

### **Submission form: Consultation on the Sustainable Biofuels Obligation**

The Ministry of Business, Innovation and Employment (MBIE) and the Ministry of Transport (MoT) would like your feedback on the proposals for regulation to enact the Sustainable Biofuels Obligation. Please provide your feedback by **5pm, 1 July 2022**.

When completing this submission form, please provide comments and supporting explanations for your reasoning where relevant. Your feedback provides valuable information and informs decisions about the proposals.

We appreciate your time and effort taken to respond to this consultation.

### **Instructions**

#### **To make a submission you will need to:**

- 1.** Fill out your name, email address, phone number and organisation. If you are representing an organisation, please provide a brief description of your organisation and its aims, and ensure you have the authority to represent its views.
- 2.** Fill out your responses to the discussion document questions. You can answer any or all of these questions in the [discussion document](#). Where possible, please provide us with evidence to support your views. Examples can include references to independent research or facts and figures.
- 3.** If your submission has any confidential information:
  - i.** Please state this in the email accompanying your submission, and set out clearly which parts you consider should be withheld and the grounds under the Official Information Act 1982 (Official Information Act) that you believe apply. MBIE and MoT will take such declarations into account and will consult with submitters when responding to requests under the Official Information Act.
  - ii.** Indicate this on the front of your submission (e.g. the first page header may state “In Confidence”). Any confidential information should be clearly marked within the text of your submission (preferably as Microsoft Word comments).
  - iii.** Note that submissions are subject to the Official Information Act and may, therefore, be released in part or full. The Privacy Act 1993 also applies.

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### 4. Submit your feedback:

- i. As a Microsoft Word document by email to [energymarkets@mbie.govt.nz](mailto:energymarkets@mbie.govt.nz) with the subject line: *Consultation: Sustainable Biofuels Obligation*
- ii. By mailing your submission to:

Consultation: Sustainable Biofuels Obligation  
Energy Markets Policy  
Building, Resources and Markets  
Ministry of Business, Innovation and Employment  
PO Box 1473, Wellington 6140  
New Zealand

### Submitter information

MBIE and MoT would appreciate if you would provide some information about yourself. If you choose to provide information in the section below, it will be used to help MBIE and MoT understand how different sectors view the Sustainable Biofuels Mandate proposal. Any information you provide will be stored securely.

### Your name, email address, phone number and organisation

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Organisation: BP Oil New Zealand Limited

- The Privacy Act 1993 applies to submissions. Please tick the box if you do **not** wish your name or other personal information to be included in any information about submissions that MBIE and MoT may publish.
- MBIE and MoT may upload submissions and potentially a summary of submissions to the website(s), [www.mbie.govt.nz](http://www.mbie.govt.nz) and/or [www.transport.govt.nz](http://www.transport.govt.nz). If you do **not** want your submission or a summary of your submission to be placed on either of these websites, please tick the box and type an explanation below:

Please check if your submission contains confidential information

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- I would like my submission (or identifiable parts of my submission) to be kept confidential, and **have stated** my reasons and ground under section 9 of the Official Information Act that I believe apply, for consideration by MBIE and MoT.

### Introduction

As requested, we have added this cover note to our submission following bp's open and constructive discussion with MBIE and MoT officials to again raise the challenges for obligated parties in meeting the proposed Sustainable Biofuels Obligation's *initial* GHG reduction targets. bp recommends a process between government and industry be established to develop options for government's consideration to ensure the mandate is launched successfully and meets its objectives.

### Timing

As we understand the government will take final decision on the legislation later this year with it coming into effect on 1 April 2023. As outlined in our 2021 submission, to transition terminal infrastructure to transport and store biofuels will involve an investment of tens of millions of dollars over two and a half years. Commitments to these investments are only possible once the legislation is in place. Under the current timetable this would leave bp and other obligated parties around three months to deliver the necessary infrastructure investments which is not realistic. For example, the Joint Venture WOSL Terminal at Wiri is crucial to delivering on the mandate for bp as it will be for other majors. Transitioning this infrastructure is highly complex, involving multiple parties, and will take years to execute.

### Targets

We understand that the mandate's GHG reduction targets feed directly into the first Emissions Reduction Plan budget. The initial targets pose a significant challenge in being met and go well beyond those recommended by the Climate Change Commission. bp would welcome any evidence that shows the proposed targets are achievable. To put the scale of this difference into context, the Commission advised of a target of 9.5 petajoules of biofuel by 2035, whereas the mandate is targeting 11.08 petajoules by 2025. With such little time to the start of the obligation and with this increased ambition, bp is concerned initial targets are unachievable. We expect this will result in costs being passed onto end consumers without the emission reductions as bp and other obligated parties will likely have no option but to pay the penalty.

