



# East Coast Forestry Project

## Proposed Changes to the Operation of the Scheme

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# Options for improving the East Coast Forestry Project

This paper provides options for changes to the operation of the East Coast Forestry Project (ECFP). The Ministry for Primary Industries (MPI) is seeking feedback on these options and is calling for submissions. The feedback will result in potential changes to the way the ECFP is operated.

## SUBMISSIONS

We will be consulting with you in February and March 2014. The closing date for submissions is midnight on Sunday 16 March 2014.

Submissions or queries should be addressed to: [ecfp@mpi.govt.nz](mailto:ecfp@mpi.govt.nz)

Alternatively responses or queries can be mailed to:

ECFP Submissions

Growth and Innovation Team

Ministry for Primary Industries

P O Box 2526

Wellington 6140

Discussions with community and landowners will be convened to gather perspectives from existing and potential participants in the scheme.

Feedback from submissions will be considered and proposals developed for approval by Cabinet.

## RELEASE OF SUBMISSIONS

All submissions are subject to the Official Information Act 1982. Therefore, if you consider that all or part of your submission is commercially sensitive or should be treated as confidential, please state this clearly when making your submission.

# 1 Introduction

This paper proposes options for changes to the operation of the East Coast Forestry Project (ECFP). The Ministry for Primary Industries (MPI) is seeking feedback on options and is calling for submissions. The feedback will result in potential changes to the way the ECFP is operated.

MPI is committed to achieving a simpler, more user-friendly grant scheme to better deliver on the ECFP's objective. The main objective of the ECFP is to address severe soil erosion by achieving sustainable land management on severely eroding land or erodible land on the East Coast.

This paper is specific to the administration of the ECFP and does not extend to other grant schemes or other initiatives on the East Coast.

## 1.1 BACKGROUND

Hill country erosion is estimated to cost New Zealand \$100-150 million per year. The Gisborne District has a severe erosion problem with 26 percent of the district's land susceptible to severe erosion (this compared with only 8 percent of all land in New Zealand).

Severe erosion causes long-term damage to the productivity of rural land. It threatens communities and rural businesses, including farms and orchards, roads and bridges. It lowers water quality by contributing large amounts of sediment to river systems, and it harms the natural values of the land and the coastal environment.

The Waiapu River has the highest suspended sediment yield of any river in New Zealand and one of the highest in the world. The suspended sediment yield of the Waiapu River is equivalent to an annual suspended sediment load of 35 million tonnes per year.<sup>1</sup> Catchment modelling found that between 1957 and 2008, gully-derived sediment yield has increased by about 80 percent. These models indicate that if all gullies in the catchment are afforested by 2020, sediment yield could be reduced by half by 2020.<sup>2</sup> If nothing is done, erosion and sedimentation could increase by double by 2050. The catchment would experience even greater physical damage, the area's agricultural production would deteriorate, and social deprivation would worsen.

The ECFP is a grant scheme initiated in 1992 to address severe soil erosion by achieving sustainable land management on severely eroding land or erodible land (referred to as 'target land') in the Gisborne District.

From 2009, Section 6.10 of the Gisborne District Council's (GDC) Combined Regional Land and District Plan requires all landowners with Land Overlay 3A (LO3A)<sup>3</sup> to have effective tree cover by 2021. This is dependent on the ECFP being available to fund treatments for erosion prone land.

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1 <http://www.fao.org/nr/water/aquastat/sediment/index.asp>

2 Herzig, A., Dymond, J.R., Marden, M., 2011. A gully-complex model for assessing gully stabilisation strategies. *Geomorphology*, 133: 23-33.

3 Land Overlay 3 comprises LUC classes VII and VIII (the most susceptible to erosion, sediment generation and soil loss, where options for sustainable land management are limited. Overlay 3A land is a subset of this and is mapped at a more detailed level).

GDC and MPI have made great progress with landowners, and around 42 000 hectares have been treated to date through the ECFP. However, further erosion treatments are required. There is approximately 60 000 hectares of untreated land eligible for ECFP funding across the Gisborne District, of which approximately 25 000 hectares is in the Waiapu catchment.

The Crown is due to sign a Relationship Accord with Ngāti Porou in early 2014, where it is proposed that the Crown will support erosion control initiatives to restore the Waiapu Catchment. MPI, Ngāti Porou and GDC have established a governance group to restore the Waiapu Catchment.

