the Climate Change Commission has completed this, the mandate will be reviewed to decide whether to include international aviation and marine emissions;

A single mandate target for road-based transport

- 9 **agreed** that there should be a single mandate target for fossil petrol and diesel for road-based transport;

Ensuring that only sustainable biofuels are used to fulfil the mandate

- 10 **agreed** that the bill will provide for high-level sustainability criteria including:
- 10.1 biodiversity: feedstocks should not have a significant adverse effect on biodiversity;
 - 10.2 impact on carbon stocks: feedstocks should not lead to deforestation of native forests, canopy forests or the destruction of wetlands or peatland to plant biofuel crops. The impact of biofuel crops on soil carbon should also be considered;
 - 10.3 food and feed security: feedstocks should not adversely impact food and feed security;
 - 10.4 water quality and availability: biofuels crops should not negatively affect water quality or significantly restrict its availability in an area;
 - 10.5 the risk of indirect land use change: feedstocks should not be associated with a high risk of indirect land use change;
 - 10.6 use of waste: it will be important that the mandate supports the principles of the waste hierarchy;
- 11 **invited** the Minister of Energy and Resources and the Minister of Transport, in consultation with the Minister of Agriculture, to report back to the Cabinet Environment, Energy and Climate Committee (ENV) in December 2021 on the preferred option for addressing the risk of indirect land use change;
- 12 **agreed** that the detailed methodologies for determining whether a biofuel meets the sustainability criteria will be included in the regulations;
- 13 **agreed** that obligated parties must use international sustainability certification schemes to certify that feedstocks and biofuels meet the sustainability criteria and to evaluate the life cycle emissions of biofuels;
- 14 **agreed** that the sustainability certification scheme or schemes to be used will be prescribed in regulations;

Mandate targets and pathway

- 15 **agreed** that the mandate should come into effect from 1 April 2023;
- 16 **noted** that for the mandate to come into effect from 1 April 2023, the bill would need an extremely high priority on the Legislation Programme, and any delay would make it difficult to achieve this;

17 **agreed** that the targets for the years 2023-2025 will be set out in the regulations at the levels below:

Year	Target percentage
2023	1.2
2024	2.4
2025	3.5

18 **agreed** that the provisional targets for the years 2026-2035 will be set out in regulations at the levels below:

Year	Target percentage
2026	3.8
2027	4.1
2028	4.4
2029	4.7
2030	5.0
2031	5.8
2032	6.6
2033	7.4
2034	8.2
2035	9.0

19 **agreed** that the provisional targets for 2026-2030 will be confirmed by Cabinet in 2024 and the provisional targets for 2031-2035 in 2029, based on the recommendation of the Minister for Energy and Resources;

20 **agreed** that in making this recommendation, the Minister of Energy and Resources must carry out an assessment of relevant considerations, likely including whether:

- 20.1 they are consistent with the scale of emission reductions needed from transport to achieve the emissions budgets for 2026–30 and 2031–2035 and to reach net-zero carbon emissions by 2050;
- 20.2 they help to facilitate the supply of advanced biofuels into the New Zealand market and support domestic production;
- 20.3 New Zealand can be confident that the volume of biofuels needed to meet the targets can be sourced without the sustainability criteria being breached;
- 20.4 the target’s trajectory allows fuel suppliers and domestic biofuel producers a reasonable period of time in which to have the requisite biofuels infrastructure in place;

- 20.5 any resultant increase in fuel prices as a result of the targets can be absorbed by the economy without undue detriment to economic activity, and measures are in place to address any distributional impacts arising from fuel price rises;
- 20.6 the targets recognise the limits of New Zealand's light and heavy road fleets in the use of conventional biofuels, taking into account the blend walls;

Who is obligated under the mandate

- 21 **agreed** that the obligated parties under the mandate will be any entity that imports into New Zealand or produces liquid fossil fuels for transport;

