

## How to submit this form

### Submission form: Consultation on the Sustainable Biofuels Obligation

The Ministry of Business, Innovation and Employment (MBIE) and the Ministry of Transport (MoT) would like your feedback on the proposals for regulation to enact the Sustainable Biofuels Obligation. Please provide your feedback by **5pm, 1 July 2022**.

When completing this submission form, please provide comments and supporting explanations for your reasoning where relevant. Your feedback provides valuable information and informs decisions about the proposals.

We appreciate your time and effort taken to respond to this consultation.

### Instructions

#### To make a submission you will need to:

1. Fill out your name, email address, phone number and organisation. If you are representing an organisation, please provide a brief description of your organisation and its aims, and ensure you have the authority to represent its views.
2. Fill out your responses to the discussion document questions. You can answer any or all of these questions in the [discussion document](#). Where possible, please provide us with evidence to support your views. Examples can include references to independent research or facts and figures.
3. If your submission has any confidential information:
  - i. Please state this in the email accompanying your submission, and set out clearly which parts you consider should be withheld and the grounds under the Official Information Act 1982 (Official Information Act) that you believe apply. MBIE and MoT will take such declarations into account and will consult with submitters when responding to requests under the Official Information Act.
  - ii. Indicate this on the front of your submission (e.g. the first page header may state “In Confidence”). Any confidential information should be clearly marked within the text of your submission (preferably as Microsoft Word comments).
  - iii. Note that submissions are subject to the Official Information Act and may, therefore, be released in part or full. The Privacy Act 1993 also applies.

## How to submit this form

### 4. Submit your feedback:

- i. As a Microsoft Word document by email to [energymarkets@mbie.govt.nz](mailto:energymarkets@mbie.govt.nz) with the subject line: *Consultation: Sustainable Biofuels Obligation*
- ii. By mailing your submission to:

Consultation: Sustainable Biofuels Obligation  
Energy Markets Policy  
Building, Resources and Markets  
Ministry of Business, Innovation and Employment  
PO Box 1473, Wellington 6140  
New Zealand

## Submitter information

### Submitter information

MBIE and MoT would appreciate if you would provide some information about yourself. If you choose to provide information in the section below, it will be used to help MBIE and MoT understand how different sectors view the Sustainable Biofuels Mandate proposal. Any information you provide will be stored securely.

#### Your name, email address, phone number and organisation

Name: Alejandro Cifuentes

Email address:

Withheld under section 9(2)(a)

Phone number:

Organisation: Waikato Regional Council

- The Privacy Act 1993 applies to submissions. Please tick the box if you do **not** wish your name or other personal information to be included in any information about submissions that MBIE and MoT may publish.
- MBIE and MoT may upload submissions and potentially a summary of submissions to the website(s), [www.mbie.govt.nz](http://www.mbie.govt.nz) and/or [www.transport.govt.nz](http://www.transport.govt.nz). If you do **not** want your submission or a summary of your submission to be placed on either of these websites, please tick the box and type an explanation below:

N/A

#### Please check if your submission contains confidential information

- I would like my submission (or identifiable parts of my submission) to be kept confidential, and **have stated** my reasons and ground under section 9 of the Official Information Act that I believe apply, for consideration by MBIE and MoT.

## Sustainable Biofuels Mandate

## Calculating the Obligation

*Determining intensity of fossil fuels*

1. Do you agree with the proposal to allow the use of default values from the similar to the European Union's Renewable Energy Directive or actual values verified under sustainability schemes?

Yes       Yes, with changes       No       Not sure/No preference

Please explain your views.

We agree with using RED-II, as it is efficient from a policy standpoint. Major biofuel providers will already be locked on to the standard. Having a bespoke verification scheme might make it harder to get producers to cater for specific needs of a market the size of Aotearoa New Zealand.

2. Apart from transport and distribution emissions, should we allow actual values that have been verified under the European Union's Renewable Energy Directive or the California Low Carbon Fuels Standard to be used? If not, why?

Yes, I agree       I agree in part       No, I don't agree       Not sure/no preference

Please explain your views.

Actual values verified under the RED-II should be used for all parts of the biofuels production that happened overseas, and for biofuels imported to be blended here in NZ. It is practical to accept values that EU and California have determined for that production process. However, we note that if production occurs within NZ, the methodology should be able to be optimised/converted to the NZ context.

3. Do you see value in developing a New Zealand-specific and inhouse GHG emissions model, similar to the GREET model? If not, who should pay for the model's development and upgrading? If not, why?

Yes, I do       I do in part       No, I don't see value       Not sure/no preference

Please explain your views.

Yes, but only for biofuels produced in New Zealand. To start with, it'd be easier to adapt the EU methodology until we find a suitable model.

It is more efficient to use international methodologies until the volume of imports is less than internal production. We suggest using the volume of import for biofuels and feeds as a trigger to analyse a need for local methodology.

