



Official Information request reference: 2021-011

15 March 2021

Email: [REDACTED]

Dear [REDACTED],

Thanks for your request under the Official Information Act on 12 February 2021 seeking information on:

1. *What is the Commission's role in reviewing He Waka Eke Noa?*
2. *What is the statutory or regulatory instrument that requires the Commission to carry out this review?*
3. *In what ways does the Commission believe that its role in reviewing He Waka Eke Noa constrains or otherwise influences the advice the Commission is currently preparing on carbon budgets?*
4. *Please provide copies of all reports or other materials prepared by or for the Commission, as well as emails or other communications between Commission staff, pertaining to the issue of how the Commission's role in reviewing He Waka Eke Noa influences the advice the Commission is preparing on carbon budgets?*

The responses to your questions are set out below. These build on our discussions in Auckland on 11 February 2021, in which we talked about the Commission's draft advice on options for Government to reduce emissions in the agricultural sector. As we noted, the Commission's current task is to provide the Government with advice on:

- the level of the first three five-yearly emissions budgets that will put Aotearoa on track to meeting its domestic 2030 and 2050 emissions targets
- the direction of policy that should be included in the Government's first emissions reduction plan.

Our general approach to providing advice on the policy required for Government's first emission reduction plan has been to focus on its direction rather than the specific policy design. Policy development and decisions will sit with the Government.

Question	Response	Supporting Information
<i>What is the Commission's role in reviewing He Waka Eke Noa?</i>	The Commission is required to provide advice to the Minister of Climate Change on progress towards the primary sectors climate change commitments in the Climate Change Response Act 2002 (CCRA). This includes requirements for farm emission reporting and farm plans as set out in Schedule 5 of the CCRA. The Commission is also required to provide advice on the progress of agriculture toward being ready to comply with reporting and surrender obligations when entering the emissions trading scheme.	These functions are set out in section 5J(ha) of the CCRA. Further information is available on the New Zealand legislation website at: https://legislation.govt.nz/
<i>What is the statutory or regulatory instrument that requires the Commission to carry out this review?</i>	The statutory or regulatory instrument that requires the Commission to provide advice on the progress towards the primary sector climate change commitments is the CCRA.	Further information is available on the New Zealand legislation website at: https://legislation.govt.nz/

<p><i>In what ways does the Commission believe that its role in reviewing He Waka Eke Noa constrains or otherwise influences the advice the Commission is currently preparing on carbon budgets?</i></p>	<p>The Commission is an independent Crown entity. It must act independently in performing its functions under section 50 of the CCRA.</p> <p>The Commission does not consider itself to be constrained by He Waka Eke Noa in preparing its draft advice on emissions budgets.</p> <p>In developing our advice on emissions budgets, the Commission assessed what emissions reductions are technically possible across the economy, including for agriculture. This was done for all sectors consistent with the principles outlined in section 2.2 of the draft advice report. This information was used to guide our draft advice on emissions budgets.</p> <p>In developing our draft advice on the direction of policy required for an emissions reduction plan, the Commission thinks that the tools being developed by He Waka Noa could play an important role in reducing on-farm emissions.</p> <p>The Commission's role in He Waka Eke Noa's progress in 2022, along with the backstop option of entering agriculture into the Emissions Trading Scheme at processor level, gives the Commission an opportunity to assess whether they are on track to meet their requirements to deliver emissions reductions across the sector.</p>	<p>You can find further information on the Commission's evidence informing our draft advice on our website at: https://ccc-production-media.s3.ap-southeast-2.amazonaws.com/public/evidence/advice-report-DRAFT-1ST-FEB/Evidence-CH-04c-Reducing-emissions-Agriculture-20-Jan-2021.pdf</p>
<p><i>Please provide copies of all reports or other materials prepared by or for the Commission, as well as emails or other communications between Commission staff, pertaining to the issue of how the Commission's role in reviewing He Waka Eke Noa influences the advice the Commission is preparing on carbon budgets?</i></p>	<p>The Commission has identified several documents that consider the role of He Waka Eke Noa and its progress in relation to developing advice on the emissions budgets. This includes</p> <ul style="list-style-type: none"> • 15 April 2020 – Board Agenda Item 11: Engaging with He Waka Eke Noa. This is an early paper that considers how the Commission intends to engage with He Waka Eke Noa and build an understanding of how its work progresses • At the 13 and 14 October 2021 Board Meeting, the Board asked for advice on how He Waka Eke Noa would be incorporated into the Commission's draft advice. This was related to formation of draft advice on the direction of policy for an emissions reduction plan rather than the proposed emissions budgets. Given the time constraints, specific written advice was not prepared. Instead, this was included in the draft reports sent to Commissioners and discussed in resulting workshops. <p>The Minutes from these Board meetings are available on the Commission's website: https://www.climatecommission.govt.nz/who-we-are/corporate-publications/commission-board-minutes/</p> <p>Throughout the course of their work, the Commission staff have discussed He Waka Eke Noa. We have not identified any pertinent emails relating to the preparation of the draft advice on emissions budgets and the Commission's role in</p>	

