



## COVERSHEET

|                               |  |                             |                      |
|-------------------------------|--|-----------------------------|----------------------|
| <b>Minister</b>               | Hon Dr Megan Woods   | <b>Portfolio</b>            | Energy and Resources |
| <b>Title of Cabinet paper</b> | Sustainable Biofuels Obligation: Final Policy for Regulations<br><br>Sustainable Biofuels Obligation Bill: Approval for Introduction | <b>Date to be published</b> | 9 November 2022      |

### List of documents that have been proactively released

| <b>Date</b>     | <b>Title</b>  | <b>Author</b>                                  |
|-----------------|---|--|
| October 2022    | Sustainable Biofuels Obligation: Final Policy for Regulations                                 | Office of the Minister of Energy and Resources |
| 19 October 2022 | Sustainable Biofuels Obligation: Final Policy for Regulations<br><br>DEV-22-MIN-0241 Minute   | Cabinet Office                                 |
| October 2022    | Sustainable Biofuels Obligation Bill: Approval for Introduction                               | Office of the Minister of Energy and Resources |
| 19 October 2022 | Sustainable Biofuels Obligation Bill: Approval for Introduction<br><br>DEV-22-MIN-0242 Minute | Cabinet Office                                 |

### Information redacted

**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.



# Cabinet Economic Development Committee

## Minute of Decision

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### Sustainable Biofuels Obligation: Final Policy for Regulations

**Portfolios**                      **Energy and Resources / Transport**

On 19 October 2022, the Cabinet Economic Development Committee (DEV):

#### Background

- 1        **noted** that on 23 May 2022, Cabinet agreed to the release of a discussion document on the policy for regulations required to implement the Sustainable Biofuel Obligation [CAB-22-MIN-0185];
- 2        **noted** that the Ministry of Business, Innovation and Employment and Te Manatū Waka received 25 submissions;

#### Calculating the Obligation

- 3        **agreed** that the Sustainable Biofuel Obligation regulations will provide that:
  - 3.1      the analysis of life-cycle emissions intensity for biofuels will follow the methodology set out in Annex V of the European Union (EU) Renewable Energy Directive II (RED II);
  - 3.2      the lifecycle emissions intensity factors for biofuels will contain:
    - 3.2.1    the feedstock production and cultivation emissions;
    - 3.2.2    the processing and refining emissions;
    - 3.2.3    transportation and distribution emissions;
    - 3.2.4    emissions from combustion;
  - 3.3      each component of the lifecycle emissions intensity factors for biofuels will be obtained from either:
    - 3.3.1    the disaggregated default values from the EU RED II Annex IV; or
    - 3.3.2    actual values calculated according to the methodology in Annex V of the EU RED II that are verified by an approved sustainability scheme, which includes an audit of elements of the supply chain where required as determined by the sustainability scheme or its certification bodies;

- 3.4 a single lifecycle emissions intensity factor for all fossil fuels of 94g CO<sub>2</sub>eq/MJ;
- 3.5 the energy content of type of liquid fuel in the obligation (the energy content values will mirror the values contained in Annex III of the EU RED II);
- 3.6 an exemption from the Obligation for fuel used for non-transport purposes, including for machinery in agriculture, forestry and industry;

### Determining the sustainability of biofuels

- 4 **agreed** that the Sustainable Biofuel Obligation regulations will provide for:
  - 4.1 feedstocks or biofuels to be certified under approved sustainability certification schemes;
  - 4.2 the approved sustainability certification schemes will be:
    - 4.2.1 the International Sustainability and Carbon Certification (ISCC) ISCC-PLUS standard; or
    - 4.2.2 the Roundtable on Sustainable Biomaterials (RSB);
- 5 **agreed** that the regulations will allow for additional sustainability certification schemes or standards to be approved;
- 6 **noted** that the approved sustainability certification schemes may not be appropriate to apply to New Zealand's woody biomass resource – excluding that which is classified as a waste, residue, or by-product;
- 7 **invited** the Minister for Energy and Resources and the Minister of Forestry to report back to DEV by mid-2023 with options to ensure the sustainability of woody biomass as a feedstock;

### Addressing indirect land use change and risks to food security

- 8 **agreed** that the Sustainable Biofuel Obligation regulations will provide for:
  - 8.1 an absolute cap on the maximum amount of biofuels derived from food and animal feed sources, based on energy content and the ethanol blend-limit;
  - 8.2 exclusion of feedstocks that have historically resulted in significant emissions from indirect land use change which would exclude palm and soyabean;
  - 8.3 a methodology to define feedstocks that have a significant risk of creating indirect land use change;
- 9 **agreed** that officials from the Ministry of Business, Innovation and Employment should periodically review the measures to address indirect land use change and risks to food security;