A possible issue with a NZ-specific model might be if food exports end up being processed for biofuels overseas.

4. Do you agree with the proposal to use a default emissions factor that would apply to all fossil fuels? If not, why?

Yes, I agree       I agree in part       No, I don't agree       Not sure/no preference

## Sustainable Biofuels Mandate

Is there anything you would like to tell us about the reason(s) for your choice?

Agree, but monitoring should be in place to identify if a different approach is appropriate. At the moment the government is aiming for behaviour change, so there's a benefit on preferring the simplicity of applying the default emissions factor to all fossil fuels.

We note that simplicity might also be preferred as it is expected that there will be more EVs or less emission-intensive hybrid technologies in the future. There are examples of companies already investing to move in this direction: [Truck firm to trial move to hydrogen | Otago Daily Times Online News \(odt.co.nz\)](#)

A possible risk of applying the default emissions factor to all fossil fuels is that it might not capture where transport moves to more emission intensive types of fuel (regardless of the reason) within the 5-year review timeframe.

We also note that the factor that is applied should be recalculated on a periodic basis. The current 5-year period might provide enough time to observe change, however, the regulations need to provide flexibility to adjust for changes that might negatively affect the calculations within the 5-year review timeframe. This could reduce the risk of people gaming the system and provides a review opportunity to shed more light on possible benefits of using a different mode to calculate the emissions intensity factor, like assessing volumes.

5. Should we only allow biofuels that deliver a greater than 50 per cent emissions reduction, compared to fossil fuels, to be eligible for meeting the Obligation? If not, why?

Yes, I agree       I agree in part       No, I don't agree       Not sure/no preference

Is there anything you would like to tell us about the reason(s) for your choice?

We suggest this needs further investigation. The consultation document does not provide information on the emission reduction rate for most biofuels available.

Although we assume the 50% threshold is related to the use of the RED-II, we did not see any information to support the 50% emissions reduction bar for the NZ context.

We suggest that the regulation should introduce a target within a practicable timeframe to begin with. Since one of the aims of the obligation is behaviour change, we consider that an arbitrary threshold could limit actual reductions. For example, the chance to switch everything from fossil fuels to some biofuel that resulted in a 49% reduction in emissions cheaply. Such fuels could make a significant difference but wouldn't be eligible for meeting the obligation. Instead, we recommend allowing biofuels with a lower percentage, but have a phased requirement for emission reductions – ratcheting up over time.

### Sustainability Criteria

6. Do you agree with the way that we propose to assess compliance with the sustainability criteria in legislation?

Yes, I agree       I agree in part       No, I don't agree       Not sure/no preference

Is there anything you would like to tell us about the reason(s) for your choice?

## Sustainable Biofuels Mandate

We support the approach to assess the sustainability criteria; it is a good idea to use an international certification scheme. However, for biofuels produced in NZ, the international standard/system should provide a sufficient degree of flexibility if there are significant differences. Further, the proposed approach is good for NZ competitiveness; firms can go on the international market, as there is confidence in their robustness, transparency and integrity.

However, we note the consultation does not clearly state which legislation will contain the sustainability criteria and how this is expected to affect other statutes.

7. Are there any international sustainability certification schemes that you think should be included?

Yes, I agree       I agree in part       No, I don't agree       Not sure/no preference

Is there anything you would like to tell us about the reason(s) for your choice?

No comment

#### *Indirect Land Use Change*

8. Do you agree with our assessment that indirect land use change emissions should not be included in the lifecycle GHG emissions analysis, due to the inherent uncertainty in the economic modelling that would be required to do this?

Yes, I agree       I agree in part       No, I don't agree       Not sure/no preference

Is there anything you would like to tell us about the reason(s) for your choice?

Although we agree with simplifying the approach to facilitate compliance and behaviour change, we do not agree that complexity is enough to entirely exclude ILUC. Carrying out an assessment of emissions from ILUC can help quantify the benefits of retaining specific land uses. Different land uses DO produce different emissions, for example, some farming activities might produce higher emissions than food crops used for biofuels.

Further, we are satisfied that economic modelling needs to limit considering this potential source of emissions. We might not know exactly what the effect is, but that doesn't need to mean we exclude a potentially important effect altogether. We suggest an alternative could be to estimate some bounds and take a conservative interpretation of them.

9. What is your preferred option, or combination of options, for addressing the risk of indirect land use change caused by additional biofuels production?

**Option 1:** Set a cap on the maximum amount of food and feed-based biofuels, and ban feedstocks that have historically resulted in significant indirect land use change emissions

**Option 2:** Require all biofuels to have certification showing they are considered at "low risk" of causing indirect land use change.



## Sustainable Biofuels Mandate

Is there anything you would like to tell us about the reason(s) for your choice?

