

In Confidence

Office of the Minister of Forestry
Office of the Minister for Climate Change
Chair, Cabinet Environment, Energy and Climate Committee

Improving the Emissions Trading Scheme for forestry participants – Final decisions required for drafting the amendment Bill

Proposal

1. We are seeking Cabinet approval for the final policy decisions on changes to forestry in the New Zealand Emissions Trading Scheme (ETS). These policy decisions require changes to the Climate Change Response Act 2002 (CCRA) to implement.

Executive Summary

2. Cabinet has agreed to significant improvements to forestry as part of the wider improvements to the ETS. These improvements will simplify the ETS for participants and the Crown, make it easier for forest and land owners to receive units for their forests, and promote forest management which assists New Zealand to meet our international targets.
3. Four Cabinet decisions are required to finalise the legislative package for forestry in the ETS. These decisions are:
 - i. That registered post-1989 forests in the ETS will remain on the stock change carbon accounting approach (and that this will be reconsidered in 2021);
 - ii. That participants may need to surrender units to avoid double-crediting when transitioning between post-1989 and permanent post-1989 activities;
 - iii. A simpler approach to move Permanent Forest Sink Initiative (PFSI) participants into the ETS; and
 - iv. Confirming the minor and technical improvements from the March *Operational Improvements* Cabinet paper.
4. We also intend to consult on the regulations while the Climate Change Response Act Amendment Bill (the Bill) is progressing through the House, and seek the creation of enabling provisions in the legislation.

Background

The Government is making significant improvements to forestry in the ETS

5. The 2015/16 review identified improvements to the ETS that would better incentivise forest establishment and reduce operational complexity. In response, a package of changes to reduce administrative complexity and make it easier for forests to assist New Zealand to meet its international targets has been approved by Cabinet, including:
 - i. introducing a new permanent post-1989 forest activity into the ETS¹;
 - ii. that averaging accounting² will be used by all post-1989 forests registered after 31 December 2020³;
 - iii. how adverse events will be accounted for⁴; and
 - iv. a suite of operational improvements⁵ to make the ETS easier to understand and participate in.

Averaging accounting is where the carbon storage in forests is accounted for over multiple rotations

6. The 'stock change' accounting approach is where participants receive units as their forest grows and then surrender units when their forest carbon stock is reduced (e.g. when they harvest).
7. The 'averaging' accounting approach accounts for carbon storage in the forest over multiple rotations. Averaging accounting is expected to result in:
 - i. participants being able to trade a greater number of units at lower risk;
 - ii. a greater liquidity in the market; and
 - iii. reduced administrative complexity for forestry participants.

Decision 1: Registered post-1989 forests in the ETS will remain on the stock change approach

8. In early 2019 Cabinet agreed the design details of averaging accounting and that averaging accounting will be:
 - i. Compulsory for all post-1989 forests which apply for ETS registration after 31 December 2020; and
 - ii. Optional for post-1989 forests first registered in the ETS after 31 December 2018 (and before 1 January 2021)⁶.
9. A decision regarding whether forests registered before 1 January 2019 would be allowed to transition to averaging accounting was not made at that time.

1 Permanent post-1989 forest is a forest not clear-felled for 50 years after registration refer ENV-18-MIN-0047.

2 Averaging accounting' is a method to account for carbon storage over the long term rather than accounting for short term carbon stock changes as forests grow and are harvested.

3 Refer CBC-19-MIN-0008 and DEV-19-MIN-0113.

4 Refer DEV-19-MIN-0113.

5 Refer ENV-18-MIN-0047 and DEV-19-Min-0043.

6 CBC-19-MIN-0008 para 2.

We propose that post-1989 forests registered prior to 1 January 2019 not be allowed to transition to averaging accounting

10. We view that the unit supply impacts on the market, and fiscal costs to the Crown, of allowing registered post-1989 forests to use averaging accounting will outweigh the advantages to participants.
11. Allowing already registered post-1989 participants to transition to averaging would enable those participants to simplify their reporting obligations and provide them a greater number of units they can trade at low risk.
12. However, allowing a transition to averaging for post-1989 forests could have significant unit supply impacts on the market because:
 - i. Those forest owners that transition to averaging accounting will have fewer unit surrender liabilities at harvest⁷, and more units to trade on the market. It is estimated that this will result in 21.6 million fewer units being surrendered between 2021 and 2030; and
 - ii. Having the extra 21.6 million units in the market would exacerbate any oversupply issues posed by the stockpile of NZUs held by participants⁸, undermining the ETS's ability to reduce emissions in line with international targets.
13. The reduced surrender obligation will in turn reduce revenue to the Crown. This would result in a fiscal cost to the Crown of approximately \$79 million⁹ to financial year 2022/23 and an additional \$461 million from 2023-2030 (\$540 million across the 10 years).