## 1.2 STATUS QUO

The ECFP is administered through the Forestry (East Coast) Regulations 2000 (the Regulations).

This ECFP provides grants to the owners of target land to carry out erosion treatments. ECFP grants are available for three types of treatment:

- afforestation with exotic and indigenous species;
- natural reversion to indigenous forest; and
- poplar or willow planting.

Reversion grants (assisted natural regeneration of forest) began in 2000 and require a non-use covenant with a 30-year term to be registered. A requirement for all grantees to register 50 year covenants on their land titles was introduced in 2007.

Grant terms and conditions are spread amongst the Regulations, approval certificates (agreement between MPI and the landowner) and covenants:

- Regulations set out how the scheme operates and allow approval certificates to require repayment of a grant plus interest if a holder does not comply with the conditions of the certificate or covenant.
- Approval certificates contain technical details such as planting densities, grant payment instalments terms and any site-specific conditions.
- Covenants require replanting, non-use or the maintenance of tree cover, and include other site-specific conditions.

Grants are paid in two instalments: the first payment after the erosion treatment has been established and covenant registered, and the second maintenance payment 3-8 years later depending on the treatment type. Some older grants may be on different payment regimes.

### **Questions**

- 1. Does this accurately describe the status quo?**
- 2. What other factors should be considered?**

## 2 Problem definition

The ECFP aims to provide effective tree cover in the East Coast District by funding erosion treatments, and subsequently improving the productivity of the land. Given the scale of the erosion problem in the region, the ECFP needs to be as effective as it can by treating as much of the worst affected land as possible. This means the scheme needs to be utilised by landowners with target land. In order to do this, the scheme needs to be as easy to understand and as beneficial as possible to attract owners of target land to participate in the ECFP.

Two reviews have previously been undertaken on the ECFP. The findings of the *Afforestation Review* were published by MPI in 2011, and the findings of the *Waiapu Catchment Study* were published by SCION in 2012.

Both reports consulted with the public regarding the ECFP, and highlighted a number of issues as to why applicants were deterred from applying, hindering the scheme from being as effective as possible. The reports noted that the ECFP was not meeting its full potential, and uptake could be improved through more efficient and effective implementation. Some of the issues are directly related to requirements in the Regulations.

Issues highlighted in the reports include:

- financial and economic barriers (e.g. the need for bridging finance);
- complexities associated with issuing grants to Māori land with multiple owners;
- a number of limitations (e.g. must establish in year of approval, requirement for covenants, restrictive forestry regimes);
- negative perceptions of forestry and government (both central and local);
- lack of information, support, and leadership; and
- the absence of formal Crown-Ngāti Porou co-management arrangements.

These issues are, in many cases, linked to the Regulations – such as the requirements for:

- a replanting and non-use covenants (50 years);
- a certified accountant to sign claims for payments;
- the grantee needing to provide a land use certificate from an approved consultant;
- two funding pools (<50ha and >50ha) with prescriptive dates.

### Questions

**3. Do you agree with this characterisation of the problem? If not, why not?**

**4. How important are these problems?**

### 3 Objectives for changing the ECFP

Our objective for changing the ECFP is to ensure the scheme is best administered to meet the goal of addressing severe soil erosion by achieving sustainable land management on severely eroding land or erodible land on the East Coast. We propose to do this by ensuring the ECFP operates in ways that are:

- effective;
- efficient;
- flexible;
- client focused;
- equitable; and
- that recognise, as far as possible, the recommendations previously suggested for the ECFP through the 2011 *Afforestation Review* and the 2012 Waiapu Catchment Study Report review, as these both investigated and highlighted problems with the current ECFP administration.

#### **Questions**

- 5. Have we identified the correct objectives?**
- 6. Are there any additional objectives you feel should be sought through this change?**

## 4 Options for increasing the effectiveness of the ECFP

This paper provides three options:

1. Remain with the status quo.
2. Improved regulatory approach.
3. Non-regulatory approach.

Options 2 and option 3 are expected to improve the effectiveness of the ECFP to best meet its objective.

### OPTION 1 – REMAIN WITH THE STATUS QUO

The ECFP could continue to operate under the current regulations and processes. No changes would need to be implemented; however, given findings of the Afforestation Review and the Waiapu Catchment Study, it is likely that the ECFP will not treat as much target land as it could if the scheme were made more attractive to landowners.

