Regulatory Impact Statement: Adding emitting activities to the New Zealand Emissions Trading Scheme

Decision sought	Analysis produced for the purpose of informing Cabinet decisions on the mechanisms by which new emitting activities such as producing silicon are added to the NZ ETS, as part of the Climate Change Response (Climate Adaptation and Other System Improvements) Amendment Bill. Silicon production is used in this RIS as an illustrative example of the type of activity that could emerge and warrant consideration for NZ ETS coverage.
Agency responsible	Ministry for the Environment
Proposing Ministers	Minister of Climate Change
Date finalised	*26/05/2026*

A general power is proposed for the Minister of Climate Change to add new activities only (excluding agriculture) to Schedule 3 of the Climate Change Response Act 2002 (the Act) by Order in Council, supported by specified safeguards (including consultation and transparency requirements).

This would improve the effectiveness of the New Zealand Emissions Trading Scheme (NZ ETS) by providing a faster and more efficient mechanism to add new activities, helping the scheme maintain broad coverage of relevant emitters over time. Improved certainty for firms and investors is a secondary benefit of having a more timely and predictable process.

Summary: Problem definition and options

What is the policy problem?
Schedule 3 of the Act prescribes the mandatory activities within the NZ ETS (activities by which persons must be a participant). While the NZ ETS is intended to achieve broad coverage of relevant sectors over time, genuinely new emitting activities can only be brought into mandatory coverage if Schedule 3 is amended through primary legislation. This creates a timeliness and efficiency problem. Opportunities to amend the Act are infrequent, require significant policy, legislative, and Parliamentary resource. These may not keep pace with technological change, new production methods, or emerging business opportunities. As a result, new emitting activities may remain outside NZ ETS coverage for a period due to legislative timing rather than an intentional policy decision. This can weaken the effectiveness of the NZ ETS by delaying the application of the emissions price signal to

new sources of emissions, reducing consistency of treatment across emitters, and making it harder to maintain broad coverage over time. Delayed inclusion may also create uncertainty for proponents and investors, but this is a secondary consequence of the core timeliness and efficiency problem. Silicon production is used in this RIS as an illustrative example of how a material new activity could commence before NZ ETS coverage is updated.
What is the policy objective? The objective is to ensure that new emitting activities can be brought into mandatory NZ ETS coverage through a more timely and efficient process, so that the scheme can better maintain broad coverage over time and support progress toward emissions budgets and targets. This objective applies generally to future new activities. Silicon production is used in this RIS as an illustrative example to show how the issue could arise in practice. A secondary objective is to improve clarity and predictability for firms and investors about how future NZ ETS coverage decisions may be made.
What policy options have been considered, including any alternatives to regulation? The options considered as part of this proposal are as follows: **Option One:** Status quo/do nothing. New emitting activities enter the NZ ETS only if Schedule 3 is amended through primary legislation (an amendment Bill to the Act). **Option Two:** Amend the Act to create a delegated power to add new activities (excluding agriculture) to Schedule 3 by Order in Council, supported by specified safeguards including consultation, Cabinet consideration, and transparency requirements. The power would be add-only and could not amend or remove existing activities. Officials considered a broader delegated power, but narrowed the design of option two to manage risks around executive discretion, transparency, and scheme stability. **Option Three:** Do not create a new legislative mechanism for adding activities. Instead, officials and Ministers could use case-by-case administrative signalling and engagement — such as discussions with firms, public statements, or guidance — to indicate that a genuinely new emitting activity may warrant future NZ ETS coverage. However, any activity would still need to be added to Schedule 3 through primary legislation before mandatory NZ ETS obligations could apply.
What consultation has been undertaken? No consultation has been undertaken on this proposal. Public feedback on the proposal will be sought through Select Committee consideration of the Bill.
Is the preferred option in the Cabinet paper the same as preferred option in the RIS? Yes – the preferred options are consistent.

