MINISTRY OF BUSINESS, INNOVATION & EMPLOYMENT
HĪKINA WHAKATUTUKI

COVERSHEET

Minister	Hon Dr Megan Woods	**Portfolio**	Energy and Resources
Title of Cabinet paper	Sustainable Biofuels Obligation: discussion document on proposed options for regulations	**Date to be published**	9 December 2022

List of documents that have been proactively released		
Date	**Title**	**Author**
May 2022	Sustainable Biofuels Obligation: discussion document on proposed options for regulations	Office of the Minister of Energy and Resources
23 May 2022	Sustainable Biofuels Obligation: release of discussion document on proposals for regulations CAB-22-MIN-0185 Minute	Cabinet Office

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 Confidential advice to Government.

In Confidence

Office of the Minister of Energy and Resources

Office of the Minister of Transport

Cabinet

Sustainable Biofuels Obligation: discussion document on proposed options for regulations

Proposal

1 This paper seeks agreement to publicly consult on the discussion document: *The Sustainable Biofuels Obligation*: *proposals for regulations*.

Relation to government priorities

2 The proposed Sustainable Biofuels Mandate, now referred to as the Sustainable Biofuels Obligation (the Obligation) will be one of the many actions taken in response to Parliament's declaration of a climate change emergency. It aligns with the Government's focus on intergenerational wellbeing as set out in the 2020 Speech from the Throne.

3 The Obligation will support the Government's commitment to transition to a clean, green and carbon-neutral New Zealand, as outlined in *Our Manifesto to Keep New Zealand Moving*. In particular, the Obligation will help to:

3.1 ensure a just transition to a zero carbon and climate-resilient economy and society, which also optimises economic development opportunities;

3.2 continue to support New Zealand's freight network to become more sustainable and efficient; and

3.3 as part of the COVID-19 economy recovery, reshape New Zealand's energy system to be more renewable, affordable and secure, while creating new jobs and developing the high-skill workforce our future economy requires to thrive.

Executive Summary

4 Cabinet agreed to the final policy design of the Obligation in October 2021, which is to come into effect on 1 April 2023. The Obligation requires importers or producers of liquid transport fossil fuels to reduce the greenhouse gas (GHG) emissions intensity of those fuels by a set percentage each year by supplying biofuels (in blended or in neat form).

5 The Obligation will require regulations on the ways to determine whether biofuels meet the sustainability criteria that Cabinet agreed to; the sustainability certification schemes to be used; a methodology for the

assessment of the life cycle fuel intensity of biofuels and fossil fuels and how obligated parties calculate whether they have met their obligation.

6 We are asking Cabinet to approve the release of a discussion document (attached as Appendix A) setting out proposed options for the regulations. This includes options for how to address the risk of indirect land use change (ILUC), which Cabinet invited us to do in October 2021.

7 After the consultation, we will report back to Cabinet with final proposals for the regulations in July 2022. We have requested a category 2 priority for the Sustainable Biofuels Obligation Bill (to be passed this year), and the Minister of Energy and Resources intends to introduce a Bill in July.

8 Biofuel production in New Zealand will not be subject to the same pressures faced seen in international environments and will be subject to our existing land-use controls. The proposals included in the discussion document would not impact New Zealand's major opportunities for domestic production. However, as a domestic biofuel market is established over the medium to long term, the sustainability criteria will need to be assessed to ensure alignment with domestic policy settings and that is appropriate for domestic biofuel production.

Background

9 On 1 November 2021, Cabinet agreed to the final policy design of the Sustainable Biofuels Mandate, now referred to as the Sustainable Biofuels Obligation [ENV-21-MIN-0058]. The Committee agreed the Obligation would come into effect from 1 April 2023.

10 The Obligation requires importers or producers of liquid transport fossil fuels to reduce the greenhouse gas emissions intensity of those fuels by a set percentage each year by supplying biofuels. Z Energy, Mobil, BP, Gull New Zealand and Tasman Fuels will be obligated parties when the Obligation comes into effect.