### OPTION 2 – IMPROVED REGULATORY APPROACH

This option would amend the Regulations to remove the requirements for covenants and approval certificates. It would replace the approval certificate with a simplified grant agreement.

All substantive obligations (e.g. relating to minimum establishment standards, fencing requirements, etc), would be in the grant agreement and referenced in the Regulations. Currently, the Regulations refer to an approval certificate as well as a covenant requirement. Some machinery provisions, including application and approval, would be retained in the Regulations, such as the enforcement provision.

The changed scheme would not be able to operate until new Regulations are approved.

### OPTION 3 – NON-REGULATORY APPROACH (GOVERNMENT PREFERRED APPROACH)

This option removes most of the disincentives that were highlighted in the Afforestation Review Report 2011 and the Waiapu Catchment Report 2012. This option would require amending the Regulations to allow for all new grants to be administered under grant agreements, as opposed to under the Regulations, similar to the successful Afforestation Grants Scheme.

### GRANT AGREEMENTS (OPTIONS 2 & 3)

Under options 2 & 3, new grants would be made under grant agreements without accompanying covenants registered on titles. Grant agreements would include the relevant terms and conditions that are currently spread between regulations, approval certificates and covenants, and would be an agreement between the landowner and MPI.

The grant agreement term would be short – e.g. 10 years from establishment for forestry and poplars treatments, or 15 years in the case of reversion treatments. During the term of the agreement, a grantee would be obliged to maintain an effective treatment (using the same

definition as the District Plan) over the grant area. After the grant agreement expires, the land would be subject to the GDC rule that Land Overlay 3A (including surrounding area) must have an effective tree cover from 2021 onwards.

Grantees who have covenants registered on their land titles or signed approval certificates would continue under the existing Regulations. New projects would be issued under grant agreements (from June 2014 onwards).

When land subject to the grant is sold, or otherwise disposed of (e.g. by lease or forestry right), it is proposed that the grant agreement itself would include an enforceable obligation on the grantee to novate the grant agreement in favour of the transferee or holder of the land right – allowing the transferee to assume all rights and obligations, and the transferor to be discharged from them.

**Questions:**

- 7. Do you agree that these are the correct options to consider? If not, why not?**
- 8. What other options should we consider to solve the problem?**

## 5 Assessment

### 5.1 CRITERIA

Based on feedback received in the *Afforestation Review* and *Waiapu Catchment Study Report*, as well as through administration of the scheme, a number of criteria were selected to assess each option.

Effectiveness	How likely is the option to increase the uptake of grants?
Efficiency	How efficient is the option in terms of time and resources required to make a grant?
Flexibility	How flexible is this option to adapt to changing circumstances?
Client focus	Is the public able to easily understand and participate?
Equity	Is the option equitable to current and future grantees, and to all categories of land tenure?
Recognition of review recommendations	Does the option match the recommendations of the <i>Afforestation Schemes Review</i> and the <i>Waiapu Catchment Study</i> ?

#### Questions

**9. Do you agree with the assessment criteria used to evaluate options for improving the ECFP?**

### 5.2 ASSESSMENT

Assessment was carried out by MPI. 5 = high scoring, 1 = low scoring.

Criteria	Option 1: Status quo	Option 2: Improved regulatory approach	Option 3: Non-regulatory approach
Effectiveness	1	3	3
	The financial appropriation is unlikely to be used to its full potential, because the status quo is not capturing a significant proportion of target land.	Full participation is likely to be constrained, but not as much as with the status quo.	Expected to be more effective than the status quo because of the removal of the covenant and other redundant requirements.
Efficiency	1	3	5
	Current processes are administratively cumbersome. Grants can take 3-18 months to be fully processed and paid.	Still retains some unnecessary machinery provisions, such as the unnecessary duplication of roles undertaken by GDC/MPI.	Streamlined processes are expected to increase efficiency (payment made 1 month from site inspection).
Flexibility	2	3	4
	Regulation changes unnecessary.	Any changes require amendment to the Regulations.	Authority for minor changes to grant agreement conditions could be delegated to the Director General, Ministers could approve significant changes.