Summary: Minister's preferred option in the Cabinet paper

Costs (Core information)
Outline the key monetised and non-monetised costs, where those costs fall (e.g. what people or organisations, or environments), and the nature of those impacts (e.g. direct or indirect)

The preferred option will not result in any new monetised or non-monetised costs. Under the preferred option, emitters, from a new activity, may face an emissions cost sooner than they may have been exposed to one under the status quo (owing to the time required to enact primary legislation amendments). Conversely, faster updating of Schedule 3 (and development of any associated methodological regulations, where required) can provide earlier clarity for proponents and investors about expected NZ ETS obligations and liabilities, supporting investment planning and decision-making. This may also have fiscal benefits for the Crown.
Benefits (Core information)
Outline the key monetised and non-monetised benefits, where those benefits fall (e.g. what people or organisations, or environments), and the nature of those impacts (e.g. direct or indirect) There are no benefits that can be monetised with certainty. Key non-monetised benefits are: • Improved NZ ETS coverage more closely aligned with the pace at which new emitting activities commence, reducing gaps and improving New Zealand's progress towards emission targets. • Supports NZ ETS integrity and credibility by promoting consistent treatment across emitters and a level playing field, reinforcing the 'as wide as practicable' coverage principle. • Improved ability to meet emissions budgets and targets by reducing the risk that new sources of emissions sit outside the NZ ETS (and its emissions price signal) for a period due to legislative timing. • Improved regulatory certainty and investment planning for prospective new activities (including earlier clarity on likely NZ ETS obligations). In practice, this uncertainty can be partially mitigated through early engagement with MfE and the EPA ahead of any legislative or regulatory change, but formal legal certainty is only achieved once Schedule 3 (and any supporting regulations) are updated. • Increased Government administrative efficiency.
Balance of benefits and costs (Core information)
Does the RIS indicate that the benefits of the Minister's preferred option are likely to outweigh the costs? Yes, the RIS indicates that the benefits of the preferred option are likely to outweigh the costs.
Implementation
How will the proposal be implemented, who will implement it, and what are the risks? The proposal will be included in the Climate Change Response (Climate Adaptation and Other System Improvements) Amendment Bill. The Bill is expected to be introduced around mid-2026 (around May/June), with passage expected after mid-2026. Following the Bill coming into force, the Ministry for the Environment will lead policy analysis and advise the Minister on whether any specific new activity should be added. This will include coordinating consultation, supporting the Minister with Cabinet decisions, drafting instructions and the regulations process.

Limitations and Constraints on Analysis

No public consultation, or targeted engagement has been undertaken to inform the analysis of this proposal. This is owing to the short timeframe between issue identification and Cabinet's policy decisions for the Bill. An opportunity to seek public feedback on the proposal is anticipated through the Select Committee stage, following introduction of the Bill to the House.

The scale of benefits is uncertain. They depend on whether a new activity proceeds in New Zealand, the quantity of emissions, and how often the delegated power would be exercised in future. As a result, benefits are described qualitatively.

I have read the Regulatory Impact Statement and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits, and impact of the preferred option.

s 9(2)(a)

Responsible Manager(s) signature: ______________
Meredith Davis
Manager – Land Use and Removals
26/05/2026

Quality Assurance Statement [*Note this isn't included in the four-page limit]*

Reviewing Agency: MfE Internal QA Panel	**QA rating:** Partially meets

Panel Comment:

A quality assurance panel from the Ministry for the Environment has reviewed the Regulatory Impact Statement (RIS): Adding emitting activities to the New Zealand Emissions Trading Scheme. The Panel considers that the RIS partially meets the Ministry's Quality Assurance criteria.

The Panel considers that the RIS is complete in scope, clearly identifying the policy problem, objectives, options, and key limitations of the analysis. It is well written, readable, and pitched at an appropriate level to support Cabinet decision making. The options analysis and cost-benefit analysis are well developed and provide a sound basis for decision-makers. However, the Panel considers that the absence of consultation on the preferred option is a material limitation. This reduces confidence in the robustness of the analysis and advice. As a result, the RIS can only partially meet the Quality Assurance criteria. This judgement reflects this specific limitation rather than the overall quality of the RIS, which the Panel considers to be high.