Calculation of the obligation under the mandate

- 22 **agreed** that the regulations may prescribe further detail about how the required emission reduction target must be calculated;
- 23 **agreed** that the greenhouse gas (GHG) emissions of each biofuel must be obtained from a life cycle assessment which covers each part of the production and supply chain (from raw material to end product);
- 24 **agreed** that the regulations will prescribe a detailed methodology for the life cycle assessment of GHG emissions factors of biofuels;
- 25 **agreed** that the regulations will prescribe a standard GHG emissions factor for each fossil fuel;

Flexibility mechanisms

- 26 **agreed** that obligated parties will be able to:
 - 26.1 partially or fully defer their obligation for the first two years of the mandate with permission from the Minister of Energy and Resources;
 - 26.2 bank excess credits into the next year;
 - 26.3 borrow up to 10 percent of the required emission reduction credits from the next year, as long as they are repaid in the next year;
 - 26.4 trade credits between each other, to meet their obligation under the mandate;
- 27 **agreed** that the Minister of Energy and Resources, in deciding whether to allow an obligated party to defer, will apply a test set out in the primary legislation;
- 28 **agreed** that if obligated parties defer their emissions reductions, an emissions penalty of 0.1 percent would be applied for each year that the deferral is taken up;

Implementation of the mandate

- 29 **agreed** that the Environmental Protection Authority (EPA), as the regulator, will:
 - 29.1 verify that biofuels supplied under the mandate comply with the sustainability criteria;

- 29.2 verify that obligated parties are meeting the GHG emission reduction targets, and administering the flexibility mechanisms described below;
 - 29.3 carry out compliance and enforcement;
 - 29.4 require obligated parties to produce documents and information relevant to its functions as regulator;
- 30 **agreed** that obligated parties must submit annual reports which have been subject to independent assurance as to accuracy to the EPA within three months after the end of each calendar year i.e. by 31 March each year;
- 31 **agreed** that the EPA will publish a summary of the obligated parties' performance in meeting the target emissions reduction;
- 32 **noted** that there is a tagged contingency in Vote Business, Science and Innovation for the implementation of the sustainable biofuels mandate;
- 33 **invited** the Minister of Energy and Resources to report back to ENV on the final amount of the funding for the administration of the biofuels mandate in 2022;

Compliance and enforcement

- 34 **agreed** that for an obligated party who does not comply with the mandate, the primary legislation will provide for the EPA to apply to the High Court to apply a maximum pecuniary penalty of:
- 34.1 up to \$300 per tonne of carbon dioxide equivalent emissions in the first year of the mandate; or
 - 34.2 up to \$800 per tonne of carbon dioxide equivalent emissions in subsequent years;
- 35 **agreed** that providing information to satisfy compliance with any aspect of the mandate that was knowingly false or incomplete is an offence and could attract fines:
- 35.1 for an individual, a fine not exceeding \$100,000 for a person;
 - 35.2 for an organisation, a fine not exceeding \$500,000;

Legislative implications

- 36 **noted** that the mandate will be given effect through:
- 36.1 a sustainable biofuels mandate bill;
 - 36.2 sustainable biofuels mandate regulations;
- 37 **invited** the Minister of Energy and Resources and the Minister of Transport to issue drafting instructions to the Parliamentary Counsel Office to give effect to the recommendations relating to the sustainable biofuels mandate bill;

- 38 **agreed** that the Minister of Energy and Resources and the Minister of Transport are authorised to further clarify and develop policy matters relating to the proposals in the paper attached under ENV-21-SUB-0058 in a manner not inconsistent with the policy recommendations contained in the paper.

Vivien Meek
Committee Secretary

Present:

Hon Grant Robertson (part item)
Hon Dr Megan Woods
Hon David Parker (Chair)
Hon Damien O'Connor
Hon Willie Jackson
Hon Stuart Nash
Hon Michael Wood
Hon Kiri Allan
Rino Tirikatene, MP

Officials present from:

Office of the Prime Minister
Officials Committee for ENV