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## 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.

Having dual options is supported.

While in principle default values based on the EU RED scheme may be applicable their suitability for specific fuels should be checked by EPA before adoption from real values.

Bioenergy Association supports the Government publishing default emissions standards for biofuels. This will encourage domestic production and simplify supply.

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.

It is appropriate for imported fuels to use these two schemes for verification of actual emissions but they should only be a guide and not become the determinant values. Default values specific to New Zealand should only be used.

The calculation of emissions for production of the biofuels undertaken in another country but applied to fuel used in New Zealand can result in New Zealand taking responsibility for emissions created in other countries which would be a penalty against New Zealand business providing export products.

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.

It should not be necessary to develop a NZ GREET model initially but should be considered after the obligation scheme has been in place for a period of time.

The targets for annual reduction appear to severe for the New Zealand transport sector and are likely to result in large increases in fuel cost. The Bioenergy Association asks that MBIE and MOT work with fuel suppliers to agree implementation targets that are a better balance of speedy uptake of biofuels and likely cost to fuel users.

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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

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

It is important that all parties working with obligations use identical processes and default values where possible so that all parties are on a level playing field.

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?

This may stifle innovation and new fuel developments. The economics of % reduction will be determined by the price of biofuel options and current availability. There is a built-in incentive for a fuel supplier to use a biofuel with the greatest emissions reduction, provided the price is right.

The proposed penalty levels are too low to be effective and are likely to result in anti-competitive behaviour which would be detrimental to the success of the obligation.

## 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?

Bioenergy Association supports using sustainable biofuels, however by implementing an overly complex assessment system New Zealand is in danger of setting unachievable requirements as we restrict or eliminate international supply and put unnecessary barriers in front of domestic production.

Sustainability is key but the proposal risks making biofuels so expensive that users will avoid using them. If regulations are so tight compiling biofuels cannot be economically sourced, we will achieve minimal emission reductions. The criteria must be achievable and not drive supply options to such a low level they are prices at a monopolistic level for the motorist.

As mentioned several times in the consultation document, the international sustainability schemes have been established for very different jurisdictions where sustainability matters are managed very differently than in New Zealand. Where a biofuel is imported from another jurisdiction then the sustainability criteria developed and used in that jurisdiction should apply to that biofuel. Those international schemes are not relevant to New Zealand and should not apply to biofuels produced in New Zealand using New Zealand sourced feedstock.

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A supplier importing biofuel from a specific country should provide certification which will be accepted without further testing or need for investigation. The EPA should satisfy itself that the international scheme providing certification of the biofuel production from that specific country is acceptable. If the biofuel certification is being accepted by other jurisdictions, then no other certification should be necessary. Such acceptance will mean that demonstration of sustainability by the importer will be minimal cost.

New Zealand has established a portfolio of sustainability legislation, regulation, and best practice for a range of land uses etc and these generally apply regardless for what the biomass material sourced from that land is used for. The focus of New Zealand legislation is on managing adverse effects and does not determine end use. There are also existing private certification schemes that some forest sector participants use to demonstrate the legality of their production, including schemes by the Forest Stewardship Council and the Programme for Endorsement of Forest Certification.

The demonstration of compliance to the New Zealand sustainability requirements should be by self-certification that the sustainability criteria are being met by the New Zealand produced biofuel. (See next question for a list of criteria which need to be met).

The proposed sustainability criteria appear disconnected with other Government policy and developments, eg TUR's \$73.5M budget support for energy dedicated short rotation forests – These criteria would infer that short rotation forests should only produce roundwood.

The proposed sustainability criteria also duplicate what is proposed in the Forests (Legal Harvest Assurance) Amendment Bill currently being considered by Parliament. This Bill sets out requirements to establish a legal harvest system to assist in combatting global trade in illegally harvested timber, to safeguard and enhance market access for New Zealand timber exporters, and to assure the legality of the source of timber imported into New Zealand. If considered necessary, the legal harvest provision could be extended to cover the import or domestic production of liquid biofuels.

The Bioenergy Association does not agree with the proposal to adopt international biofuel sustainability standards for biofuel meeting the Sustainable Biofuels Obligation. International standards – the Roundtable for Sustainable Biofuels (RSB) criteria notably – create significant uncertainty around the use of wood for biofuel. In particular, the RSB criteria currently prohibit use of roundwood (i.e. logs) for biofuel production, and instead limit production only to residues from other wood processing. Producing biofuel at scale may require the use of whole logs, including from forests grown and harvested specifically for biofuel production. If the RSB standard was adopted this could stop development of wood-based biofuel in New Zealand which could use logs (i.e. roundwood) from short rotation forests grown for bioenergy production, or from logs currently used for other low-value/industrial end uses (e.g those currently exported for pulp). In addition, the international standards are contrary to New Zealand land use regulatory environment and could create unintended consequences around land use change.

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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?

The internationally recognised certification schemes applying in specific countries should be accepted for biofuels sourced from that country. The acceptability or not of a particular scheme should be determined by the government of the country from which the biofuel is sourced. Applying those schemes for New Zealand would conflict with our existing legislation, regulatory and best practice requirements.

