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By email: hello@climatecommission.govt.nz

Dear Dr Carr

CLIMATE CHANGE COMMISSION 2021 DRAFT ADVICE FOR CONSULTATION

Many thanks for the opportunity to make a submission on the Commission's 2021 draft advice to the New Zealand Government on the future direction of climate change policy and setting targets and budgets to comply with New Zealand's international obligations.

I am an Academic Lawyer, Associate Professor, and Deputy Dean at Te Piringa – Faculty of Law where I research and teach environmental law and public law.

Internationally, I am the New Zealand Member of the ILA Committee on Sustainable Resource Management, and I am the Deputy Chair of the IUCN Academy of Environmental Law.

Reasons for my submission

Most recently, the Climate Change Commission issued its draft advice on future policy direction to reduce GHG emissions for consultation on 31 January 2021.¹ The advice concluded that current Government policies are unlikely to achieve the 2050 target for GHG emissions reductions.² Not unsurprisingly, the advice noted that the agricultural sector will need to play a key role in achieving GHG emissions reductions by reducing both biogenic methane emissions from pastoral farming (deer, sheep, beef, and dairy cows) and synthetic nitrogen fertiliser application.³ While Government investment has been made in reducing biogenic methane emissions by “on-farm efficiencies and technologies” the advice notes that there is currently no long-term investment plan beyond 2025, and that a voluntary approach is being taken “to develop a farm level pricing system” for biogenic methane emissions via the He

¹ Climate Change Commission, *2021 Draft Advice for Consultation* (31 January 2021).

² Climate Change Commission, *2021 Draft Advice for Consultation* (31 January 2021), 45-47.

³ Climate Change Commission, *2021 Draft Advice for Consultation* (31 January 2021), 12-13.

Waka Eke Noa Partnership.⁴ The Commission therefore recommended that adjustments should be made to farming practices by reducing animal stocking rates (by 15% compared with 2018 numbers), and through land use change to exotic pine forestry and horticulture.⁵ In particular, the advice noted that reductions in animal stocking rates (primarily dairy cows) is being driven by ongoing freshwater policy reforms.⁶

However, the pace of agricultural land use change from pastoral farming and reductions in animal stocking rates is likely to be slow. For example, there is currently incomplete regional plan coverage across New Zealand to regulate these activities or to provide incentives for changes to land use or farming practice. The freshwater planning process inserted into the RMA is designed to put in place operative regional plan changes by 2025,⁷ but regional plan implementation periods for improving freshwater quality by regulating farming practice and animal stocking rates is likely in some cases to have long time horizons (e.g. Plan Change 1 to the Waikato Regional Plan currently sets an ultimate compliance period ending in 2098).⁸ Beyond that, the National Policy Statement for Freshwater Management and the National Environmental Standard (NES) for Freshwater that came into effect on 3 September 2020 are likely to force change in farming practice by restricting further land use change until 31 December 2024,⁹ and by limiting the discharge of synthetic nitrogen fertiliser to land and by requiring the reporting of fertiliser use.¹⁰ These regulations effectively provide interim measures while the freshwater planning process under the RMA is implemented. However, unless the operative time period for these regulations is extended there is likely to be an implementation gap until regional plans achieve their ultimate long-term objectives.

Additionally, the advice noted that existing policy initiatives could also play a part in creating forest sinks to reduce GHG emissions. For example:

Efforts could also be made to promote a native forestry industry. This could have particular relevance for Iwi/Maori. Native afforestation could be incentivised by extending grant schemes such as One Billion Trees or by developing ecosystem services payment schemes that could reward the other environmental benefits of native forests.¹¹

The One Billion Trees programme was developed by the Ministry for Primary Industries (MPI) in 2018 to increase tree planting across New Zealand by doubling the planting rate to achieve the goal of one billion trees by 2028. The most recent data from MPI (as of 8 March 2021) indicates that 258,686,000 trees have been planted since the programme was announced in 2018, including 95,400,000 seedlings. The fund administered by MPI has directly funded 44,961,000 of the trees planted since 2018, with 70 per cent native trees being planted and 30 per cent exotic species (plantation pines) being planted. For the purposes of the programme trees are defined as “woody perennial plant species that can grow to a height of at

⁴ Climate Change Commission, *2021 Draft Advice for Consultation* (31 January 2021), 118.

⁵ Climate Change Commission, *2021 Draft Advice for Consultation* (31 January 2021), 70 and 174.

⁶ Climate Change Commission, *2021 Draft Advice for Consultation* (31 January 2021), 46.

⁷ RMA, s 80A, inserted by the Resource Management Amendment Act 2020, s 22, on 1 July 2020.

⁸ www.waikatoregion.govt.nz.

⁹ Resource Management (National Environmental Standards for Freshwater) Regulations 2020, regs 16-19.

¹⁰ Resource Management (National Environmental Standards for Freshwater) Regulations 2020, regs 32-36.