	providing advice on the progress of the primary sector commitments.	
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You have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at www.ombudsman.parliament.nz or freephone 0800 802 602.

Please note that the Commission has a policy to proactively release OIA responses to help others have access to more information. Consequently, this letter will be published on our website with your name and contact details redacted to protect your privacy.

Kind regards



Jo Hendy
Chief Executive
Climate Change Commission

Climate Change Commission

Agenda Item 11

To: Climate Change Commission
From: Lucas Kengmana
Date: 15 April 2020
Subject: Engaging with *He Waka Eke Noa*

Purpose

- (1) to provide Commissioners with an overview of *He Waka Eke Noa*;
- (2) to sign off our proposed approach to engaging with *He Waka Eke Noa*, both at the governance and at the staff level.

Recommendation

1. That the Board:

- **Agree** that the CEO of the Climate Change Commission has quarterly meetings with the Programme Director of *He Waka Eke Noa*;
- **Agree** the Chairs of the both organisations meet as needed;
- **Note** *He Waka Eke Noa* intends to share its work programme in due course after it has been signed off by the Steering Group;
- **Note** *He Waka Eke Noa* intends to share Progress Reports with the Climate Change Commission;
- **Agree** the staff of both organisations discuss their approach before going out to consultation; and
- **Note** the other approaches we considered, but did not recommend

Key Points:

2. Decisions need to be made on how the Commission interacts with *He Waka Eke Noa* to maintain the independence of the Commission while understanding *He Waka Eke Noa*'s workplan and progress.
3. Government and industry agreed to a plan, *He Waka Eke Noa*, to facilitate a transition to the pricing of agricultural emissions on farm.

4. Supplementary Order Paper 413 amends the Climate Change Response (Emissions Trading Reform) Amendment Bill (the Bill) to implement this plan.
5. The proposed legislation requires the Climate Change Commission (the Commission) to report on He Waka Eke Noa's progress toward a set of milestones no later than 30 June 2022.
6. It is important for the Commission to maintain its independence and objectivity so that the Commission is not 'too close' (or even perceived as such) when reviewing He Waka Eke Noa's progress, particularly as this report will likely be highly political.
7. Similarly, it is important that He Waka Eke Noa can keep some of its discussions private to allow for free and frank discussion, given the differing views and interests of its members.
8. At the same time, it is important that the Commission and He Waka Eke Noa stay informed of each other's progress:
 - so that the Commission can form a view of the likely emissions reductions due to agricultural climate policies when advising on Emissions Budgets and the Government's Emission Reduction Plan.
 - to avoid any misunderstandings that cause the Commission to find that He Waka Eke Noa has failed to meet milestones when the He Waka Eke Noa Steering Group believes that it has;
 - to ensure that the Commission and He Waka Eke Noa communicate consistently about each other's roles and the process when engaging with farmers and other stakeholders.

Background/context

9. The main recommendation of the Interim Climate Change Committee's *Action on Agricultural Emissions* report was for a farm-level levy/rebate scheme. However, the report noted that it would take time to develop this architecture (at least until 2025).
10. The Committee considered two interim options, (a) a formal agreement between Government and the sector to deliver certain outcomes as part of a Joint Action Plan, or (b) pricing livestock emissions through a processor point of obligation in the NZ ETS. While the ICCC preferred option (a), the Government endorsed option (b).
11. The resulting Government/industry agreement is He Waka Eke Noa – Our Future in Our Hands. Under this agreement, the primary sector, led by industry bodies such as Beef + Lamb New Zealand and Dairy New Zealand, has committed to working with government to develop and prepare farmers for a farm-level pricing scheme.