The decision to not allow forests registered before 2019 to move to averaging accounting means a simpler transition for forests registered in 2019/2020

14. In May 2019, Cabinet agreed to a process on how post-1989 forests will transition from stock change to averaging (refer DEV-19-MIN-0113 paragraph 44 to 48). This approach was designed to work for any forest regardless of when it first registered, and provided options for participants to manage the timing of their transition.
15. However, if Cabinet agrees that already registered forests must remain on the stock change approach, then this process can be made simpler. This is because those forests which will be able to shift will have fewer legacy issues (e.g. high unit balances¹⁰) that will need to be managed at the time of transition.

⁷ Forest participants would still be expected to surrender units down to the average appropriate for their forest.

⁸ As part of the Cabinet decision around the wider ETS decisions have been made on how to manage this stockpile.

⁹ Based on \$25 per unit, undiscounted

¹⁰ A unit balance is the net number of units the carbon accounting area has received since registration.

16. We propose the following alternative process is used:
- i. *Allowing a one-off opportunity to move to averaging accounting* – the participant may elect to move their forest to averaging when submitting their Mandatory Emissions Return (MER) covering the current Mandatory Emissions Return Period (MERP) from 2018-2022;
 - ii. *Participants must use averaging for this MER* – averaging will apply to those registered areas of forest (transitioned carbon accounting areas) for the 2018-2022 MERP;
 - iii. *There is no opportunity for participants to obtain units above the average carbon stock* – it is made clear to the participant that at the end of the MERP there may be a surrender obligation if units have been claimed above the average stock for that area of forest; and
 - iv. *This process replaces the previously agreed process* – the process in this paper replaces the decisions Cabinet made in May 2019 (see decisions 45 and 46 in DEV-19-MIN-0113) for a regulation making power where the Minister for Climate Change can impose a final date of transition.
17. This one-off opportunity to move to averaging will simplify the transition decision and allow better outreach to participants and support from Te Uru Rākau to help participants through the transition process.

Most submitters in public consultation supported a one-off, one-way, optional transition

18. Most submitters (68%) to the 2018 public consultation supported a one-off, one-way option to transition to averaging. Submitters stated that there would be a split between those who will benefit and those who will be made worse off by a transition to averaging accounting, and that the opt-in approach therefore seemed most fair. A smaller number of submissions (9 out of 93) supported making averaging accounting mandatory for forests registered in the ETS.
19. However, it is our view that the cost to the Crown of introducing averaging for forests registered before 1 January 2019 (\$540m to 2030) will outweigh the benefits to participants.
20. The decision to require forests registered prior to 2019 to remain on the stock change approach will likely be negatively received by the forestry sector and participants. In the public submissions there was strong support for the introduction of averaging for already registered forests (78% in support). It is likely that participants will view the inability to move to averaging as imposing an opportunity cost of \$540 million (the difference in the surrender obligations between averaging and the stock change approach at the time of harvest).
21. However, those forestry participants with registered post-1989 forest will face no additional cost from this decision. As they remain on the stock change approach, the costs and benefits are the same as when they initially registered in the ETS.

In 2021 there will be an opportunity to revisit the decision on already registered forests

22. We propose that Cabinet invite the Ministers for Climate Change and Forestry to provide advice to Cabinet during the second half of 2021. This advice would cover whether it is appropriate to offer a voluntary transition to averaging for forests registered in the ETS before 1 January 2019.
23. Providing the advice in the second half of 2021 is recommended because:
 - i. *Te Uru Rākau will be better able to estimate the fiscal impacts of allowing a transition to averaging accounting – this is because there will be two years' worth of harvest data from voluntary emissions returns as opposed to one year if the decision is revisited earlier than mid-2021¹¹;*
 - ii. *There will be little impact on participants' harvesting decisions in 2021 – participants will have planned their harvesting well in advance of any announcement; and*
 - iii. *Any participant who wants to move to averaging accounting will still be able to do so after the decision is made in 2021 – the current Mandatory Emissions Return (MER) period is from 2018-2022 so participants who elect to move to averaging when they submit their MER in 2023 will still receive the benefit from reduced harvest liabilities.*