### Committed

We are committed to becoming a major supplier of biofuels to New Zealand. We are already funding early-stage plans, including investigating whatever options would contribute to meeting our obligations while Terminal infrastructure is developed. These 'drop in' options will be more expensive for motorists and rely on product being trucked long distances, likely negating the GHG reductions from the biofuel use.

bp has made good progress in assessing our biofuel infrastructure needs in support of the mandate. We have initial design work underway, including up to date costings and timelines. But securing resource consents prior to legislation and contractor availability both pose significant challenges.

We are also finalising plans to launch a small-scale pilot of a biofuel blend at several bp retail sites in early 2023 at the latest. While this will be on a limited supply basis, it will be

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important to establishing our internal systems and processes needed to meet our obligations under the mandate.

### Options to ensure success of the obligation

bp recommends that if industry and government can work together to define the core remaining issues and investigate options to overcome these we can better ensure the success of the obligation and its objectives.

Potential options bp would like to explore further include:

1. A delayed start date of 1 June 2024 with the current flexibility mechanisms and mandate levels applying from this date, which will go a considerable way to addressing our concerns.
2. Revised GHG reduction targets in the initial years which align with the Commission's final advice to Parliament.
3. No penalty for obligated parties where works are underway for terminal infrastructure upgrades needed to supply biofuels and strengthened government support for the necessary resource consent applications using the COVID-19 Recovery (Fast-track Consenting) Act 2020. This for example could help reduce time and complexity and focus on Wiri, including Terminals in Wellington, Tauranga and Lyttelton as starting points – others may be necessary.
4. Investing additional compliance flexibility, such as bringing forward consideration of recognizing electric vehicles and hydrogen in the mandate; or linking to the Emissions Trading Scheme or other carbon offsets to abate those emissions that would have been abated by the mandate if the initial targets were achieved.

bp has strong interests in the success of New Zealand's biofuels mandate and wants to see it is as ambitious as possible while being achievable. If industry and government don't move together to address some of the remaining challenges, there is a real risk of the following:

- Targeted GHG reductions are not achieved, industry instead is forced to pay the penalty with costs passed onto consumers in any event, undermining public support for the mandate.
- Industry launches a mixture of non-uniform biofuels into market which in some cases are significantly more expensive for motorists, triggering confusion and frustration at the pump.
- Investment into a national public education campaign is lost in this environment.
- The economic development benefits from domestic production could be lost if the social license for biofuels is eroded by poor initial implementation of the mandate.

In this context, bp wishes to work with government and other obligated parties to identify and implement a set of workable solutions, as early as practicable. We will also be in touch directly with the appropriate Ministers on the matters raised above.

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### Calculating the Obligation

#### *Determining intensity of fossil fuels*

1. Do you agree with the proposal to allow the use of default values from 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.

#### **Submission**

bp supports the choice of using RED II's default values (Annex V, Part A), disaggregated default values (Annex V Part D) and actual values. Default values provide simplicity and low compliance costs, particularly for low volumes whilst actual values retaining flexibility and accuracy for higher volumes e.g., calculating localised impact of using 100% renewable electricity to produce biofuels.

We are interested in understanding the Government's approach to updating default values over time. Noting the European Union is currently assessing changes to default values, we recommend the regulations provide that any European updates are reviewed before they are applied to ensure they are appropriate for the New Zealand context (rather than apply automatically). We would also welcome clear guidance in the regulations on the minimum notice period that would be provided before any updates/changes to default values would be applied.

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.

#### **Submission**

bp believes actual values should be allowed and that multiple verification methodologies can be valid, noting that both ISCC Plus and RSB support this approach. We do recommend limiting this application to methodologies that use the same sub-emissions supply chain (field to wheel) to prevent inaccurate overall values.

We are interested in understanding any limits on the flexibility proposed for obligated parties to choose between different verification methods (for example, how often might a party change verification method; would the same verification method need to be used for all fuel types; would it be possible to move from a more precise method to something less precise over time). We would welcome clear guidance on this in the regulations.

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.

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**Submission**

bp supports the use of the EU RED II model for calculating actual GHG savings. We believe a New Zealand bespoke model would require extensive government management and that the cost is likely to exceed benefits in a small market. If the government chooses to develop such a model, we believe this should be funded by government or local suppliers.

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?