11 It applies to all liquid fossil fuel for transport produced in, or imported to, New Zealand, excluding aviation fuels (Cabinet agreed that this will be addressed by a separate Sustainable Aviation Fuel (SAF) obligation).

12 The required emissions percentages for the first three years are 1.2, 2.4 and 3.5 percent respectively. Provisional targets will be set for 2026 and beyond, increasing up to 9.0 percent by 2035. Cabinet has agreed high-level sustainability criteria to govern the eligibility of biofuels under the Obligation.

13 The Environmental Protection Authority will be the regulator of the Obligation.

14 Cabinet agreed that the Obligation would be reviewed after it has been in operation for two years, including whether it should be expanded to include other low-emission fuels.

15 The Obligation will require regulations to set out detailed matters. Cabinet also agreed in October 2021 that the regulations should cover:

15.1 a method to determine whether a biofuel meets the sustainability criteria;

15.2 the sustainability certification scheme or schemes that must be used to both certify whether biofuels meet the sustainability criteria, and to evaluate the life cycle emissions intensity of biofuels[1];

15.3 how the obligated parties must calculate whether they have met the required emission intensity reduction;

15.4 a methodology for the lifecycle assessment of GHG emissions factors of biofuels;

15.5 a standard lifecycle GHG emissions factor for liquid fossil fuels.

16 This paper sets out the proposals in the discussion document for each of these matters.

17 Cabinet also invited us, in consultation with the Minister of Agriculture, to report back on the preferred option for addressing the risk of indirect land use change (ILUC).

18 Land use change and its associated emissions is one of the major concerns about the credibility of the emissions mitigation potential of conventional biofuels, such as ethanol and basic biodiesel.

19 ILUC is the impact on other (non-observed) lands when demand for land to grow biofuel crops displaces demand for other goods. For example, if a farm producing food crops starts growing crops for biofuel, the demand for food crops is displaced elsewhere, which may result in land use change (and associated GHG emissions). The discussion document sets out options for addressing ILUC.

20 Biofuel production in New Zealand will not be subject to the same pressures faced seen in international environments and will be subject to our existing land-use controls. The proposals included in the discussion document would not impact the major opportunities for domestic production. However, as a domestic biofuel market is established over the medium to long term, the sustainability criteria will need to be assessed to ensure alignment with domestic policy settings and that is appropriate for domestic biofuel production.

[1] These life cycle emissions intensity factors will differ from the emissions factors set under the New Zealand Emissions Trading System (NZ ETS), which only includes domestic emissions from the production and combustion of fossil fuels.

Cost implications of the Obligation as agreed by Cabinet in October 2021

21 Biofuel blends are generally more expensive than their fossil fuel equivalents. The magnitude of the cost impact will depend on how and where in the transport sector fuel suppliers choose to deploy biofuels to meet the obligation. Fuel suppliers have flexibility in choosing how to do this.

22 Analysis by officials[2] suggests that the Obligation as agreed by Cabinet in October 2021 could increase:

22.1 average petrol-ethanol blend prices up to 5 cents per litre higher than their fossil fuel equivalents by 2025.

22.2 average diesel-biodiesel blend prices up to 10 cents per litre higher than their fossil fuel equivalents by 2025.

Proposals in the draft discussion document

Methodology for calculating the emissions intensity of biofuels

23 The draft discussion document sets out the proposed methodology to calculate the life cycle emissions intensity of each biofuel. There will be a diversity of possible input feedstocks, production processes, transport modes and distribution routes associated with an end biofuel product. Each supply chain component will have its own unique emissions profile. It is therefore critical these are accounted for to ensure credible emissions reductions.

24 To accommodate this, the discussion document proposes the lifecycle GHG emissions of biofuels are calculated as the sum of the disaggregated emissions of each biofuels supply chain component (see figure 1 below).