Decision 2: Requiring participants to surrender units when transitioning between the post-1989 and permanent post-1989 activities

When forests move between accounting approaches there is a risk they will receive units twice for the same carbon stored

24. Post-1989 forests under averaging and permanent post-1989 forests will use different accounting approaches. This creates a risk that a forest which transitions between the two activities on its second rotation will receive units twice for the same carbon stored.
25. The risk of double-crediting arises when a post-1989 forest on averaging transitions to a permanent post-1989 forest if:
 - i. the forest has already received units up to the average on its first rotation; and
 - ii. the forest's actual carbon stock at the time of transition is less than the average carbon stock it was credited up to (i.e. the participant has received more units than they would be entitled to under stock change).

¹¹ Participants can submit a voluntary emissions return in the first six months of every year. Emissions returns in 2021 will include forests harvested up to 2020. If an emissions return includes harvest, participants will have to surrender units to reflect this. Providing advice prior to Budget 2021 would limit the data to only one additional year's harvest data (2019) rather than the two years' data (2019 and 2020) if the decision is made in the second half of 2021.

26. For example, a post-1989 forest under averaging receives units up to an average age of 17. After harvesting and replanting, the participant decides to transition to the permanent post-1989 activity when the second rotation is 11 years old. Since the forest is now on stock change accounting, the forest would begin earning units again from age 11. However, the 6 years' worth of carbon storage in the second rotation from age 11 to 17 had already been taken into account (and units issued) when the forest was on averaging accounting – the participant has been 'double-credited' for that 6 years' of growth.
27. We do not expect this type of transition to occur often as the majority of post-1989 participants are likely to transition to the permanent post-1989 activity on the first rotation, or when the carbon stock is well above the average. In these cases there is no risk of double-crediting.
28. In May 2019, Cabinet agreed that 'measures' should be put in place to prevent double-crediting of units by ensuring participants do not receive units for sequestration already reflected in the unit balance for that forest (refer para 48 of DEV-19-MIN-0113). However, we still need a mechanism to manage the risk of double-crediting in legislation.

The proposed approach to avoiding double-crediting is to create a surrender obligation when the activity changes

29. We seek Cabinet's agreement to have a unit surrender obligation when transitioning between forest activities to manage the risk of double-crediting. This obligation will happen at the time of transition, and will only occur if retaining those units would otherwise result in double-crediting.
30. The unit surrender obligation is the simplest approach, as other options require the land to be tracked for several decades after transition. This repayment will be subject to the existing conditions around calculating a surrender obligation and the timeframe the participant has to surrender the units.
31. This also provides the most flexible approach for the participant, as they can delay decisions about when to transition should they not wish (or be unable) to surrender the units at the time of transition. This is because, as the second rotation forest grows, its carbon stock will increase to be closer to the average meaning fewer units to surrender.

The creation of a surrender obligation was well supported by feedback from public consultation.

32. In the 2018 consultation, 70% of respondents agreed with the surrender obligation approach (25% did not). Those respondents who did not support the preferred option stated the cost of unit repayment was a barrier to transition¹² or proposed that the participant should receive recognition back to 2008¹³.

¹² However, a participant could simply delay transition until this was less of an issue.

¹³ Which would come at a significant fiscal cost, result in significant double crediting, and also is a departure from the ETS principle of the participant only earning credits since registration.

Decision 3: A simpler approach to moving Permanent Forest Sink Initiative (PFSI) participants into the ETS