Section 1: Diagnosing the policy problem

What is the context behind the policy problem and how is the status quo expected to develop?

1. The New Zealand Emissions Trading Scheme (NZ ETS) is the Government's key tool for reducing greenhouse gas emissions in line with emissions budgets and targets.
2. All sources of emissions are included in the NZ ETS except for emissions resulting from agricultural activities. The NZ ETS supports reductions in net emissions aligned with emission targets by:
    - requiring businesses to measure and report on their greenhouse gas emissions
    - pricing emissions and removals

- requiring participants to surrender New Zealand units (NZUs) for each metric tonne of carbon dioxide (CO2) or the equivalent of any other greenhouse gas they have emitted
- limiting the volume of NZUs supplied into the NZ ETS through auctioning.

Obligations on participants under the NZ ETS

3. The NZ ETS was designed to include as many emission sources as possible. Wide coverage allows the NZ ETS to operate more efficiently and create greater opportunities to find the lowest-cost ways to reduce emissions.
4. In practice, the NZ ETS is intended to cover the entirety of specified sectors and sources of emissions (other than agriculture) and to apply the emissions price signal as broadly as practicable. However, mandatory participation is implemented through the Act by requiring that emitting activities are named in Schedule 3. This creates a structural limitation: not all future emitting activities can be known or described in advance, particularly where new technologies, production methods, or markets emerge over time.
5. The NZ ETS imposes obligations on people who perform the activities listed in Schedule 3 of the Act. These activities are generally upstream of where emissions occur. For example, miners of coal and importers of liquid fossil fuels are mandatory NZ ETS participants, despite the emissions from their products occurring elsewhere. Some industrial activities are listed in Schedule 3 as they produce emissions from chemical transformations, such as in making clinker for cement.
6. Where a new emitting activity is not yet listed in Schedule 3, it cannot be brought into mandatory coverage until Schedule 3 is updated through legislation (under the status quo), even if the activity sits within the types of sectors and emission sources the NZ ETS is intended to cover.
7. Thresholds are used to make sure the emissions covered are significant enough to justify the administrative and compliance costs for emitters and the Crown. For example, only people who mine more than 2000 tonnes of coal in a year are mandatory NZ ETS participants.
8. Participants in the NZ ETS must meet a range of obligations, including:
    - applying to open a holding account in the New Zealand Emissions Trading Register (the Register)
    - registering as a participant
    - filing an emissions return at required intervals or in required circumstances
    - surrendering units in accordance with required timeframes or receiving units.

Including new emitting activities in the NZ ETS

9. Adding new mandatory activities to the NZ ETS currently requires amending Schedule 3 of the Act through a Bill. No new industrial activities have entered the NZ ETS since 2009. There has been no need to amend the relevant part of Schedule 3 to date.
10. New emitting activities may emerge over time as the New Zealand and global economies evolve. One example that has been considered in policy work is silicon production. Silicon manufacturing has been explored on and off as a potential venture in New Zealand in the past, which makes it a useful example of a plausible future activity for analysis.

11. Greenhouse gas emissions arise from converting silica quartz into silicon by reduction using carbon. If 50,000 tonnes of silicon were produced in a year, this could result in around 200,000 tonnes of carbon dioxide equivalent emissions annually. This would be a material industrial source of greenhouse gas emissions in New Zealand. Silicon production is not currently listed in Schedule 3, so if such an operation were to commence in New Zealand, those emissions would not be covered by the NZ ETS without changing the Act.

What is the policy problem or opportunity?

12. Under the status quo, new emitting activities can only be added to the NZ ETS through amendments to primary legislation. In practice, the pace at which new activities, technologies, and investment opportunities emerge can be faster than the Parliamentary timetable and the resourcing required to progress legislative amendments. This creates a risk that delays in mandatory coverage are driven by legislative timing rather than an explicit policy decision about whether an activity should be covered. Silicon production provides a useful illustrative example because it has been explored on and off as a potential venture in New Zealand and shows how a material new activity could commence, generate emissions, and remain outside the NZ ETS until the law is updated.