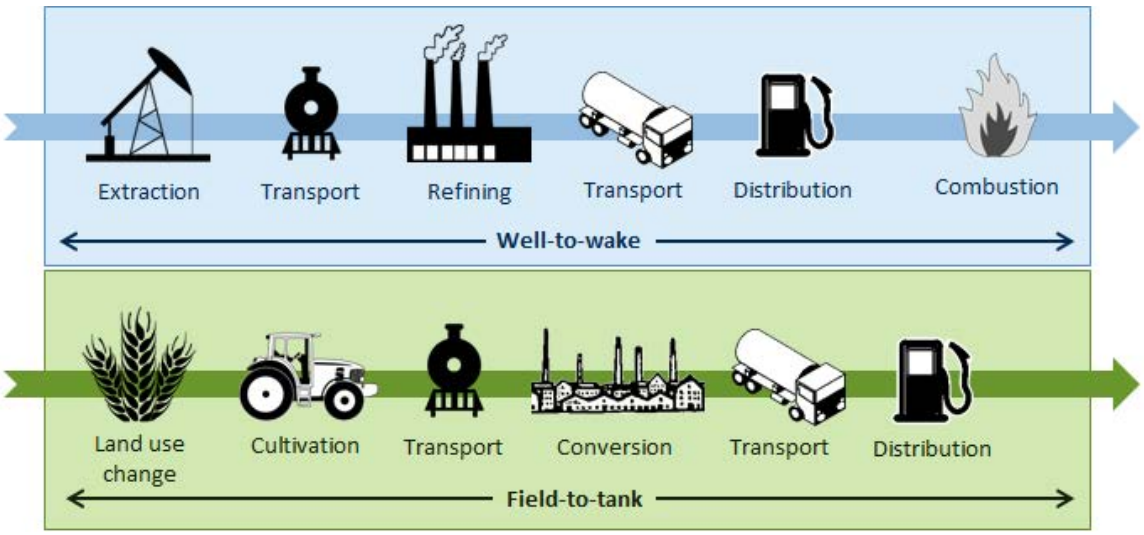

Figure 1: Lifecycle GHG emissions analysis diagram – Source: International Civil Aviation Organisation

[2] https://www.mbie.govt.nz/dmsdocument/18372-sustainable-biofuels-mandate-final-policy-design-regulatory-impact-statement-proactiverelease-pdf

25 This can be represented by the equation:

$$E = e_{ec} + e_i + e_p + e_{td} + e_u - e_{sca} - e_{ccs} - e_{ccr}$$

Where:

E = total emissions from the use of fuel

$\mathbf{e_{ec}}$ = emissions from the extraction or cultivation of raw materials

$\mathbf{e_i}$ = annualised emissions from carbon stock changes caused by land-use change.

$\mathbf{e_p}$ = emissions from processing

$\mathbf{e_{td}}$ = emissions from transport and distribution

$\mathbf{e_u}$ = emissions from the fuel's combustion

$\mathbf{e_{sca}}$ = emissions savings from soil carbon accumulation via improved agricultural management

$\mathbf{e_{ccs}}$ = emissions savings from CO_2 capture and geological storage

$\mathbf{e_{ccr}}$ = emissions savings from CO_2 capture and replacement

26 This methodology mirrors the approach taken under the European Union's Renewable Energy Directive (RED II). Using this methodology will ensure consistency of compliance by fuel suppliers and aligns with international best practice.

27 The draft discussion document also provides detail on the proposed methodology for determining the emissions of each supply chain component. These options are not mutually exclusive and include:

27.1 **default emissions intensity values**, otherwise known as default values. Fuel suppliers would calculate a biofuel's lifecycle GHG emissions using published disaggregated default values (DDVs) for the following supply chain components: raw material production and cultivation, processing units and refining, and transport and distribution of biofuels and input feedstocks. DDVs would be conservatively set to prevent overstating the emissions benefit of biofuels and discourage the use of actual values.

27.2 **individual emissions intensity values**, otherwise referred to as actual values, which would enable fuel suppliers to determine and use the actual emissions intensity of the biofuels they deploy to meet the obligation. These could be determined by fuel suppliers following a set methodology, with strict auditing and verification of the biofuel's production process and supply chain by sustainability certification schemes.

27.3 **developing an in-house GHG emissions model**, similar to the GREET[3] model used to calculate a fuel's carbon intensity under California's Low Carbon Fuel Standard. This would enable obligated parties to input the required information for each component of any given biofuel's supply chain to determine its actual emissions intensity value.