33. Cabinet has already agreed (refer CAB-18-MIN-0606)¹⁴ that if a forest is first registered as a post-1989 forest from 1 January 2018, and then moves into the permanent post-1989 activity in (or before) 2023, the participant will not be disadvantaged compared to if they first registered as a permanent post-1989 forest straightaway¹⁵.
34. However, the current wording of the Climate Change Response Act (the Act) means that PFSI participants who register their forest in the ETS will be treated as being an ETS participant from the time their PFSI covenant was agreed. This is at odds with how forest land is treated in the ETS and creates legacy issues for the forest owner.
35. We recommend removing this section of the Act so that PFSI participants registering their forests with the ETS will be treated the same as ETS participants, i.e. they will be treated as a participant from the time of registering with the ETS. However, in making this change, PFSI participants registering with the ETS will need to restart their 50-year timeframe for permanence, which would be unfair.
36. To remedy this, we recommend that PFSI participants who cancel their covenant and register as a post-1989 forest within 12 months can register with the ETS and be treated as though their forest was first registered in the ETS from the date their PFSI covenant was signed. This means the 50-year non clear-fell period would begin from the start of their PFSI covenant, as opposed to restarting when they registered with the ETS as a permanent post-1989 forest.
37. If it takes longer than 12 months for the participant to decide to move into the post-1989 or permanent post-1989 activity then they should be considered a new participant from the date of their ETS registration (as per the amended section in the Act). This will encourage PFSI participants to register with the ETS sooner.
38. In addition, because the changes to the Act will not come into effect until 2020, the pathways for PFSI participants to join the ETS needs to be made clearer to give PFSI participants certainty. The above amendment to the Act creates three pathways for PFSI participants to register their forests with the ETS:
 - i. *Wait until the Act comes into effect and register as a permanent post-1989 activity immediately* – we expect the majority of PFSI participants to do this;

14 The key decision in this paper was to discontinue the PFSI and create new permanent post-1989 activity in the ETS.

15 I.e. the participant will receive the same number of permanent-tagged units they would otherwise be entitled to if they had registered as a permanent post-1989 forest from the start.

- ii. *Register as a post-1989 activity before the Act comes into effect and stay there* – thus enabling them to move to averaging accounting if they intend to harvest in the future (as is currently allowed)¹⁶;
- iii. *Register first as a post-1989 activity and then (if they haven't clear-felled) transition to the permanent post-1989 activity* – this will enable the participant to reconfigure their forest to maximise unit earning potential.

39. This means PFSI participants will not be disadvantaged by the transition to the ETS, the environmental integrity of the forest will be maintained, and participants will not be forced into a longer state of forest permanence than they signed up to. We expect there to be no risk to participants from the simpler approach.

Decision 4: Confirming the minor and technical improvements from the March 2019 Operational Improvements Cabinet paper

- 40. The March 2019 *Operational Improvements* Cabinet paper¹⁷ included discussion of six minor and technical improvements, with the expectation that the additional detail in the appendix was required to support the Parliamentary Counsel Office in accurately drafting these improvements.
- 41. However, Cabinet did not explicitly agree to the minor and technical improvements in the March 2019 Cabinet paper. The proposed minor and technical amendments are in Appendix One and we propose that agreement to these improvements is explicitly provided in this paper.
- 42. Officials have been working with Parliamentary Counsel Office to develop legislative proposals for these amendments, on the basis that Cabinet approval is obtained. The inclusion of these issues in the Bill will not impact the timeline for the lodgement of the Bill.

Note that the deforestation loophole decision will be retrospectively applied should the regulations change.

- 43. Cabinet agreed to give the Minister of Forestry and Minister for Climate Change delegated authority to finalise policy to close a deforestation loophole¹⁸.
- 44. We have agreed to create a new test for post-1989 forest land registrations under averaging in order to close this loophole¹⁹. This test is that all new post-1989 forest land registrations must not have been forest land for a prescribed length of time (set in regulations) in order to be considered as 'first rotation' forestry under averaging accounting.

¹⁶ Because they would be first registering in the ETS in 2019/2020 the option to move to averaging accounting will be available for ex-PFSI participants.

¹⁷ Refer DEV-19-Sub-0043.

¹⁸ Refer DEV-19-MIN-0113. This loophole meant that post-1989 participants could deforest their land and then replant and re-register the forest as a 'first rotation' forest.

¹⁹ Refer MPI B19-0291 MfE 2019-B-05646.

45. Any subsequent changes in regulations to the length of time that land must not be forest land, in order for it to be considered first rotation, will apply from the date that land is cleared. This includes if cleared prior to when the amended regulations take effect (i.e. will apply retrospectively) to discourage foresters taking advantage of lags between changing market conditions and the regulations coming into force.
46. This means that a future change to the regulations could negatively impact participants who are waiting for the previously specified period to expire, i.e. participants who have made business decisions based on the prior regulatory settings.
47. Any impact on participants from changing the prescribed length of time will be considered when the revised regulations are being developed.