We consider these options are not mutually exclusive. Although we understand there is a degree of difficulty in measuring and estimating ILUC, we suggest that it might be easier to calculate for the NZ context. Therefore, we consider option 1 is most appropriate for biofuels and feed produced overseas.

Further, we suggest that option 1 be applicable to all imports, while option 2 is more suitable for biofuels and feed produced in NZ. Managing the risk of ILUC as part of the biofuel obligation could but be made a matter of national importance, to be addressed by each region under the National Planning Framework and operationalised through regional spatial strategies. This framework will be introduced in the legislation that will replace the RMA

Although we recognise option 2 could be applicable for biofuels feed produced in NZ, we note that some of the criteria may have to be adjusted for the NZ context. For example, the criterion of unused/degraded land; land not previously cultivated or not considered arable may still provide services to ecosystems and indigenous biodiversity. This could be solved by adapting the criteria to include considerations that give effect to the sustainability criteria agreed by cabinet.

10. Do you think these options will adequately address the risk of indirect land use change? If not, why and what alternatives would you suggest?

Yes, I agree       I agree in part       No, I don't agree       Not sure/no preference

Is there anything you would like to tell us about the reason(s) for your choice?

As mentioned in our previous response, both options can be used concurrently, depending on the jurisdiction where the biofuels/feed are produced. Option 1 will mitigate the risk, but management should be adaptive. The implementation of option 1 should be monitored to see if it has adequately managed the risk. This needs provisions that enable effective and adequate monitoring, enforcement and sanctions.

### *Biofuels and Food Security*

11. What is your preferred option, or combination of options, for addressing the risk of the biofuels obligation adversely impacting food security and why?

**Option 1:** Require all biofuels produced from food-based feedstocks to be certified against the Food Security Standard or an equivalent standard

**Option 2:** Rely on the options outlined to address indirect land use change (ILUC) to mitigate any indirect impacts on food security (discussed in section 3.3)

Is there anything you would like to tell us about the reason(s) for your choice?

Combine options 2 and 1. Certification and a cap and ban can be effective tools to mitigate the risks to food security if adequately monitored and enforced.

## Sustainable Biofuels Mandate

However, we note that perhaps this is not a big issue for NZ when we export the majority of the foods we produce. The way the market works would suggest that the country could easily meet its internal requirements.

We note however, that this does not address issues with access to food internally. Any regulations should make an effort to account for the impact on food prices that might further limit access (rather than availability). This is tied to the imperative of guaranteeing social justice and just transition. Social inequalities and disadvantaged communities need to be taken into account for any policies looking to transition our economy to a less emissions intensive one.

***Use of waste and Classification of feedstocks***

12. Do you agree with our proposed approach to require biofuels derived from any of the waste streams to be certified against the relevant ISCC EU standard or RSB standard? If not, why?

Yes, I agree       I agree in part       No, I don't agree       Not sure/no preference

Is there anything you would like to tell us about the reason(s) for your choice?

No further comment.

13. Do you agree with our proposed approach for allocating GHG emissions to products, co-products, residues and wastes according to Table 1, based on energy content? If not, why?

Yes, I agree       I agree in part       No, I don't agree       Not sure/no preference

Is there anything you would like to tell us about the reason(s) for your choice?

We support a differentiated approach. We highlight our agreement with the statement that "if feedstock collection points meet relevant ISCC or RSB standards, they can be considered to be compliant with the sustainability criterion."

14. Do you agree that feedstocks that are classified as agriculture, aquaculture, fisheries or forestry residues or co-products would need to meet the sustainability criteria? If not, why?

Yes, I agree       I agree in part       No, I don't agree       Not sure/no preference

Is there anything you would like to tell us about the reason(s) for your choice?

It is important to avoid negative outcomes. An example could be regenerative farming; the system should be able to reconcile compost as a way to put carbon back into soil vs compost being to be used as a fuel source.

15. Do you agree with our proposal to exclude or limit residues or co-products that may be excluded or limited under the other criteria (such as the ILUC options)? If not, why?

Yes, I agree       I agree in part       No, I don't agree       Not sure/no preference

Is there anything you would like to tell us about the reason(s) for your choice?

Yes, it is a consistent approach to manage the risk.



## Sustainable Biofuels Mandate

### Other considerations for the implementation of the Obligation

#### *Interactions with the Fuel Industry Act and other regulations*

16. Do you agree with the risks outlined above? If you do, do you agree with the proposed approach?

Yes, I agree       I agree in part       No, I don't agree       Not sure/no preference

Is there anything you would like to tell us about the reason(s) for your choice?

We support the approach in principle but consider that energy companies are better placed to comment on the specific risks on gate pricing and transparency.

We highlight the importance of allowing the system to collect the data that will help make a decision at a later point. Monitoring and adjusting the settings should be facilitated by the regulations as part of a feedback loop.