28 The discussion document proposes an option where obligated parties could use a mixture of actual values and DDVs to calculate the life cycle emissions intensity of any given biofuel.

29 Individual emissions intensity values offer greater certainty in determining and verifying the emissions reduction potential of the biofuel, thus increasing the incentive to use biofuels with higher emissions savings. By contrast, DDVs offer greater flexibility in the biofuel supply chains that obligated parties can use, as well as streamlined auditing and verification. However, they tend to be conservative values, meaning that some biofuels may have greater emissions savings than presented.

30 In developing these options, officials have looked to international best practice, while modifying them where appropriate to reflect the New Zealand context. We propose using DDVs from the EU's Renewable Energy Directive, except for transport and distribution which will need to be modified to reflect New Zealand's geography. Officials have commissioned external consultancy services to assist in the development of a New Zealand-specific transportation and distribution DDV.

31 We do not intend to pursue an in-house GHG emissions model in the first few years of the Obligation. An in-house model would allow the regulator more independence to adapt the methodology to reflect New Zealand's policy positions and domestic context. However, it is unlikely that officials would be able to develop a model by 1 April 2023. The work associated with developing, maintaining and auditing an in-house model is also likely to require significant ongoing resource.

32 We consider that there would be merit in revisiting these options should the Obligation be expanded to include other low-carbon fuels in future.

Determining the emissions intensity of fossil fuels

33 The draft discussion document contains a proposal to use a single default emissions intensity factor for all liquid fossil fuels when calculating the Obligation. We do not intend to include individual emissions intensity factors for each type or grade of liquid fossil fuel; if there were, obligated parties could reduce the biofuels they need to deploy to meet their obligation by changing the mix of liquid fossil fuels they supply.

[3] The Greenhouse gases, Regulated Emissions, and Energy use in Technologies Model, developed by Argonne National Laboratory in the United States

34 We do not propose using actual values for the emissions intensity of liquid fossil fuels. The purpose of the Obligation is to reduce GHG emissions through the deployment of biofuels, not to incentivise efficiency improvements in the liquid fossil fuels supply chain.

35 The default emissions intensity factor for all liquid fossil fuels will be derived from the average mix of liquid fossil fuels supplied in New Zealand. It will be based on a life cycle GHG emissions assessment. Officials will undertake further work to determine the actual value.

Assessing whether sustainability criteria have been met

36 Obligated fuel suppliers will meet the required GHG emissions reductions by deploying biofuels into some, or potentially all, of the liquid [transport] fuels they sell. They will have the flexibility to deploy any type of biofuels in any location in New Zealand, providing they meet sustainability criteria.

37 The draft discussion document sets out the proposed methodologies for determining whether a biofuel meets the following high-level sustainability criteria, which were agreed to by Cabinet in November 2021:

37.1 *biodiversity*: feedstocks should not have a significant adverse effect on biodiversity;

37.2 *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 overall impact of biofuel crops on carbon should also be considered, including short term impacts on soil carbon;

37.3 *food and feed security*: feedstocks should not adversely impact food and feed security;

37.4 *water quality and availability*: feedstocks should not negatively affect water quality or significantly restrict its availability in an area;

37.5 *the risk of indirect land use change*: feedstocks should not be associated with a high risk of ILUC; and

37.6 *use of waste*: feedstocks should be consistent with the principles of the waste hierarchy.

38 The draft discussion document proposes that feedstocks or biofuels certified under the International Sustainability and Carbon Certification (ISCC) and the Roundtable on Sustainable Biomaterials (RSB) can be considered to have met the Obligation's sustainability criteria on biodiversity, impact on carbon stocks and water quality and availability.

39 We intend to consult on additional options for assessing whether biofuels meet the criteria relating to ILUC, food security, and the use of waste feedstocks.

40 The ISCC and RSB are two of the largest international certification schemes applicable to all feedstocks internationally. Both schemes are derived from the EU's Renewable Energy Directive and are widely considered best practice.

How will biofuels sustainability certification work in practice?