Consultation

Public consultation process

48. In August 2018, Cabinet approved public consultation on proposals for improving the ETS [ENV-18-Min-0033 refers]. From 13 August 2018 to 21 September 2018, officials from the Ministry for Primary Industries (MPI) and Te Uru Rākau conducted a joint public consultation on the forestry package.
49. More than 575 people attended the 10 public meetings on the proposals. These attendees represented Māori and a range of sector groups including transport, electricity, energy, forestry, local government and agriculture. Individuals and stakeholders from business associations, community groups, NGOs, and academics also attended. There were 147 submissions received relating to the forestry proposals.
50. Details from the public feedback are provided below.

Agency Consultation

51. This paper was drafted by Te Uru Rākau, a business unit within the Ministry for Primary Industries. The following agencies were consulted on this paper:
 - the Ministry for the Environment;
 - the Ministry of Business, Innovation and Employment;
 - the Office for Māori Crown Relations;
 - The Treasury;
 - the Ministry of Foreign Affairs and Trade;
 - the Department of Conservation; and
 - the Environmental Protection Authority (EPA).
52. The Ministry of Justice and Te Puni Kōkiri were informed of this paper and the Department of Prime Minister and Cabinet has been provided with this paper.

53. The EPA has requested the following statement is included in this paper:
“Implementing the Climate Change Forestry Package will have financial implications for the EPA. For example, funding will be required to update the New Zealand Emissions Trading Register to operationalise recommendations arising out of the Forestry Package. Without sufficient funding to put in place the necessary system and operational changes, the EPA will not be able to operationalise these proposals.”

Public consultation on regulations

54. Regulations will be needed to fully implement the wide range of policy decisions which the Government has made through the forestry package. The decisions to be made through regulations are set out in Appendix Two. We expect to return to Cabinet in August 2019 for approval of a process for public consultation on these regulations.
55. We anticipate high interest from foresters, farmers and the public on the regulations. The regulations being made set the framework for the number of units newly registered post-1989 forests will receive, and include a range of improvements for all participants.
56. As signalled in earlier submissions, public consultation on the regulations will take place alongside the Select Committee process for the Climate Change Response Act Amendment Bill, with the aim of regulations coming into effect in 2021. We intend for the regulations to come into force as soon as possible after the amendments to the Act are passed.
57. There are several benefits to consulting on the regulations at the same time as the legislation, including:
- i. ETS participants, and those interested in the Bill, will have greater certainty about how the Government intends to implement the policy intent in the legislation and can see the operational detail in regulations (i.e. the rules that will impact them on a daily basis); and
 - ii. The legislative programme can take effect by January 2021, which is in line with Cabinet’s previous decisions.
58. However, there is also risk that consulting on regulations before the Act passes will attract public lobbying on aspects of the legislation, e.g. the introduction of agriculture, which may negatively impact the quality of feedback we receive on the proposed regulatory changes.

Cabinet approval for a clause in the CCRA Amendment Bill on satisfying requirements for making regulations

59. The amended Act will include a requirement to consult on the making of regulations, with a presumption that such consultation would occur after the commencement of the amended Act. We seek Cabinet approval to include a clause in the CCRA Amendment Bill that confirms that the consultation

- requirements for making regulations have been satisfied even though consultation occurred before the commencement of the amended Act.
60. This pre-commencement consultation must otherwise meet the requirements of regulatory consultation, as if it had been undertaken after the amended Act has commenced.

Financial Implications

61. We do not expect the decisions in this paper to have significant financial implications:
- i. The decision that registered forest remains on the stock change approach to accounting retains the status quo for financial implications and administrative costs. The costs outlined above (e.g. the \$540m) would arise if the registered participants were able to elect to move to averaging.
 - ii. The decision to create a surrender obligation to avoid double-crediting when a second rotation forest transitions to permanent post-1989 activity may result in a small revenue for the Crown. However, this is likely to be far in the future as most forests on averaging will be first rotation forests.

Legislative Implications

62. The policy decisions from this paper will require relatively minor amendments to the Act. A range of further regulations made under the Act will be required in 2019 to implement these proposals.
63. A Bill to amend the Act is already on the 2019 Legislation Programme with a Category 2 priority. This Bill will give effect to the policy decisions in this Cabinet paper. The proposals in this paper will not impact the timeline for the delivery of this Bill.

Impact Analysis

64. A Quality Assurance Panel with representatives from the Ministry for Primary Industries has reviewed the updated Regulatory Impact Assessment 'Emissions Trading Scheme Forestry Accounting Proposals' produced by Te Uru Rākau and dated June 2019. The Quality Assurance Panel considers that this meets the Quality Assurance criteria.
65. A new section E has been added to explain the impacts of removing a double counting loophole for forests that transition from averaging accounting to a permanent forest category. This section appropriately outlines the situation which creates this loophole. The proposed options will remove the risk of forest owners receiving duplicate carbon units for the same forest growth if they transfer from averaging to permanent forests. These options are expected to impact on a comparatively small number of forest owners each year.