13. This can reduce the effectiveness and efficiency of the NZ ETS by postponing the application of the emissions price to new sources of emissions, weakening consistency between participants, and making it more difficult for the scheme to maintain broad coverage over time. It may also make progress toward emissions budgets and targets more difficult at the margin if significant new sources of emissions remain outside the scheme for a period.

14. Delayed inclusion could also create distributional and credibility impacts, because existing participants could face an emissions price while new emitters may not. This could create competitive distortions and undermine the ‘as wide as practicable’ coverage principle. Delayed inclusion could also prolong uncertainty for proponents and investors about expected NZ ETS treatment and liabilities, although this uncertainty is best understood as a secondary consequence of the underlying timeliness and efficiency problem and could be partially mitigated through early engagement with MfE and the EPA ahead of legal change.

What objectives are sought in relation to the policy problem?

15. The primary objective is to ensure that the NZ ETS can maintain broad coverage of relevant sectors and new sources of emissions, as wide as practicable, through a more timely and efficient mechanism for bringing new activities into mandatory coverage. This includes reducing delays caused by reliance on primary legislation, improving efficiency in the use of policy and Parliamentary resource, and supporting the effectiveness and integrity of the NZ ETS over time.

16. This objective is not specific to silicon production or any other single activity. However, silicon production is used in this RIS as a consistent illustrative example to show how the problem could arise in practice. A secondary objective is to improve clarity and predictability for potential participants and investors about how and when new activities may become subject to NZ ETS obligations.

What consultation has been undertaken?

17. No public consultation or targeted stakeholder engagement was undertaken on this proposal to date, mainly due to the short timeframe between identification of the issue and

Cabinet policy decisions for the Bill. This constrains the robustness of the analysis because officials have not been able to test assumptions with affected parties, identify any additional implementation issues or stakeholder impacts, or assess how the proposal would operate in practice. As a result, the assessment is necessarily higher level and more uncertain than it would have been if informed by consultation.

18. Officials have, however, engaged with other internal MfE teams and government agencies, including the EPA, MBIE, MPI, Treasury, MoT, Customs, as well as the Legislation Design and Advisory Committee (LDAC), to test workability, safeguards, and legal design.

19. An opportunity to seek public feedback on the proposal is anticipated through the Select Committee stage, following introduction of the Bill to the House.

Section 2: Assessing options to address the policy problem

What criteria will be used to compare options to the status quo?

20. The criteria set out below have been used for this RIS:

Criteria	Description
Consistency with purpose of ETS	The extent to which the option is consistent with the purpose of the ETS to drive emissions reductions in line with meeting emissions budgets and targets.
Ease of implementation and cost	The extent to which the option is easy to implement and minimises administrative costs for government and compliance costs for ETS participants.
Clarity and transparency	The extent to which the option is clear, or clarifies an existing area of law, and establishes certainty for ETS participants on how it will be applied.
Consistency between participants	The extent to which the option ensures that ETS participants are treated consistently.

21. There are no relationships between the criteria. They are weighted equally in this assessment of options.

What scope will options be considered within?

22. Options were considered within the scope of addressing delays in bringing genuinely new emitting activities into mandatory NZ ETS coverage, and the resulting uncertainty for firms and decision-makers. This included both regulatory and non-regulatory options.

23. Because mandatory participation in the NZ ETS is defined in legislation, any option that changes legal coverage ultimately requires legislative change. Non-regulatory options can therefore only partially address the problem by improving expectations or communication rather than creating binding obligations. This RIS does not consider wider changes to NZ ETS settings (such as unit supply, auction parameters, price controls, industrial allocation settings, or penalties), because those do not directly address the mechanism by which new activities are brought into mandatory coverage.

What options are being considered?

Option One – Status Quo

24. Under the status quo, no new delegated power would be created. New mandatory activities could be added to Schedule 3 only through an amendment to the Act passed through primary legislation.