41 The use of international sustainability schemes recognises that most of the feedstocks and biofuels used will be cultivated, collected, and produced overseas. However, the proposed methodologies aim to strike a balance between international and domestic sustainability considerations, recognising the potential for domestic biofuels production to increase over time.

42 Both the ISCC and the RSB standards require all legal requirements in the country of origin or processing to be met. This means that existing (and future) domestic regulations will apply to domestically produced biofuels and input feedstocks. In New Zealand this would include the Resource Management Act 1991 and the National Policy Statement on Freshwater Management.

43 The ISCC and RSB are supported by 'certifying bodies', which are independent third parties who assess biofuels and feedstock production facilities along the supply chain against the relevant sustainability criteria. Both the ISCC and RSB approve the certifying bodies which can certify their sustainability standards. Each may also audit its certifying bodies to ensure sufficient interpretation and application of its standards.

44 The feedstock or biofuel producer will pay the certifying body to certify its feedstock or biofuel production against the relevant ISCC or RSB scheme. To do this, the certifying body will visit the farm or production area and gather information about how the feedstock is produced. Once its feedstock or biofuel is approved, the producer is issued with a sustainability certificate from the ISCC or RSB.

Addressing the risk of indirect land use change

45 Strong concerns have been raised regarding the potentially large land requirements for biomass production associated with some types of biofuels, such as conventional biofuels like ethanol and biodiesel derived from crop feedstocks. This demand is often additional to land used to meet the increasing demand on food and feed markets because of a growing world population. The emissions from land use change have raised questions about the actual emissions mitigation potential of conventional biofuels. Internationally, ILUC emissions have been associated with the expansion of food and feed crops onto high carbon stock land because food and feed crops are being diverted to biofuels production.

46 A wide range of studies undertaken at a global level have shown that, when accounting for the likely impacts of ILUC emissions, some biofuels can create a net emissions increase compared to liquid fossil fuels. However, ILUC

emissions are very difficult to accurately measure, and we do not propose to include them in the life cycle emissions analysis.[4]

47 The draft discussion document seeks feedback on three non-mutually exclusive options designed to mitigate the risk of ILUC emissions under the Obligation. These will also mitigate the impact of the Obligation on food security, because they predominantly focus on crops which are also sources of food or feed.

Confidential advice to Government

47.2 *Set a cap on the maximum amount of food- and feed-based crops that could be used to meet the Obligation and ban feedstocks that have historically resulted in significant ILUC.* Setting a cap on the amount of food and feed-based biofuels would limit the risk of indirect land use change from any potential expansion of food and feed-based biofuels that could be driven by the Obligation. This option also encourages the use of food and feed-based biofuels that deliver the highest emissions reductions per unit of energy delivered. Limiting or preventing the use of feedstocks that carry the highest risk of creating significant ILUC emissions such as palm oil or soybean can help to mitigate the worst potential risks from ILUC.

47.3 *Requiring all biofuels to have certification showing they are considered "low risk" of causing indirect land use change.* Fuel suppliers would secure this certification through a low-ILUC risk module assessment conducted by their international sustainability certification scheme body. These modules classify a biofuel as "low-ILUC risk" if they are produced from feedstocks that fall into select categories that can prove feedstocks are produced from increased crop yields, or from unused or degraded land, or from waste or residues of existing supply chains.

48 While these options will mitigate the risk of ILUC emissions and increase the credibility of actual GHG emissions reductions, they will limit the pool of available biofuels that obligated parties can use to meet the Obligation. This is likely to increase the impact of the Obligation to consumers at the pump.

49 Options that ban or cap the use of food and feed-based biofuels will limit the amount of ethanol that can be used to meet the targets under the Obligation and restrict some of the lowest-cost biodiesel feedstocks. The proposed ILUC options are therefore expected to predominantly impact the cost of diesel

[4] The direct emissions and environmental impacts of land use change from biofuels production are captured under the lifecycle GHG emissions analysis and the other sustainability criteria.

blends, owing to an increase in biodiesel and renewable diesel deployment. Obligated parties may choose to spread their compliance costs, including those from increased biodiesel prices, across their mineral petrol and diesel sales.