The sustainability criteria that were agreed by Cabinet in November 2021 mimic many of the international schemes but are vague, lack understandable definition, conflict with many existing legislative and regulatory requirements, and not applicable to New Zealand. This is demonstrated and discussed throughout section 3 of the consultation document itself.

The sustainability criteria applying to feedstock used to produce Biofuels in New Zealand should be consistent and reference our existing and well-developed legislative framework. We also have well established processes for the sustainable production of timber in NZ so these should be used for biofuels produced domestically.

An alternative criteria to that agreed by Cabinet should be along the lines of:

1. Feedstock for producing biofuels must be consistent with New Zealand land use and resource management legislation
2. The production of biofuels must not create adverse effects inconsistent with the resource management legislation
3. The use of waste as feedstock to produce biofuels must be consistent with the (proposed) Waste Strategy
4. The land use effects from producing feedstock for biofuels production must be consistent with regional land use plans and policies.

#### **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?

Such a policy should not be specific to biofuels but should apply to all land uses if lifecycle GHG emissions analysis is undertaken.

iLUC is really complicated and will be difficult to monitor/measure. It should not be included as the costs of determining data would far exceed the benefits.

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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.

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

This is unnecessary over-reach. This is not required of other land uses so neither option should apply. Feedstock for biofuel production is being singled out from all other land uses where there is no requirement for such requirements. If a landowner wishes to plant a tree or grow a sheep on a piece of land they do not have to meet such a requirement as this. These requirements are simply a tax on land being used to produce a feedstock for biofuel production.

It is also often indistinguishable what a plant is going to be used for. For example, rape seed can be used to produce edible oils or biodiesel. That decision may not be made by the farmer until harvest time, also the decision to grow rape may be because it is an ideal break crop for cereal growing.

Why is it okay to use roundwood for pulp, or single use in China (concrete pouring) and not bioenergy? These other uses of biomass don't have all these unnecessary barriers to use.

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?

This discussion has little to do with biofuels. It is a discussion about land use in general and should be undertaken in another forum. Land use change is regulated by the effects requirements of the Resource Management Act and other government policies which are specific to some land uses.

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### ***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?

Neither. As discussed in the consultation document international food security is not specific to biofuels. Land use decisions in New Zealand are regulated by the Resource Management Act and other government policies. Whether land is used to grow wool, trees or food is a matter for landowner decision, provided land use requirements are met.

### ***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?

Recycling of waste is promoted under the (proposed) Waste Strategy and there are a number of recycling processes available, some of which can produce a gaseous or liquid biofuel. If recycling of waste is to claim credits under the NZETS then a form of certification will be required, and such a scheme is under development. Because many of these biofuel producers will be small this is likely to be a local scheme with simple criteria to be met. The extreme cost of using the international standards would be an unnecessary barrier to using these technologies for recycling waste.

The current proposal that renewable liquid fuels included within the obligation can only be from biomass materials is an unfortunate and unnecessary constraint on our early ability to reduce use of fossil fuels. Such a decision has often been driven by myths and prejudices such as on page 20 that recycling plastics to produce a renewable fuel will create a continuing demand for waste plastics need to be challenged as they are not true. Instead, the obligation should allow early use of technologies which often can start using plastics as feedstock, because that is where the economics lie, but then transfer to using biomass as the economics of the same facility producing a renewable liquid fuel from biomass improves. Such a situation has been occurring in the transition from fossil fuels for stationary heat facilities where there is a cofiring of biomass with the fossil fuel.

The constraint on use of mixed waste means that the bio-oil which would be produced from the Bioplant facility currently being consented in the Manawatu, and proposed bio-oil from tyres facilities are not eligible under the obligation. These facilities would meet the same sustainability criteria as any other facility as they each have to be consented under the same New Zealand law.

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**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?

The definition between waste and residues is unclear as a waste is often only a residue that is wasted. The concept promoted is a legacy of a linear approach to resource use. Under a circular economy approach the aim is that these are all co-products and there is no waste to landfill.

In bioenergy sector terms the objective is that all organic residues from forestry, agriculture, and manufacturing are used as a feedstock recycled into energy and other co-products such as biofertiliser. Everything that comes out of the process is a co-product. Following the waste hierarchy the only waste is that material which can not be recycled and ends up in a landfill.

**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?

The consultation document seems to have got itself into a tangle full of rabbit holes. Page 14 of the document says that all feedstock produced in New Zealand regardless of whether produced on land or in the water already has to meet New Zealand's sustainability requirements. Any producer of food or other material has to meet these requirements and there are monitoring processes in place so there is no need for additional sustainability certification. (This is not the case for imported biofuels so certification is required for that biofuel.)

The focus of the regulation should be on how to undertake the GHG analysis. Biofuel production facilities are designed for specific feedstocks so it should not be difficult to calculate the feedstock and process emissions by use of default values. Look-up tables should give adequate reliability and ensure that the cost of GHG analysis is kept low.

**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?

Rules for calculation should be able to be established based simply on inputs and outputs for each step of the biofuel production process. Biofuels will generally always be a co-product so % split rules will need to apply to each situation. In a biorefinery the biofuel may be a minor end product.



## 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?

Decisions on the continuation or not of the ethanol excise tax exemption is critical for fuel suppliers to be able to plan for implementation of the obligation.