



Hon Simon Watts
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Parliament Buildings
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By email: s.watts@ministers.govt.nz

2 December 2025

Proposed amendments to the Climate Change Response Act 2002

Dear Minister,

I understand that you propose to amend the Climate Change Response Act 2002 (CCRA), with a view to decoupling New Zealand Emissions Trading Scheme (NZ ETS) settings decisions from New Zealand's Nationally Determined Contribution (NDC) and decoupling emissions budgets from New Zealand's international commitments.

I would not normally comment until I had seen the Bill, but since I understand some changes are to be made under urgency, I think it prudent to place some concerns in front of you immediately.

Trying to decouple New Zealand's domestic actions from its international commitments is, on the face of the matter, curious. The main reason New Zealand is doing anything about its emissions is to contribute to addressing a global problem requiring collective action. This is reflected in the purpose of the Act.

Trying to legislate fine distinctions between domestic and international commitments is risky, particularly when you consider that the purpose of the Act describes that ETS as being one that *"supports and encourages global efforts to reduce the emission of greenhouse gases by -*

- i. assisting New Zealand to meet its international obligations under the Convention, the Protocol, and the Paris Agreement; and*
- ii. assisting New Zealand to meet its 2050 target and emissions budgets:"¹*

The same can be said for the proposal to decouple New Zealand's emissions budgets from international targets. I understand that this is to be effected by removing the reference to "contributing to the global effort under the Paris Agreement" from section 5W(a), which relates to setting emissions budgets.

The motivation for the proposed changes is opaque, a mystery deepened by the need for parliamentary urgency. The only reason I can think of is one grounded in potential litigation risk.

¹ Climate Change Response Act 2002, s 3(b).



Faced with the projected shortfall in meeting the NDC, and the requirement that you must be satisfied that ETS settings are 'in accordance with' the NDC,² decoupling the NDC from these provisions may seem an attractive and straightforward solution to avoiding potential legal challenge. However, if it is the achievability of the NDC with which you are concerned, then it would be best to address that matter directly.

I have some sympathy with the view that New Zealand was unwise to announce an NDC without any clear understanding of what meeting it would entail. Indeed, I was surprised that it was reaffirmed and slightly augmented in the second NDC period without a more in-depth discussion about how it could be met.

If the Government has reached the view that the NDC is too hard to meet, it might be advisable to tackle that issue head on. The Paris Agreement leaves it to individual states to offer contributions that they believe they can deliver. In my view it is better to be realistic, and hopefully over-deliver, than be aspirational and fall short. If the Government is of the view that it cannot deliver the NDC that it inherited from its predecessors, it would be better to be candid with both the international community, and the New Zealand public. You could then set about proposing a revised NDC that you consider *is* achievable.

While there might be some diplomatic fallout from such a step, I believe it would be sustainable, as long as New Zealand's domestic commitments remain strong and deliverable. As hard as changing the NDC might be, it is preferable to changing an Act that has, at least until now, had broad parliamentary support. Tinkering with the Act could also have all sorts of unintended consequences.

In short, my advice would be to avoid, either directly or indirectly, undermining the long-established purpose of the Act which is to support international climate agreements and which has been on the statute book since 2002. A problematic international pledge should not be allowed to put the CCRA at risk. As Commissioner, I consider that retaining confidence in hard-won domestic legislation should be the guiding priority.

I am more than happy to discuss this with you.

With kind regards

Rt Hon Simon Upton
Parliamentary Commissioner for the Environment
Te Kaitiaki Taiao a Te Whare Pāremata

² As above, s 30GC(2).