Cost impacts of the proposed ILUC options in the discussion document

50 The options canvased in the draft discussion document for addressing ILUC may further increase the cost of the Obligation to obligated parties by reducing the pool of available biofuels. Obligated parties are expected to pass the costs onto consumers.

51 The average cost per litre impact of unblended biofuels required to meet the 2025 target of 3.5 per cent have been estimated (in comparison to liquid fossil fuels) based on the 2025 carbon price assumptions. These prices include the additional costs from the biofuels themselves, as well as the new infrastructure required to supply biofuel blends. As the NZ-ETS price increases, biofuels are expected to be increasingly cost competitive.

52 The price impact at the pump of these options will depend on the price of fossil fuels, the type of biofuels fuel suppliers choose to supply, and the level to which they are blended.

NZ-ETS price assumption	**Complete ban on food-based feedstocks**	**50% cap on the use of food-based biofuels, and high ILUC feedstocks are not eligible**	**No restrictions on eligible biofuels[5]**
85$/tCO2e	19 to 23 c/L	12 to 16 c/L	4 to 8 c/L
100$/tCO2e	13 to 17 c/L	6 to 10 c/L	-1 to -4 c/L
125$/tCO2e	4 to 8 c/L	-2 to 1 c/L	-7 to -11 c/L

53 We note that the cost per litre estimates are subject to a high degree of uncertainty. These estimates will depend on a wide range of factors, this includes future biofuels prices, the cost of new infrastructure, the future cost of liquid fossil fuels, demand for liquid fuels, and the NZ ETS price.

Food security and biofuels

54 The discussion document contains an option to help to mitigate the potential effects of the Obligation on food security.

55 Global food security faces challenges in the coming decades. At present, the war in Ukraine is creating significant shortages and uncertainty in global food

[5] Note this option could increase net GHG emissions in comparison to the baseline of only liquid fossil fuels.

markets, particularly wheat, maize and sunflower seeds and oil. It is important that any increased demand for biofuels to reduce GHG emissions does not heighten risks to food security. While the use of crops for biofuels can reduce the availability of food, it can also support local agricultural production if managed well.

56 The draft discussion document seeks feedback on two options:

56.1 *Require all biofuels produced from food-based feedstocks to be certified against the Food Security Standard, or an equivalent standard endorsed by the EPA.* Biofuel producers would need to undertake this assessment which can be incorporated into the sustainability certification schemes. A Food Security Standard would help mitigate the risk of reducing food security because of biofuels production, particularly at a local or regional level in food insecure regions. However, challenges remain in mitigating global food security risks and responding to emerging food crises in an effective or timely manner.

56.2 *Utilise the options for addressing ILUC to also address food security risks.* The food security implications of biofuels production are closely linked to land use change and the sustainability criterion on ILUC. The options in the discussion document to address ILUC would help to mitigate the risk that biofuels production could displace crops from food and feed markets. In particular, a sinking cap on food and feed-based biofuels would provide the most certainty that biofuel demand driven by the Obligation would not exacerbate food security concerns.

Waste

57 Cabinet agreed that feedstocks should be consistent with the principles of the waste hierarchy.

58 The waste hierarchy is a tool to explain the priorities for reducing, managing and utilising waste.

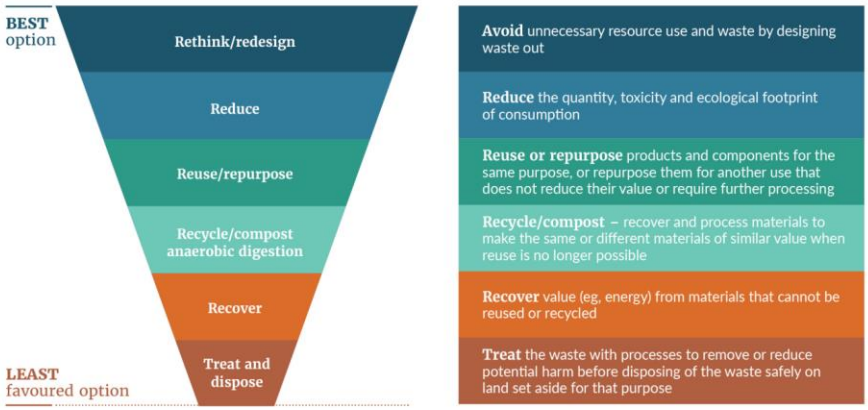

Figure 1 - the waste hierarchy

59 Recovering value (energy) from materials that cannot be reused or recycled is towards the bottom end of the hierarchy (i.e a less desirable option from a