**Submission**

We see value in using default emissions factors as they provide simplicity and certainty in calculations. However, we do not agree with the proposal to use a single default emissions factor across different fuel types.

bp expects light vehicles to electrify earlier, with gasoline decreasing faster than diesel. A single default emissions factor would not reflect these changes to the fuel mix and may not incentivise obligated parties to target the harder-to-abate heavy vehicle sector. bp recommends a default emissions factor for each fuel grade of fuel, that would naturally respond to the changing fuel mix and incentivise investment for harder-to-abate sectors.

In calculating the default values, we recommend using the 5-year average of *imported* fuels, to correctly reflect the closure of New Zealand's oil refinery. Again, bp also recommends the regulations set out if and how these default factors might change over time.

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?

**Submission**

bp recommends the Government consider the impact of a minimum GHG saving on smaller New Zealand producers, particularly in early years.

**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?

**Submission**

bp supports using the European Union and International Sustainability & Carbon Certification (ISCC) and the Roundtable on Sustainable Biofuels issued standards. We note that key

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differences should be resolved within the regulations for using the voluntary amendments under each certification scheme (e.g. minimum GHG savings obligation).

We are interested in understanding how the Government will deal with changes to the underlying schemes and recommend allowing obliged parties time if feedstocks are impacted.

We are interested in understanding how the Government will support domestic biofuels suppliers to become certified, considering the cost for small start-up entities.

7. Are there any international sustainability certification schemes that you think should be included?

Yes, I agree       I agree in part       No       Not sure/no preference

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

### Submission

bp recommends the Government review the sustainability sphere and include any new schemes over time.

### 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?

Nil

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.

### Submission:

Option 1 provides greater clarity and simplicity over which feedstocks are excluded/included from the obligation. bp recommends allowing the use of particular feedstocks that would otherwise be excluded if they can be certified to have a low risk of causing indirect land use change.

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?

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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?

### Submission

bp believes that a combination of approaches best addresses the risk of indirect land use change including a minimum GHG saving, cap on food and feed-based feedstock, and banning certain high ILUC feedstocks except for those that can be otherwise certified as having low risk.

### ***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?

### Submission

bp believes the risk to food security can be managed adequately through a combination of approaches as outlined in question 10. bp supports the proposal to cap the maximum amount of food and feed-based biofuels that can be used.

### ***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?

bp believes that biofuels derived from waste streams needs to be done in a way that respects the waste hierarchy to avoid diverting waste to fuel production where it can be avoided reduced, reused, or recycled instead. We recommend New Zealand widen the use of waste streams beyond biogenic, aligning with the European Union on the use of recycled carbon fuels and renewable fuels of non-biological options at the outset.

**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?

Our answer assumes the Government is referring to Table 2 – waste, residues and co-products.

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**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?

bp agrees that the same sustainability criteria should apply to all feedstocks.

**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?

Yes if these would otherwise be excluded, but bp does not support additional exclusions or limits.

### 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?

bp notes the risks raised with regard to terminal gate pricing and agrees with the proposed approach to monitor these rather than take action to address via the two options raised.

bp also notes that there are some other interactions between the biofuel obligation and the Fuels Industry Act and other Acts that have not been raised in the discussion paper. While our review has not been comprehensive, we would welcome the opportunity to understand these better. We expect that Government will undertake a more fulsome review of other interaction in the development of the explanatory memoranda which would normally explain the interplay between the Biofuels regulations and proposed legislation and current NZ legislation.

For example, there are several potential impacts across the FIA requirements if biofuel blended engine fuels are introduced to the market, such as:

- Consumer Information requirements require retail prices of specific engine fuels to be posted on price boards. This may require some adjustment to manage biofuel blends of engine fuels being sold.
- Information disclosure requirements are complex and obligated parties are required to submit data on a regular basis. These regulations will need to be carefully checked

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to make sure biofuel blends are clearly catered for within the legislation and regulations.

Further, bp expects the application of the Sustainable Biofuel Obligation will interact with the *Energy (Fuels, Levies and References) Act 1989* in respect of petroleum or engine fuel monitoring levies.

Clarity is needed on the applicable excise duty for biofuels (if any) under the *Customs and Excise Act 2018*. Any change to the excise rates on ethanol or biodiesel and the blends with motor spirit and diesel respectively would have immediate economic consequences to the price of fuel.

Advanced biofuels will likely be coming to New Zealand as a result of the Sustainable Biofuel Obligation so the Engine Fuel specifications will need to cater for these new 'drop in' biofuels.