12. The Government intends to embed this agreement in legislation. To this end, it introduced Supplementary Order Paper (SOP) 413 to amend the Climate Change Response (Emissions Trading Reform) Amendment Bill.

13. This SOP:

- sets out seven quantifiable commitments He Waka Eke Noa can be measured against;
- requires that the Climate Change Commission provides the Minister of Climate Change a report on He Waka Eke Noa's progress toward meeting its goals.

The relevant sections of this SOP are included as Appendices to this paper.

14. The Interim Climate Change Committee made a submission on the ETR Bill as reformed by the SOP which was endorsed by the Commission. This submission suggested amendments to the ETR Bill to assist with clarity on the commitments.

15. Although the Bill has not yet been passed into law, He Waka Eke Noa has already confirmed a Terms of Reference, established a Steering Group, and appointed an independent Chair, due to the timelines being tight. A Programme Office is in the process of being set up.

16. The Steering Group has members from the following organisations (the people who will sit on the Committee has yet to be announced):

- The Ministry of Primary Industries;
- The Ministry for the Environment;
- The Federation of Maori Authorities;
- Beef and Lamb;
- Dairy New Zealand;
- Horticulture New Zealand;
- Federated Farmers of New Zealand;
- A member with an understanding of iwi, hapū and whānau perspectives; and
- An agrifood processor.

It is Chaired by Michael Ahie, who is independent. Rod Carr has already met with Michael Ahie.

17. The Steering Group's Terms of Reference sets out eight work streams:

1. On-Farm Emissions Reporting
2. Farm Planning
3. On-Farm Emissions Pricing
4. On-Farm Sequestration
5. Māori Agribusiness
6. Extension

7. Innovation and Uptake

8. Supporting Early Action

18. For formal recommendations, the Steering Group will strive for consensus where possible. However, in the case of consensus not being achieved, alternative positions and options will be presented as part of recommendations. Many of these work streams are likely to have a profound impact on the shape of future agricultural climate policy.

How the Climate Change Commission should interact with He Waka Eke Noa

19. The Commission's draft Statement of Intent notes that to be effective we need to "develop constructive and meaningful relationships with key stakeholders in the focus sectors". The work programme and members of He Waka Eke Noa means they are closely linked to our deliverables.

20. It is important for the Commission to maintain its independence and objectivity. Since the Commission will be reporting on He Waka Eke Noa's progress, and this report will likely be highly political, it is critical to avoid being (or be perceived as being) 'too close' to He Waka Eke Noa.

21. It will also be important for He Waka Eke Noa that they are able to keep some of their discussions private to allow for free and frank discussion, given the differing views and interests of the various groups they represent.

22. At the same time, the Climate Change Commission will need to stay up to date on He Waka Eke Noa's progress as it will need to form a view on He Waka Eke Noa's performance by 30 June 2022. The proposed requirements set out in section 220 of the Bill are clearly drafted, but the Commission may still need to apply some judgement to determine whether the industry's actions meet them.

23. In addition, though sections 220(b)-(d) refer to the Steering Group's responsibility to develop recommendations on a farm-level pricing system, this goal does not have an explicit, corresponding milestone in Schedule 5 so the Board will need to exercise additional judgement in determining whether sufficient progress has been made. Clear communication on the Commission's expectations will help He Waka Eke Noa to successfully deliver their work.

24. Staying up to date on He Waka Eke Noa's progress is also important because He Waka Eke Noa will play a major role in determining the shape and effectiveness of regulating agricultural GHG emissions. He Waka Eke Noa's self-determined work programme is broader in places than the legislated milestones, reflected in its eight work streams, and its success in these focal areas will not be insignificant in the Commission's assessment.

25. The success of He Waka Eke Noa will impact on our emissions budget projections and the actions we recommend. If it delivers on its objectives, it will

produce a regulatory framework that farmers can comply with, that regulators can monitor and with the potential to deliver real emissions reductions.