Option Two: Create a general power to add mandatory activities to Schedule 3 of the Act, with safeguards

25. Officials considered a broader delegated power to add, amend, or remove Schedule 3 activities by Order in Council. However, that approach would have increased executive discretion and reduced certainty about how the power could be used. Option Two was therefore designed more narrowly as an add-only power. It would allow the Minister of Climate Change to recommend adding new mandatory activities (excluding agriculture) to Schedule 3 by Order in Council, supported by safeguards including consultation, Cabinet consideration, and publication of supporting information. The power would not allow existing activities to be amended or removed. This would provide a timelier and more efficient pathway for bringing genuinely new activities into the NZ ETS, while managing risks to transparency, scrutiny, and scheme stability.

Option Three – Case-by-case administrative signalling and engagement

26. This option would not create a new legal mechanism for adding activities to the NZ ETS. Instead, officials and Ministers could use case-by-case administrative signalling and engagement — such as discussions with firms, public statements, or guidance — to indicate whether a genuinely new emitting activity appears broadly consistent with the types of activities that may warrant future NZ ETS coverage. Any such signalling would be non-binding and would not itself create legal obligations. If the Government later decided that the activity should become a mandatory NZ ETS activity, Schedule 3 would still need to be amended through primary legislation.

How do the options compare to the status quo/counterfactual?

	Option One – Status quo	Option Two – General power (with safeguards)	Option Three – Case-by-case administrative signalling and engagement
Consistency with purpose of ETS	0	++ Faster pathway to add new activities, keeping NZ ETS coverage aligned with emerging emitters and reducing timing-driven coverage gaps.	+ May improve visibility of likely future treatment through case-by-case signalling as opportunities arise but does not itself deliver legal coverage.
Ease of implementation and cost	0	+ Reduces reliance on primary legislation to update Schedule 3.	+ Quick and relatively low cost to use but may require repeated case-by-case engagement and does not avoid ongoing uncertainty.
Clarity and transparency	0	0 May provide a clearer statutory pathway for future additions but is not more transparent than primary legislation and relies on safeguards to mitigate reduced parliamentary scrutiny.	0/- Could provide some practical indication on a case-by-case basis, but any signal would be non-binding, could not bind a future government or parliament, and may be over-interpreted.
Consistency between participants	0	+ Likely to reduce periods where comparable new emitters remain outside the scheme due to legislative timing, improving consistency of treatment at the margin.	0 Does not materially improve consistency until legal coverage is actually changed.
Overall assessment	0	++++ Performs best overall because it most directly addresses the core timing and legal coverage problem, while its transparency trade-offs can be mitigated through robust safeguards.	0/+ May partially reduce uncertainty through case-by-case engagement but is insufficient to solve the core timing and legal coverage problem on its own.

Consistency with purpose of the NZ ETS

27. Relative to the status quo, option two performs strongly better because it creates a faster legal pathway to include genuinely new, material emitting activities in the scheme, reducing timing-driven gaps in coverage and supporting the scheme's objective of maintaining broad coverage over time. Option three performs only slightly better than the status quo at most, because it may improve visibility of likely future treatment, but it performs weakly overall on this criterion because it does not itself create legal coverage or ensure the emissions price signal applies sooner.

Ease of implementation and cost

28. Relative to the status quo, option two performs moderately better because, in relevant future cases, it should reduce reliance on a separate amendment Bill and avoid some of the time, drafting effort, and parliamentary process associated with primary legislation. However, the scale of these benefits remains uncertain because it depends on whether suitable future activities arise and whether the power is used. Option three performs mixed on this criterion: it may be easier and lower-cost to use administratively in the short term, but it performs weakly as a durable solution because it does not resolve the underlying legal mechanism and may require repeated engagement over time.

