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Committee Secretariat
Environment Committee
Parliament Buildings
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Submission from the Bioenergy Association

Sustainable Biofuel Obligation Bill

The Bioenergy Association is pleased to make this submission on the *Sustainable Biofuel Obligation Bill*. The submission is submitted as an organization and the publication of any part of this submission is approved.

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To support this formal submission the Bioenergy Association wishes to make an Oral presentation to the Environment Select Committee.

Our stakeholders

The Bioenergy Association represents a significant portion of liquid biofuel producers and suppliers, and their consultants, researchers and equipment/appliance suppliers across New Zealand. It has members who have a specific interest in the policies and regulations relating to the sourcing, production, distribution and utilisation of liquid biofuels.

This submission is complementary to the individual submissions from members which provide more detail on specific aspects of the Bill.

Main points in our submission

The Bioenergy Association supports the proposed legislation in principle but has specific concerns relating to its details.

Association members support the use of biofuels and note that biofuels are only ever used in meaningful quantities in any country via Government mandate, subsidy or both. This is because the cost of biofuels are significantly greater than their mineral fuel counterparts. The proposed legislation will partly meet this requirement, but significant additional actions will be required to be taken by Government if meaningful emissions reduction from heavy transport are to be achieved.

The obligation proposed by the Bill will in the main be met by importation of biofuel and therefore requires significant investment in import storage and blending infrastructure for volumes of biofuel that are well in advance of current levels. Domestic production of liquid biofuels is expected to be a number of years away.

For New Zealand to achieve optimal economic value from use of renewable domestic resources to provide long term transport fuel security, and reduce heavy transport emissions, the proposed

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legislation should be coupled with a liquid biofuel domestic production development programme similar to the effort being put into electric vehicles, electricity supply security and hydrogen production. New Zealand has adequate biomass and organic waste resources to produce a significant quantity of liquid biofuel, but because of market failures, to achieve the additional value to New Zealand from domestic production of liquid biofuels will require Government financial support. This is being done in other countries but New Zealand has not recognised the opportunity, consequently all liquid biofuels will be unnecessarily imported.

The sustainability criteria set out in clause 13 are supported but when the regulations are developed careful consideration of standards or certification schemes is required to avoid inhibiting New Zealand commencing a transition to production of sustainable biofuels. There is a need to create a policy and regulatory platform that both certifies overseas biofuels and provides certainty around the supply of New Zealand feedstocks for domestic biofuel production.

An enabling approach should be taken in the regulations for the certification of sustainable fuels – requiring the biofuels, whether imported or produced locally, to be sustainably produced but not specifying any single standard. Rather listing acceptable standards that could be used (‘such as RSB, ISCC, FSC, PEFC’). This puts the onus on suppliers to make their case to the Environmental Protection Authority, demonstrating sustainable production and avoids legislating based on a standard from a foreign entity that may change over time.

It is recommended that work be done to define appropriate standards for NZ, through a national standard working group, to be used for both imported and locally produced biofuels for inclusion in the regulations. FSC and PEFC with their current use in New Zealand will provide better foundations for developing a standard for locally produced liquid biofuels than RSB or ISCC.

While it is recognized that sustainable aviation fuel (SAF) is excluded the Association wishes to bring to the attention of the committee that there is a critical need for a SAF specific mandate to be accelerated.

While the proposed legislation is supported there are two critical points which underpin the success of the legislation:

- The need for biofuels to be prioritised for hard to abate sectors; and
- The critical need for robust and transparent sustainability criteria – to be domestically and internationally aligned/validated

Comments on specific matters are set out below.

Specific concerns

Excise exemption

1. It is critical that clarity on decisions to continue or remove the excise exemption from ethanol be provided as soon as possible as this will have a significant influence on fuel supplier decision making.

Sustainability criteria

2. While the timeframe for the obligation has been extended to 1 April 2024 it is critical that in order for obligated parties to confirm commercial supply arrangements ahead of the Obligation coming into effect, there is need for clarity on the final regulations given they define what a sustainable biofuel is. Members consider that they need a minimum six months to enable supply chain and procurement considerations.