### Wastes, residues and co-products

- 10 **noted** that only biological wastes, residues and co-products are eligible under the Sustainable Biofuel Obligation;

- 11 **agreed** that the Sustainable Biofuel Obligation regulations will provide for:
- 11.1 definitions for wastes, residues, processing residues, and co-products;
  - 11.2 genuine wastes and processing residues to be exempted from the requirement to be assessed against the sustainability criteria;
  - 11.3 the emissions for wastes, processing residues and residues from agriculture, aquaculture, fisheries or forestry before the point at which they are collected to be excluded from the life-cycle assessment;
  - 11.4 co-products to be allocated greenhouse gas emissions from the beginning of the supply chain in proportion to their share of the energy content of all products from the same supply chain;
  - 11.5 residues or co-products that are excluded or limited under paragraph 8 above relating to indirect land use change and food security to also be excluded or limited;

**The Obligation’s interaction with the Fuel Industry Act**

- 12 **agreed** that the Ministry of Business, Innovation and Employment should monitor how the Sustainable Biofuel Obligation interacts with the Fuel Industry Act 2020;

**Financial implications**

- 13 **noted** that on 20 May 2021, via Budget 2022 [CAB-21-MIN-0116.04], Cabinet:
- 13.1 agreed to funding for the implementation of a Sustainable Biofuel Obligations and to monitor and verify annual reports, subject to the review of the 2008 Biofuels Sales Obligation on its suitability as a measure to facilitate an increase in the supply and use of sustainable biofuels in transport;
  - 13.2 agreed to establish a tagged operating contingency associated with the Energy and Resources portfolio of up to the following amounts to provide for the regulation agency to implement the Sustainable Biofuel Obligation:

|  | \$m – increase/(decrease) |         |         |         |                    |
|--|---------------------------|---------|---------|---------|--------------------|
|  | 2020/21                   | 2021/22 | 2022/23 | 2023/24 | 2024/25 & Outyears |
| Implementing a Sustainable Biofuels Mandate – Tagged Operating Contingency | -                         | -       | 1.500   | 1.500   | 3.000              |

- 14 **noted** that the Minister of Finance on 7 November 2021 approved the extension to the expiry date of the above tagged contingency from 1 February 2022 to 30 June 2023, via 2021 October Baseline Update (ref 2122-0802);

15 **approved** the following changes to appropriations to provide for the costs described in paragraph 13 above, with a corresponding impact on the operating balance and net core crown debt:

| \$m – increase/(decrease)   |              |              |         |         |                       |
|---|--------------|--------------|---------|---------|-----------------------|
| Vote Environment<br>Minister for the<br>Environment   | 2022/23      | 2023/24      | 2024/25 | 2025/26 | 2026/27 &<br>Outyears |
| Non- Departmental Output Expenses: Environment Protection Authority functions (funded by crown revenue) | 1.500        | 1.500        | -       | -       | -                     |
| <b>Total Operating</b>  | <b>1.500</b> | <b>1.500</b> | -       | -       | -                     |
| <b>Total Capital</b>  | -            | -            | -       | -       | -                     |

16 **agreed** that the changes to appropriations for 2022/23 above be included in the 2022/23 Supplementary Estimates and that, in the interim, the increases be met from Imprest Supply;

17 **agreed** that the expenditure incurred above be charged against the Implementing a Sustainable Biofuels Mandate – Tagged Operating Contingency;

18 **agreed** to extend the expiry date of the ‘Implementing a Sustainable Biofuels Mandate’ tagged contingency from 30 June 2023 to 30 June 2024;

19 **noted** that, following the adjustment detailed above, the remaining balances and indicative phasing of the operating contingency will be:

|  | 2022/23 | 2023/24 | 2024/25 &<br>Outyears |
|--|---------|---------|-----------------------|
| Implementing a Sustainable Biofuels Mandate – Tagged Operating Contingency | -       | -       | 3.000                 |

20 **authorised** the Minister of Finance and the Minister for the Environment jointly to draw down the remaining tagged operating contingency funding referred to in paragraph 19 above;

**Legislative implications**

21 **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 paragraphs 3-11 above.

Janine Harvey  
Committee Secretary

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**Present: (see over)**

**Present:**

Hon Grant Robertson (Chair)  
Hon Dr Megan Woods  
Hon Nanaia Mahuta  
Hon Damien O'Connor  
Hon Stuart Nash  
Hon Michael Wood  
Hon Kiri Allan  
Hon Priyanca Radhakrishnan  
Hon Meka Whaitiri  
Hon Phil Twyford  
Hon Kieran McAnulty  
Rino Tirikatene, MP  
Dr Deborah Russell, MP

**Officials present from:**

Office of the Prime Minister  
Officials Committee for DEV