Clarity and transparency

29. Relative to the status quo, option two performs about the same overall. It may create a clearer statutory pathway for future additions, but it does not clearly outperform primary legislation on transparency because primary legislation generally provides stronger parliamentary scrutiny and a more structured public process. Its performance on this criterion therefore depends heavily on the strength of safeguards, including consultation, Cabinet consideration, clear decision criteria, and publication of reasons and supporting analysis. Option three performs mixed to weakly because any signals would be non-binding, could not bind future ministerial, government, or parliamentary decisions, and may be over-interpreted by firms as providing greater certainty than they can in fact deliver.

Consistency between participants and overall assessment

30. Relative to the status quo, option two performs moderately better because it should reduce the period in which comparable new emitters remain outside the scheme solely because of legislative timing. The add-only design helps contain risks to scheme stability by limiting executive discretion while still allowing genuinely new and material activities to be added sooner. Option three performs about the same as the status quo because it does not materially improve consistency until the law is changed. Overall, option two performs best across the full set of criteria. Its strongest performance is against consistency with the purpose of the NZ ETS, it performs moderately better on ease of implementation and cost and on consistency between participants, and it performs about the same as the status quo on clarity and transparency. On balance, option two remains preferred because its advantages on the core problem are likely to outweigh its transparency trade-offs, provided robust safeguards are included.

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

31. Option two remains the preferred option because it is most likely to address the core timeliness and efficiency problem. It provides a more workable mechanism for adding genuinely new emitting activities to the NZ ETS than relying solely on future amendment Bills or case by case engagement with firms and is therefore more likely than the alternatives to support broad coverage over time. However, the strength and scale of the benefits are uncertain. This is because the aggregate benefit depends on unknown future facts, including whether new activities emerge, whether they are material enough to justify inclusion, whether ministers choose to use the power, and what supporting regulations and implementation steps are required in each case.

Why option two performs better on the main objective

32. Option two performs better than the status quo or option 3 on the core objective because it is designed to reduce legislative timing as a barrier to coverage. If a genuinely new, material emitting activity emerges, the delegated pathway should allow legal coverage to be considered and implemented more quickly than waiting for a separate primary legislative amendment. This is why option two scores better than the status quo on consistency with the purpose of the NZ ETS and on ease of implementation and cost. The expected benefit is not that every future case will be simpler or faster, but that the mechanism is generally better suited to responding when such cases arise.

How the trade-offs have been assessed

33. The case for option two is not that it dominates the status quo on every criterion. In particular, it does not clearly outperform the status quo on transparency, because primary legislation involves stronger formal parliamentary scrutiny and a more structured public process. The preferred option is instead justified on the basis that its timeliness and efficiency advantages are likely to outweigh this drawback if robust safeguards are included.

34. Option three provides a limited non-regulatory benefit by improving visibility of likely government through case-by-case engagement, which may partially reduce uncertainty for firms and investors at the margin. However, because any such signalling would be non-binding and would not change legal coverage, it does not materially address the core timeliness and efficiency problem.

35. Option two also performs somewhat better than the status quo on consistency between participants because it should reduce, at the margin, the period in which comparable new emitters may face different treatment solely due to legislative delay. These judgments are based on the design of the options and experience of legislative processes, rather than quantified empirical estimates.

Overall confidence in the assessment

36. Confidence is moderate rather than high. The direction of effects is reasonably clear: Option two should create a more responsive process than the status quo and should be more effective than non-regulatory guidance alone. But the magnitude of benefits is uncertain because no specific future activity is currently being added through this proposal. Ministers should therefore read the preferred-option assessment as showing a plausible

process improvement with potentially material benefits in future cases, rather than a quantified or certain gain.

Is the Minister's preferred option in the Cabinet paper the same as the agency's preferred option in the RIS?

37. Yes.

What are the marginal costs and benefits of the preferred option in the Cabinet paper?