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3. Bioenergy Association supports using sustainable biofuels, however by implementing an overly rigid assessment system New Zealand is in danger of setting unachievable requirements as we restrict or eliminate international supply and put unnecessary barriers in front of domestic production.
4. None of the four standards, as they currently stand, is fully fit for purpose for application within New Zealand. The RSB and ISCC standards are designed to protect from situations, such as indigenous deforestation, that are not present in NZ. This is important for exporting into these markets to satisfy their requirements for trade but might not be suitable for domestic purposes. In NZ, harvesting of, or deforestation of NZ indigenous forests for productive purposes is managed through the RMA and the Forests Act.
5. The international sustainability schemes have been established for very different jurisdictions where land use sustainability matters are managed very differently than in New Zealand. Where a biofuel is imported from another jurisdiction then the sustainability criteria developed and used in that jurisdiction should apply to that biofuel. Those international schemes are not relevant to New Zealand and should not apply to biofuels produced in New Zealand using New Zealand sourced feedstock.
6. The international sustainability standards – the Roundtable for Sustainable Biofuels (RSB) criteria notably – create significant uncertainty around the use of wood for biofuel. In particular, the RSB criteria currently prohibit use of roundwood (i.e. logs) for biofuel production, and instead limit production only to residues from other wood processing. Producing biofuel at scale may require the use of whole logs, including from forests grown and harvested specifically for biofuel production. If the RSB standard was adopted this could stop development of wood-based biofuel in New Zealand which could use logs (i.e. roundwood) from short rotation forests grown for bioenergy production, or from logs currently used for other low-value/industrial end uses (e.g. those currently exported for pulp). In addition, the international standards are contrary to New Zealand land use regulatory environment and could create unintended consequences around land use change.
7. The internationally recognised certification schemes applying in specific countries should be accepted for biofuels sourced from that country. The acceptability or not of a particular scheme should be determined by the government of the country from which the biofuel is sourced. Applying those schemes for New Zealand would conflict with our existing legislation, regulatory and best practice requirements.
8. A supplier importing biofuel from a specific country should provide certification which will be accepted without further testing or need for investigation. The EPA should satisfy itself that the international scheme providing certification of the biofuel production from that specific country is acceptable. If the biofuel certification is being accepted by other jurisdictions then no other certification should be necessary. Such acceptance will mean that demonstration of sustainability by the importer will be minimal cost.
9. New Zealand has established a portfolio of sustainability legislation, regulation, and best practice for a range of land uses etc and these generally apply regardless for what the biomass material sourced from that land is used for. The focus of New Zealand legislation is on managing adverse effects and does not determine end use. There are also existing private certification schemes that some forest sector participants use to demonstrate the legality of their production,

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including schemes by the Forest Stewardship Council and the Programme for Endorsement of Forest Certification. The proposed sustainability criteria should also be consistent with the proposed Forests (Legal Harvest Assurance) Amendment Bill currently being considered by Parliament. This Bill sets out requirements to establish a legal harvest system to assist in combatting global trade in illegally harvested timber, to safeguard and enhance market access for New Zealand timber exporters, and to assure the legality of the source of timber imported into New Zealand. If considered necessary, the legal harvest provision could be extended to cover the import or domestic production of liquid biofuels.

Flexibility

10. Members are in favour of the ability to 'bank', 'trade' and 'borrow' units across all fuels as a practical way in situations where it was not possible to meet the obligation targets in any given year.
11. A mass balance approach should be allowed rather than requiring all fuel supplied to be blended in the applicable percentage applying at that time. This would allow for non-blended fuel to be supplied to a specific customer in some regions. This is important in the early years where the level of required blending is low.
12. The cost of any biofuel must be implemented across all litres to help ensure an equitable playing field and avoid potential market distortions which would drive perverse policy outcomes. Importers under the regulation should be able to spread the cost of the obligation across all their supplied fuels rather than just tied to the exact biofuel being offered to market.
13. There should be no exemption for fuel in machinery in agriculture, forestry and industry as importers do not have full visibility on the end use of fuels and therefore would be unable to provide assurance over the calculation adjustments.
14. In order for industry to make long-term investment decisions that are efficient, well-structured and minimise the cost impact of the Obligation on consumers, a coordinated approach between industry and Government is urgently required.

Emission intensity factors

15. Members consider that specific rates for life cycle emission intensity factors should be used for petrol and diesel rather than a single lifecycle calculation.

Product classification under HSNO

16. Members are concerned that Renewable Diesel does not have HSNO classification, and therefore the neat material (100% bio) cannot currently be imported, stored, or blended legally in New Zealand. The process to classify this has been ongoing at the EPA for more than a year. This is a barrier to a viable alternative to diesel fuel, and as pathway to meeting the reduction of emissions intensity under the mandate. This is also an impediment to the import of neat SAF for aviation decarbonisation.

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Education and Support

17. The obligation will bring change for all motorists and commercial fuel users, over and above the pricing impacts. There will be a number of common questions which will require an integrated government/sector response:

- Is my car's engine compatible with biofuel?
- Can I use biofuels with water related activities?
- Are there other matters I should be aware of?
- Are these fuels responsibly produced?
- Are vintage / collectable engines compatible for biofuel?
- Are two-stroke and other small engines bio-fuel compatible?

Government should engage with industry, then fund and support the obligation implementation with information to the public, motor vehicle repair organisations and other affected groups.



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