¹¹ Climate Change Commission, *2021 Draft Advice for Consultation* (31 January 2021), 100.

least 5 metres”.¹² Funding applications for the programme closed on 23 December 2020 because the number of applications received by that date would (if approved) exceed the total value of the fund. While the programme has provided an important incentive to increase tree planting across New Zealand it is now clear that it is unlikely to achieve the ultimate goal of one billion trees by 2028 unless additional funding is made available by the Government. Beyond that, the draft National Environmental Standard for Indigenous Biodiversity (NESIB) published by the Minister for the Environment under the RMA in November 2019 includes proposals for regional councils to set objectives for increasing native tree cover within their regions by preparing regional plans.¹³ The NESIB is likely to take effect in July 2021 but is unlikely to be fully implemented across New Zealand until 2036 due to the time periods specified for compliance in the NESIB and the steps currently required under the RMA for preparing regional plans.¹⁴

In relation to transport, the Commission proposed that land transport should be decarbonised by 2050 through the increased uptake of electric vehicles in the national fleet and through land use policies focused on providing for “more compact urban form and encouraging remote working” to reduce the need to travel.¹⁵ The advice is, however, “ambitious” and included a ban on the import of “internal combustion engine light vehicles” (cars, vans, and utility vehicles) after 2032.¹⁶ But the advice also noted the sobering reality that rates of vehicle ownership and personal travel are high in New Zealand, and that investment in public transport has been underfunded for “decades”.¹⁷ In particular, the advice noted in relation to the proposed increase in the uptake of electric vehicles that:

One important constraint will be the availability of EVs, particularly those that are second hand. The country’s vehicle market is small, remote, left-side driving, and heavily dependent on used vehicle imports from Japan. However, Japan is prioritising investing in hydrogen and conventional hybrids and has limited EV supply.¹⁸

Generally, successive Governments have been slow to intervene in driving land use change in urban areas with the first National Policy Statement on Urban Development Capacity under the coming into effect on 16 December 2016 and the replacement National Policy Statement on Urban Development coming into effect on 20 August 2020.¹⁹ Similarly, the most recent statistics about the New Zealand vehicle fleet paint a stark picture with only 14 light vehicles per 1000 being petrol/diesel hybrids and only 4 light vehicles per 1000 being fully electric vehicles. There has also been a “significant change since 2000” with the average age of light vehicles now being “almost 20% older than in 2000” and used light vehicle imports from the 1990s continuing to be “a key factor” in the composition of the New Zealand vehicle fleet and the average light vehicle age being 14.1 years. Likewise, light vehicle ownership rates remain high at over 0.8 vehicles per capita.²⁰ The trajectory toward a decarbonised transport sector by 2050 therefore appears to be overly ambitious absent further Government investment in public transport and incentives to encourage the more rapid uptake of electric vehicles.

¹² www.mpi.govt.nz.

¹³ www.mfe.govt.nz.

¹⁴ RMA, schedule 1.

¹⁵ Climate Change Commission, *2021 Draft Advice for Consultation* (31 January 2021), 57-58.

¹⁶ Climate Change Commission, *2021 Draft Advice for Consultation* (31 January 2021), 57.

¹⁷ Climate Change Commission, *2021 Draft Advice for Consultation* (31 January 2021), 105-

106.

¹⁸ Climate Change Commission, *2021 Draft Advice for Consultation* (31 January 2021), 107.

¹⁹ www.mfe.govt.nz.

²⁰ Ministry of Transport, *Annual fleet statistics 2019*, 6-11.

More importantly, the Commission noted that the package of measures included in its draft advice to Government will require the purchase of GHG emissions mitigation credits from overseas. For example, it estimated that the likely “gap between the first NDC and our recommended emissions budgets is 43 Mt CO₂-e”, and observed that a more rigorous NDC is required “to make it compatible with the 1.5^oC goal” entailing the increased acquisition of overseas credits beyond that required to close the current NDC gap.²¹ While reliance on importing overseas GHG emissions mitigation credits may provide a pragmatic interim solution to compliance with the objectives set by the Paris Agreement, this strategy is unlikely (based on New Zealand experience under CP1) to drive change in the seemingly intractable agricultural and transport sectors of the New Zealand economy and a more ambitious approach is required under current and future NDCs to close the gap.

Conclusion and recommendation

Generally, the agriculture sector should be the primary focus for achieving GHG reductions. A broad range of legal and policy instruments should be used (going beyond the CCRA and the NZ ETS).

In particular, National Environmental Standards for Freshwater should be used indefinitely to impose descending caps on (a) animal numbers per hectare, and (b) the application of nitrogen fertiliser per kilogram/hectare, that ratchet downwards annually to reduce the scale and intensity of pastoral farming consistent with meeting the most stringent 1.5^o C aspirations under the Paris Agreement without the need to import approved overseas units.

Yours faithfully,



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²¹ Climate Change Commission, *2021 Draft Advice for Consultation* (31 January 2021), 157.