Affected groups *(identify)*	**Comment** *nature of cost or benefit (e.g., ongoing, one-off), evidence and assumption (e.g., compliance rates), risks.*	**Impact** *$m present value where appropriate, for monetised impacts; high, medium, or low for non-monetised impacts.*	**Evidence Certainty** *High, medium, or low, and explain reasoning in comment column.*
Additional costs of the preferred option compared to taking no action			
Regulated groups (current ETS participants)	No direct new compliance costs are expected for existing participants from creating the delegated power itself. This is based on the design of the proposal, which concerns adding future activities rather than changing existing obligations.	Nil	High
Potentially regulated groups (illustrative example: silicon producer)	If a new activity later emerges and is added sooner than it would be under a primary legislation pathway, its participants could face earlier administrative, reporting, and surrender obligations. This is an assumption about how the mechanism could operate in a future case, not an evidenced near-term impact. The scale could be material for an individual firm if a large activity were added, but the timing and likelihood are highly uncertain because they depend on future investment decisions, ministers' decisions, supporting regulations, and implementation readiness.	Non-monetised: Low overall, but potentially medium for an affected future entrant if the power is used	Low

Regulators (EPA)	There may be some case-specific administrative and operational costs when the power is used, such as guidance, system readiness, onboarding, and support for newly covered participants. These are expected from the nature of implementation but cannot be estimated now because there is no identified activity being added at present.	Non-monetised: Low	Medium
Others (e.g., wider govt, consumers, etc.) *For fiscal costs, both increased costs and loss of revenue could be relevant*	Central government and parliament would face one-off costs now to legislate for the power, plus future policy and drafting effort when it is used. Relative to the status quo, these upfront costs are expected to be minor because they are being incorporated into an amendment Bill already in development. This judgment is based on process knowledge rather than quantified costing.	Unquantified; non-monetised: Low	Medium
Total monetised costs	Not estimated.	0	Low
Non-monetised costs	Key non-monetised costs are the reduced level of formal parliamentary scrutiny relative to primary legislation and the possibility of earlier compliance obligations for any future activity added under the power. These costs are conceptually clear, but their practical significance will depend on the detailed statutory safeguards and any future use of the power.	Low-Medium	Medium
Additional benefits of the preferred option compared to taking no action			
Regulated groups (current ETS participants)	The preferred option is expected to reduce, at the margin, the risk that comparable new emitters remain outside the scheme for a period purely because legislation	Non-monetised: Low	Medium

	has not yet been amended. This would support more even treatment over time. This is a reasoned inference from the design of the mechanism rather than direct evidence from prior use.		
Potentially regulated groups (illustrative example: silicon producer)	The main potential benefit is earlier clarity about the legal pathway by which a future activity could be brought into the NZ ETS. In practice, this could help proponents and investors assess regulatory risk sooner than under the status quo. The materiality of this benefit is highly case-specific: it could matter where a project is sensitive to regulatory certainty but could be negligible if no relevant activity emerges or if NZ ETS treatment is not decision-critical.	Non-monetised: Low–Medium	Low
Regulators (EPA) and central government	The preferred option should reduce the need to promote a separate amendment Bill each time a genuinely new activity needs to be added. The indicative benefit is avoided use of parliamentary time and some policy and drafting effort in those future cases. The benefit could be meaningful when the power is used, but total aggregate savings are uncertain because the frequency of use is unknown.	Non-monetised: Medium in relevant cases; Low overall at this stage	Medium
Others (e.g., wider govt, consumers, etc.)	If the power is used for a material new source of emissions, emissions pricing incentives could apply sooner than under the status quo. This is the core policy benefit. However, the magnitude is uncertain because no specific future activity is identified and the eventual emissions impact would depend on the scale, timing, and design of any future inclusion decision.	Non-monetised: Potentially medium in relevant future cases; Low overall at this stage	Low

Total monetised benefits	Not estimated.	Nil	Low
Non-monetised benefits	The key non-monetised benefits are a more responsive legal mechanism for future additions; fewer timing-driven coverage gaps if relevant new activities emerge; some reduction in repeat legislative effort; and a clearer statutory pathway for firms and officials. These benefits are plausible and align with the design of the proposal, but they are not quantified and should be treated as uncertain in scale.	Low-Medium	Low–Medium (benefits are plausible but not quantified; magnitude depends on pace/scale of new activities and use of the power).

Section 3: Delivering an option

How will the proposal be implemented?