waste management perspective). However, there is a valid case for waste or residues to be used in an energy capacity where they might otherwise have little economic value or would otherwise be landfilled with the possibility for GHG emissions leakage.

60 The draft discussion document contains a proposal for classifying feedstocks into wastes, residues and co-products. Classifying a feedstock is important because it has implications for how the biofuel will be treated in the life cycle analysis, whether 'upstream'[6] GHG emissions will be allocated to it and whether it must meet the sustainability criteria.

61 The proposed feedstock classifications have been derived from the EU's Renewable Energy Directive and are:

61.1 **Waste** will be considered as "any substance or object which the holder discards or intends or is required to discard". It will exclude substances that have been intentionally modified or contaminated to avoid incentives to deliberately generate waste and minimise the risk of fraud. Under the Obligation, only fuels derived from biological waste will be eligible. Because feedstocks classified as wastes would otherwise be discarded, we propose that they will be considered to have zero GHG emissions at the collection point and will not be required to meet the sustainability criteria.

61.2 **Residue** means "a substance that is not the end product that a production process directly seeks to produce; it is not a primary aim of the production process, and the process has not been deliberately modified to produce it". A processing residue is collected at the point of processing of another product. For example, the sugarcane industry produces large volumes of bagasse. Other residues are collected during harvesting operations in agriculture, aquaculture, forestry and fisheries. We propose that residues from agriculture, aquaculture, forestry and fisheries must meet the sustainability criteria, while processing residues do not.

61.3 **A co-product** is different from a residue, as it is one of multiple products which are the primary aim of the production process. In many cases a production process results in other materials not being the (single) primary aim of the process, but which are still of significant economic value for the producer. We propose that co-products will be allocated upstream emissions and will be required to meet the sustainability criteria.

62 Cabinet's October 2021 decisions on the final policy of the Obligation included a requirement for all biofuels to meet the sustainability criteria. We considered that there may be a case to exempt certain biofuels derived from wastes and residues from the sustainability criteria according to the definitions above. We

[6] Upstream emissions are GHG emissions are all emissions which occur before the raw material or feedstock enters a refinery or processing plant.

will consider the feedback received during consultation before making further recommendations to Cabinet on this matter.

Interaction with the Fuel Industry Act 2020

63 The draft discussion document will seek feedback on whether the Obligation's interaction with the Fuel Industry Act 2020 (the Fuel Industry Act) may impact its efficacy.

64 The purpose of the Fuel Industry Act is to promote greater competition in the wholesale and retail fuel markets through the introduction of a terminal gate pricing regime. Under the Fuel Industry Regulations 2021, any diesel and petrol containing more than one percent biofuel by volume is excluded from the terminal gate pricing requirements. The intent of this was to focus the terminal gate pricing regime on the fuels which new entrants to the market would need access to for a competitive offering.

65 A situation may arise where resellers request high volumes of fuel with less than one percent biofuel. This could make it difficult for fuel wholesalers to meet their mandated emissions reduction percentage under the Obligation, especially as targets increase over time. Over time, the terminal gate pricing regime might also become less effective at providing a transparent wholesale fuel price. However, it is unclear how significant this risk is; it will depend on the behaviour of resellers. We have heard anecdotally that only a few transactions have taken place under the terminal gate pricing regime.

66 We are looking for feedback on the magnitude of this risk, as well as two options for changes to the Fuel Industry Regulations 2021 that could help to mitigate the risks identified. Consultation feedback will help to inform whether any options for change need to be progressed.