Client focus	2	3	5
	Some prospective grantees are put off by covenant requirements.	Improvement to the status quo, but still complex for grantees due to duplication of MPI and GDC roles.	Easier for the public to understand and participate.
Equity	1	5	5
	Participation of Māori land is disadvantaged by the covenant requirement.	More equitable for all landowners, including Māori (no covenants).	More equitable for all landowners, including Māori (no covenants).
Recognition of review recommendations	1	4	5
	No recognition.	Would recognise some recommendations.	Would recognise majority of recommendations.
Total	8	21	27
<b>Questions</b> 10. Do you agree with the assessment of option 1? 11. Do you agree with the assessment option 2? 12. Do you agree with the assessment of option 3?			

## PREFERRED APPROACH

Given this analysis, we prefer the approach which removes the most disadvantages for both the landowner and MPI – option 3. Managing the ECFP under a non-regulatory approach remains consistent with other governmental grant schemes such as the successful Afforestation Grants Scheme.

Most significantly, removing the covenant requirement will eliminate the current barriers that effect landowner participation in the scheme as well as speed up the payment process (and therefore improve the uptake of landowners with target erosion-prone land in the Gisborne district). Key advantages of this option are its low cost, administrative flexibility and efficiency.

The substantive difference between options 2 and 3 is that option 2 would mean MPI retains some ability to enforce the Regulations against a grantee who was in breach of their obligations after the grant agreement has expired. A disadvantage of this option is an unnecessary duplication of roles undertaken by GDC on LO3A and through the Resource Management Act 1991 (RMA), which potentially could be confusing for landowners.

The Governance Group (MPI, Ngāti Porou and GDC – established as part of the Relationship Accord with Ngāti Porou) will also provide direction and oversight on the roll out of the preferred approach.

Because of the severity of the erosion problem in Gisborne, it is unlikely GDC will remove its LO3A rule given the rule only came into effect in 2009, and given GDC's core role in administering the RMA.

Keeping a regulatory approach through option 2 would require a rewrite of the Regulations. This means increased resource requirements for MPI, longer timeframes required to make the improvements, and therefore a longer time before improvements to the ECFP can be realised.

If the preferred option is implemented, the processes required to change the Regulations will be in place for grantees successfully awarded grants in the June 2014 funding round.

MPI will review the success of the new approach as part of its on-going monitoring of the scheme to ensure continuous improvement. MPI regularly conducts 5-yearly reviews of the scheme. (No date has been set for the next 5-yearly review, but the ECFP was last reviewed in part during the 2011 Afforestation Schemes Review.)

**Questions**

***13. Do you agree with the preferred approach?***

***14. Do you agree with the plans to implement and monitor the preferred approach if it goes forward?***

## 6 Issues with current Regulations/impacts on grantees

The following table sets out the issues identified by MPI with the Regulations, as well as the potential impacts options 2 & 3 would have on a grantee. This table is for the purposes of illustrating the potential impacts and is not an exhaustive analysis.

Link to legislation: <http://www.legislation.govt.nz/regulation/public/2000/0055/7.0/DLM3818.html>

Forestry (East Coast) Regulations 2000			
Regulatory requirement		Issues under status quo (option 1)	Option 2 and 3 – Impact on grantee
Regulation	Description		
General	Approval certificates	Grant terms and conditions are spread amongst the Regulations, approval certificates.	Replace approval certificates with grant agreements to improve flexibility. Aligns with operations on the ground.
3(a)(b) certified accountant	Certified accountant required to sign off claims for payments	No knowledge of grant. Serves no purpose. MPI inspects all grants before payment	Grantee to sign off own claim for payment. MPI inspects all grants before payment
3 Closed canopy indigenous scrub	Means indigenous scrub/trees at least 2 metres tall with touching/interwoven branches	Does not align with definitions developed for other government schemes	Clarity for grantee with government definitions matching
3	IRD consent required for financial years ending on dates other than 31 March	Outdated	No substantive impact on grantee (Removes requirement for MPI)
6(1)(b)	Land Use certificate required from approved consultant	Redundant – GIS is used instead	Land use certificate would no longer be required from grantee
6(1)(c)	Requirement for recent aerial photo	Too prescriptive – GIS is used instead	No substantive impact on grantee (Removes requirement for MPI)
6(2)	Potential to exempt grantee from 6(1)(b)	Irrelevant	No substantive impact on grantee