38. Implementation of the proposal has two parts: (1) primary legislation creates the delegated power and (2) any future additions are made case-by-case via Order in Council.

39. The proposal will be part of amendments to the Act in the Climate Change Response (Climate Adaptation and Other System Improvements) Amendment Bill. The Bill is expected to be introduced around mid-2026 (May/June). Public consultation on the proposal is expected through Select Committee consideration.

40. There are also implementation risks and dependencies associated with the New Zealand Emissions Trading Register (the Register), which is operated by the EPA. The Register is currently subject to a change 'freeze' due to system constraints. This may affect the speed at which some policy changes can be operationalised where they require Register system changes (for example, onboarding and reporting for newly covered activities). This risk can be managed by setting commencement of obligations for any activity added using the new delegated power through the relevant Order in Council, and timing commencement to align with operational readiness (including availability of any required methodologies, guidance, and Register capability).

41. The preferred option also carries a small set of identifiable implementation and design risks.

Risk	**Safeguard / risk mitigation**
Delegation and NZ ETS stability – risk that shifting the mechanism from primary legislation to Order in Council increases executive discretion and the potential for more rapid changes to NZ ETS coverage,	Limit the delegated power to add-only (no amend/remove) and exclude agriculture, so the power cannot be used to make broader or frequent changes to existing NZ ETS obligations. Require Cabinet

reducing parliamentary scrutiny and creating perceived or actual policy instability for participants and investors.	consideration for each proposed use, with mandatory consultation before any addition and publication of the decision and supporting rationale or criteria to promote transparency and discipline. Set commencement of any newly added activity through the Order in Council to support orderly transition and reduce uncertainty.
Readiness and compliance for newly covered activities – risk that a newly covered participant is not prepared to meet reporting and surrender obligations from commencement.	Require consultation before any addition to Schedule 3 is made by Order in Council, in addition to any existing consultation requirements for supporting methodological regulations. Provide targeted regulator support and guidance.
Legal and technical definition risk – risk that an activity is defined in a way that creates ambiguity about who is captured.	Use careful regulatory drafting, test definitions with technical experts and affected sectors, and align with existing NZ ETS reporting frameworks where possible.

42. Any future use of the general power will require public consultation on whether an activity should be part of the NZ ETS. Cabinet decisions will be informed by focussed regulatory impact statements.

How will the proposal be monitored, evaluated, and reviewed?

43. Monitoring, evaluation and review will be integrated into existing NZ ETS regulatory stewardship. MfE and the EPA will monitor whether the new mechanism enables timely and efficient additions of new activities while maintaining appropriate governance, clarity, and manageable compliance and administrative burden.

44. Stakeholders can raise concerns through MfE engagement, EPA support/compliance channels, and (for any proposed addition) targeted consultation. MfE and the EPA will maintain an issues log to track operational and implementation issues and agree actions and timeframes (e.g., guidance changes, process improvements, or legislative/regulatory amendments).

45. Monitoring will use existing NZ ETS operational data, including: activities added (if any); time from identification to commencement; onboarding volumes; compliance metrics (returns and surrender); and EPA administrative workload. No new system-wide data collections are expected; any activity-specific information needs will be assessed case-by-case.

46. MfE will assess whether the delegated pathway is improving coverage and timeliness more efficiently than relying on primary legislation, and whether safeguards are supporting transparent, proportionate decisions. This will draw on monitoring data, stakeholder feedback, and lessons from any Orders in Council. If the power is not used, MfE will still monitor whether new activities remain outside Schedule 3 due to legislative timing.

47. A formal review may be undertaken through MfE's NZ ETS stewardship work programme and will be considered after first use of the power (or within ~3–5 years of commencement if unused). Earlier review would be triggered by material issues (e.g., uncertainty affecting investment/compliance, repeated definitional boundary problems, insufficient consultation or readiness, unexpected compliance costs, or persistent operational/enforcement issues).

Ministers will also receive issue-specific assurance each time an Order in Council is proposed through Cabinet papers on impacts, consultation, and implementation readiness.