Financial Implications

67 There are no financial implications from the proposals in this paper.

Legislative Implications

68 Regulations would be needed to implement the proposals in this paper.

69 A bill to implement the Obligation is being prepared by the Parliamentary Counsel Office. A priority of category two on the 2022 Legislation Programme (to be passed this year) has been requested. We intend to introduce the bill into the House in July 2022.

Impact Analysis

Regulatory Impact Statement

70 A Regulatory Impact Analysis (RIA) has not been prepared for this paper. A RIA will be prepared following consultation on the discussion document, when Cabinet considers the final regulatory proposals.

Climate Implications of Policy Assessment

71 A Climate Implications of Policy Assessment (CIPA) has not been prepared for this paper. A CIPA was prepared to support the final policy decisions on the design of the Obligation [ENV-21-MIN-0058 refer]. It showed the Obligation will have a substantial impact on emissions, resulting in a reduction of around 1.2 Mt CO2-e within the first emissions budget period (2022-2025), and around 9 to 10.6 Mt CO2-e within the first three emissions budget periods (2022-2035).

Population Implications

72 The proposal to release the discussion document *The Sustainable Biofuels Obligation: proposals for regulations* does not have an impact on specific population groups.

Human Rights

73 The proposals in this paper are consistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

Consultation

74 The following agencies were consulted in the development of the discussion document *The Sustainable Biofuels Obligation: proposals for regulations*: The Civil Aviation Authority, the Environmental Protection Authority, the Ministry of Business, Innovation and Employment, the New Zealand Customs Service, the Energy Efficiency and Conservation Authority, the Ministry for Primary Industries, Te Puni Kōkiri, the Department of Conservation, the Ministry of Justice, the Ministry for the Environment, Maritime New Zealand, the Ministry of Foreign Affairs and Trade, the Treasury, and the Inland Revenue Department. The Department of Prime Minster and Cabinet has been informed.

75 The Ministry of Primary Industries supports the proposed ILUC mitigation options discussed in this paper. It notes the sustainability criteria will not be the only controls around biofuels production in New Zealand; there are many land-use controls in place or being progressed. However, it considers there may be a need to reassess the chosen approach for addressing ILUC risk as the market for domestic biofuels begins to mature over time. This will ensure any New Zealand-specific ILUC issues, such as afforestation and marginalised land, are sufficiently captured and mitigated.

76 The Ministry of Foreign Affairs and Trade advise that, depending on how the final regulations are drafted, elements of the Sustainable Biofuels Obligation may engage New Zealand's international trade obligations – specifically those under the World Trade Organisation (WTO) Technical Barriers to Trade Agreement should these amount to a "technical regulation". These obligations will need to be assessed by officials during the design and implementation of the proposals and may include notification requirements to the WTO.

Communications

77 The discussion document will be made available on MBIE's website.

78 Officials are also working on a public education campaign strategy to ensure consumers are informed of the practical implications associated with biofuels and biofuel blends when the Obligation comes into effect.

Proactive Release

79 The paper will be proactively released with any necessary redactions, no later than 30 working days after Cabinet's decisions are confirmed.

Recommendations

The Minister of Energy and Resources and the Minister of Transport recommend that Cabinet:

1 note that in October 2021, Cabinet:

1.1 agreed to the final policy design of the Sustainable Biofuels Obligation (previously referred to as the Sustainable Biofuels Mandate) [ENV-21-MIN-0058 refers];

1.2 invited the Minister of Energy and Resources and the Minister of Transport to report back to Cabinet on the preferred option for addressing the risk of indirect land use change;

2 approve the release of the discussion document, *Sustainable Biofuels Obligation: proposals for regulations,* for public consultation over a four-week period;

3 invite the Minister of Energy and Resources and the Minister of Transport to report back in July 2022 with final proposals for the regulations to support the Sustainable Biofuels Obligation;

4 note that a priority of category two (to be passed this year) has been requested for the Sustainable Biofuels Obligation Bill on the 2022 Legislation Programme.

Authorised for lodgement

Hon Dr Megan Woods

Minister for Energy and Resources

Hon Michael Wood

Minister for Transport