Human Rights

66. The proposals in this paper are consistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

Crown-Māori Partnership

67. A separate Māori Leaders hui was held in Wellington in September 2018 and several key points were discussed. Attendees at the hui emphasised the importance of considering the impacts on Māori from the proposals to change the ETS, with a particular focus on those living in rural communities. They stated that the Government should ensure that Māori are not disadvantaged in any way. They requested that Māori should be involved, represented and influential in all decision-making arrangements and noted that stable and enduring policies are required to support investment decisions.
68. Submissions from iwi/Māori expressed a range of views on the detailed proposals, and included similar messages to those heard at the hui regarding consideration of impact on Māori and the importance of involving Māori in decision-making.
69. We are satisfied that the proposals will not disadvantage Māori or other land users because they do not change the incentives they face when they registered in the ETS and provide simpler options to administer the ETS than would otherwise be the case. We note that there will be opportunities for additional feedback during the Select Committee process, and we will be consulting on the regulations later in the year.

Gender Implications

70. This paper has no gender implications.

Disability Perspective

71. This paper has no disability implications.

Publicity

72. A decision to not allow post-1989 forests already registered in the ETS, is likely to be unpopular with those forestry participants that would have benefited from such a transition. However, the fiscal cost for the Crown is difficult to justify in the face of other government spending priorities at this time, and the limited abatement benefits from such a provision.
73. The accounting approach that applies to these participants will be the same as those which were in place when they voluntarily entered the scheme, this means there is no increase in the costs these participants face, although there will be a perceived opportunity cost.
74. As proposed in this paper, an agreement to revisit this decision in 2021 may mitigate the risk of a negative response from the sector.

75. A full summary of the submissions on the Act change proposals will be published before the amendment Bill is introduced to the House.

Proactive Release

76. Following Cabinet consideration we intend to consider the release of this paper, and the associated regulatory impact analyses, with certain redactions in line with the Official Information Act 1982.
77. The timing of this will be aligned to the release of the other Cabinet papers being considered on forestry in the ETS.

Proactively Released

Recommendations

The Minister of Forestry and the Minister for Climate Change recommend that the Committee:

1. **Note** Cabinet has previously agreed to:
 - i. Introduce permanent post-1989 forestry as a new activity into the Emissions Trading Scheme (ETS) (CAB-18-MIN-0606 refers);
 - ii. Make mandatory the use of averaging accounting for post-1989 forest registered in the ETS after 31 December 2020 (CAB-19-MIN-0127 refers); and
 - iii. Implement a series of operational improvements (CAB-19-MIN-0109 refers).

Decisions on forests registered before 2019

2. **Note** in March 2019 Cabinet agreed to give ETS participants the option to use averaging accounting for post-1989 forests first registered in the ETS after 31 December 2018 and before 1 January 2021 and directed officials to report back on whether existing forests registered before 1 January 2019 should be eligible to use averaging accounting (refer decisions 2 and 3 CBC-19-MIN-0008 and CAB-19-MIN-0127).
3. **Note** the fiscal costs of offering post-1989 forests registered prior to 2019 the opportunity to move to averaging from 2020 would be \$79 million to financial year 2022/23 and an additional \$461 million from 2023 to 2030.
4. **Agree** that existing post-1989 forest participants will not be able to use averaging accounting for post-1989 forests first registered in the ETS before 1 January 2019 (these forests will continue to use stock change accounting).
5. **Note** that Cabinet agreed to establish processes around how post-1989 forests transition from the stock change to the averaging approach (refer DEV-19-MIN-0113 paragraph 44 to 48), and that this approach was designed to work for any forest regardless of when registered.
6. **Note** the decisions in this paper to limit averaging to forests registered after 2018 means we can implement a simpler approach.
7. **Agree** that should a participant elect to move a forest first registered in the ETS between 1 January 2019 and 31 December 2020 to averaging, the participant must notify the Environmental Protection Authority (or their delegated authority) when submitting the Mandatory Emissions Return (MER) which covers the Mandatory Emissions Return Period 2018-2022.
8. **Agree** that, for those carbon accounting areas the participant elects to move to averaging (per recommendation 7 above), the participant will account for the emissions and removals during the 2018-2022 Mandatory Emissions Return Period using averaging.