6(3)(b)	Resource consent required for clearance of indigenous vegetation	Irrelevant, ECFP does not fund replacement of one forest for another	No substantive impact on grantee
7(2)	Timeframes for approval certificate	Prescriptive	More flexibility with planting regimes
8	Timeframes for applications	Extremely prescriptive and binding	More flexibility when applying to the ECFP
9 (1)(a)	Qualifying land must be more than 5 ha and individual blocks more than 2 ha	May not allow for some targeted treatment	More flexibility regarding qualifying land sizes
9(4)(5)(6)(7)	Description of funding pools	Does not easily allow for funding to be spent on priority areas. Does not align with multi-year appropriations	One funding round per year. Improvements made to link the ECFP with the Sustainable Hill Country Programme.
10	Minister may fix priorities amongst applications	Time consuming and inappropriate level of sign-off for size of the scheme	No substantive impact on grantee
13(4)(a)	Covenant of 50 years required on all ECFP treated land	Extended timeframes for payments, difficulty with multiple owners and trusts, increased costs of administration, mapping poplar/willow establishment, encumbrance on titles	Removal of covenant from grantee's land. Grant agreements for 10 years (forestry, poplars)/15 years (reversion)
14	Detailed requirements for variations	Prescriptive, binding, unnecessary	Allow variations to agreements with mutual written consent, allowing for flexibility within agreements and multiyear treatments
15	Maximum amount of grant payable in one year cannot exceed what is agreed in approval certificate	Does not align with aspirations, allow for additional areas to be treated if required and funding is available to cover it. Inflexible. Does not align with multi-year appropriations.	More flexibility for grantee and planting regimes
19(b)	Send copy of payment to IRD	Not required	No substantive impact on grantee

22	Definition of offences against the Regulations and penalties		<p>Option 3 – Grantees would not be subject to the Regulations or offenses against them, but would be subject to contractual terms</p> <p>Option 2 – Grantees would still be subject to the Regulations and related penalties</p>
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**Questions**

**15. Do you agree with the issues identified in the table above?**

**16. What other issues with the Regulations are there which are not included here?**

## 7 Next steps

The expected process, following consultation, for developing and implementing the improvements to the ECFP is:

- a. Analysis of submissions and recommendations for any changes to the proposals – March 2014.
- b. Report-back to Cabinet by mid-2014 seeking approval for a final package of changes.
- c. Communicate changes to the public on the new approach.

## **8 Proposed changes to the operation of the ECFP – Questions for submitters**

**Name:**

**Address:**

**Phone number:**

**E-mail address:**

**Preferred method of contact:**

**Do you have land that has been identified as Land overlay 3A by Gisborne District Council or Regional scale target land?**

Yes      No      Don't know

- 1. Does the description on page 6 accurately describe the status quo?**
  
  
  
  
  
  
  
  
  
  
- 2. If not, what other factors should be considered?**
  
  
  
  
  
  
  
  
  
  
- 3. Do you agree with the characterisation of the problem on pages 6-7? If not, why not?**
  
  
  
  
  
  
  
  
  
  
- 4. How important are these problems identified on page 7? Rank on a scale of 1-10, from 1 least important, to 10 very important.**
  
  
  
  
  
  
  
  
  
  
- 5. Have we identified the correct objectives on pages 7-8?**

- 6. Are there any additional objectives you feel should be sought through this change?**
- 7. Do you agree that these are the correct options to consider on pages 8-9? If not, why not?**
- 8. What other options should we consider to solve the problem?**
- 9. Do you agree with the assessment criteria used to evaluate options for improving the ECFP, on pages 9-10?**
- 10. Do you agree with the assessment of option 1 on page 10? If not, why not?**
- 11. Do you agree with the assessment option 2 on page 10? If not, why not?**
- 12. Do you agree with the assessment of option 3 on page 10? If not, why not?**

**13. Do you agree with the preferred approach on page 11? If not, why not?**

**14. Do you agree with the plans to implement and monitor the *preferred* approach on page 11 if it goes forward? If not, why not?**

**15. Do you agree with the issues identified in the table on pages 12-14? If not, why not?**

**16. What other issues with the Regulations are there which are not included in the table on pages 12-14?**

**Any other comments?**