26. The Commission and He Waka Eke Noa will need to consult on and then signal views on related issues, e.g. the effectiveness of interventions to tackle agricultural abatement. A common understanding of the facts on these issues will help both organisations reach informed, independent (and possibly different) conclusions.
27. The way each organisation frames these issues when engaging with the public may have a significant impact on public perception and the response received. Each organisation should be conscious of potential different outcomes due to any differences in framing.
28. The Commission will be providing advice on emissions budgets and emission reduction plans by 1 February 2021, when He Waka Eke Noa will still be early in its process. When making recommendations, the Board will need to consider the risk of getting ahead of, and potentially undermining, a pre-existing process established by the Act.
29. For these reasons, it is important for the Commission to remain up to date with He Waka Eke Noa's progress and to transparently signal its emerging views to He Waka Eke Noa on a regular basis.
30. We believe the approaches recommended here are consistent with the following principle's approved by the Board (refer decisions on the *2020 Engagement and Communications Plan* on at the 24 Jan 2020 meeting):
 - Protecting our independence
 - Engaging and communicating positively and proactively
 - Thinking smart

Recommendations

31. Staff from both organisations have met to discuss these issues. Some approaches were considered that we do not recommend, including:
 - Giving the Commission an observer status on the He Waka Eke Noa Steering Group, which may prevent the Steering Group from having a robust discussion;
 - Sharing the minutes of He Waka Eke Noa Steering Group meetings, which may reduce He Waka Eke Noa's willingness to record divergent views and give the Commission a false sense of what was discussed;
 - Undertaking joint consultations with farmers and other stakeholders, which risks creating the perception that the two agencies are too close. He Waka Eke Noa is not likely to be ready to consult in the next few

months but staff of both organisations will continue to meet and will bring a proposal to the Board/Steering Group should it make sense to collaborate in the future.

32. However, there are some lower-risk actions the organisations can take at this stage to foster a strong working relationship. These are:

- The CEO of the Climate Change Commission meeting quarterly with the Programme Director of He Waka Eke Noa;
- The Chairs of both organisations meeting as needed;
- He Waka Eke Noa sharing its work programme in due course after it has been signed off by the Steering Group;
- He Waka Eke Noa sharing Progress Reports with the Climate Change Commission;
- The staff of both organisations discussing their approach before going out to consultation.

Released under the Official Information Act

Appendix 1: Schedule 5 – Primary Sector Climate Change Commitments

Farm emissions reporting

- (1) For 25% of farms in New Zealand, a person responsible for farm management holds a documented annual total of on-farm greenhouse gas emissions, by methods and definitions approved by the He Waka Eke Noa Steering group, by 31 December 2021.
- (2) For all farms in New Zealand, a person responsible for farm management holds a documented annual total of on-farm greenhouse gas emissions, by methods and definitions approved by the He Waka Eke Noa Steering group, by 31 December 2022.
- (3) A pilot of a farm level accounting and reporting system has been completed by 1 January 2024 across a range of farm types.
- (4) A system for farm-level accounting and reporting of 2024 agricultural greenhouse gas emissions at farm level is in use by all farms by 1 January 2025.

Farm plans

- (5) Guidance is provided to farmers on how to measure and manage greenhouse gas emissions through farm planning by 1 January 2021.
- (6) A quarter of farms have a written plan in place to measure and manage their greenhouse gas emissions by 1 January 2022.
- (7) All farms have a written plan in place to measure and manage their greenhouse gas emissions by 1 January 2025.

Appendix 2: Section 220 of the Climate Change Response Act Amendment Bill: Reporting Requirements of the Commission

220 Commission to report on progress towards meeting farm-level obligations

The Commission must, not later than 30 June 2022, provide written advice to the Minister on—

- (a) the progress that has been made towards meeting the primary sector climate change commitments set out in Schedule 5; and
- (b) the progress that has been made towards participants in an activity listed in subpart 4 of Part 5 of Schedule 3 being ready to start complying with reporting and surrender obligations under this Act in respect of that activity; and
- (c) any barriers to those participants being ready to start complying with those obligations; and
- (d) what further steps (if any) are required by the primary sector or the Government for those participants to be ready to start complying with those obligations.

Note: Subpart 4 of Part 5 of Schedule 3 refers to agricultural emissions.