9. **Agree** that, should a participant not elect to move to a carbon accounting area to averaging (per recommendation 7 above) that carbon accounting area will continue to account using the status quo (stock change) approach.
10. **Agree** that when the MER is submitted which covers the 2018-2022 Mandatory Emissions Return Period, there will be a surrender obligation if units have been earned above the average stock for that area of forest; and
11. **Agree** that the process in this paper replaces the creation of a regulation making power for the Minister for Climate Change to impose an end date on the transition, found in para 45 and 46 in DEV-19-MIN-0113.
12. **Invite** the Ministers for Climate Change and Forestry to report back to Cabinet in the second half of 2021 on whether the option to move to averaging for post-1989 forest registered in the ETS before 2019 is appropriate.

Ensuring forests are not double-credited by enabling unit surrenders when the transition occurs.

13. **Note** that Cabinet agreed that when participants transition forests between accounting approaches, measures will be put in place to ensure they will not be able to receive units for sequestration already reflected in the unit balance for that forest (i.e. double-crediting) [refer decision 48 DEV-19-SUB-0113 and CAB-19-MIN-0213].
14. **Agree** that measures be put in place to require participants to surrender units for the carbon stock they have already received recognition for at the time of transition if retaining those units would otherwise result in double-crediting.

Simpler movement from the Permanent Forest Sink Initiative (PFSI) to permanent post-1989 forests

15. **Note** that the CCRA includes provisions for moving the registration of PFSI forests into the ETS as a post-1989 forest, which now need to be amended to recognise the new possibility to transfer to permanent post-1989 forest.
16. **Agree** to amend the CCRA in the following ways:
 - i. Allow PFSI covenant holders to register their forest as post-1989 forest or permanent post-1989 forests when the covenants are cancelled.
 - ii. If a person applies to transfer PFSI-covenanted land into post-1989 forest land within 12 months of the covenant being cancelled:
 1. The land will be considered to have been registered since the date it entered the covenant; and
 2. The land will constitute one carbon accounting area;
 - iii. If a person applies to transfer PFSI-covenanted land into permanent post-1989 within 12 months of the covenant being cancelled, one of two cases will apply:

1. If the land has not been clear-felled since exiting the covenant, it will constitute one carbon accounting area with a start date and 50-year clear-fell restriction from the date the land entered the covenant;
 2. If the land has been clear-felled since exiting the covenant, it will constitute one carbon accounting area with a start date and 50-year clear-fell restriction from the date of registration as permanent post-1989 forest;
- iv. If post-1989 forest land covered by (ii) above elects to move to permanent post-1989 land the cases in (iii) will apply.
 - v. If a person applies to transfer previous PFSI-covenant land into either ETS forest activity in any other way, they will be considered a participant from the date of their ETS registration;

Other recommendations

17. **Agree** to the minor and technical operational proposals in Appendix One, which was previously included in the March Cabinet paper DEV-19-SUB-0043, but did not contain an explicit recommendation for Cabinet approval.
18. **Note** Cabinet agreed (DEV-19-MIN-0113) to give the Minister of Forestry and Minister for Climate Change delegated authority to finalise policy to close a deforestation loophole.
19. **Note** this loophole will be closed by creating a rule that ensures that for a forest to be considered first rotation, all new registrations to the averaging approach must have not previously been forest land, for a length of time that will be defined in regulations, prior to the establishment of the current forest.
20. **Note** that changes in regulations to the length of time land must not be forest land, in order to then be considered first rotation, will apply retrospectively to land cleared prior to the regulations taking effect to discourage foresters taking advantage of lags between changing markets and regulations coming into force.
21. **Agree** that the amended CCRA should confirm that the consultation requirements for making regulations have been satisfied even where that consultation occurred before the commencement of the amended Act, provided all other requirements for regulatory consultation have been met.
22. **Note** that the EPA will require sufficient funding to be able to fully operationalise proposals in the suite of papers to improve the ETS.

- 23. Authorise** the Minister for Climate Change, in consultation with the Minister of Forestry as appropriate, to further clarify and develop policy decisions relating to the amendments proposed in this paper, in a way not inconsistent with Cabinet's decisions.

Authorised for lodgement.

Hon Shane Jones
Minister of Forestry

Hon James Shaw
Minister for Climate Change

Proactively Released