

Submission

On

**A redesigned New Zealand Emissions Trading
Scheme Permanent Forest Category**

Submitted to:

The Ministry for Primary Industries
Wellington

<https://consult.environment.govt.nz/climate/nz-ets-permanent-forestry-category-redesign/consultation/subpage.2022-11-02.7990634143/>

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Submitter

The Forest Owners Association (FOA)

The New Zealand Forest Owners Association Incorporated (FOA) is the representative membership body for the commercial plantation forest growing industry. FOA members are responsible for the management of approximately 1.2 million hectares of New Zealand's plantation forests and over 70% of the annual harvest.

In 2023, the forest growing sector was worth \$6.69 billion in export value and has a 12% share of rural land use. The Ministry for Primary Industries expects forest product export values to exceed \$9billion by 2030.¹

Summary

FOA submits that:

1. There is very little likelihood of the estimated levels of afforestation needed by 2050 (page 8) being achieved. As a result of the proposed options under the New Zealand Emissions Trading Scheme (NZ ETS) review, combined with multiple other developments designed to constrain forestry (described below) we expect the level of afforestation to fall significantly from its current levels. Even though the Ministry for Primary Industries (MPI) estimate of 35,000 hectares per year on average for the next 10 years (page 14) is in line with the level that the Climate Change Commission (CCC) also estimates is needed we consider there is almost zero chance of this being achieved, and that is on the basis of engagement we have had with the wider industry.
2. We disagree with the statement that “carbon prices within the NZ ETS have incentivised afforestation, particularly afforestation, beyond what was previously expected”. In contrast we consider that annual level of exotic afforestation is in-line with the expected and needed level of and indigenous afforestation has fallen woefully short.
3. This situation should be taken into account when considering how much control is applied to the Permanent Forestry category, particularly transition forestry settings because we consider there is a real risk that current policy developments, particularly the NZ ETS review, will ensure that we do not get the level of exotic afforestation we still need.

¹ <https://www.mpi.govt.nz/dmsdocument/41319-fit-for-a-better-world-background-analysis-on-export-earnings-in-the-primary-sector>

4. Notwithstanding the above the FOA has sought, and supports, additional controls under the permanent forest category. The absence of such controls has created issues and has the potential to create many more.
5. The Ministerial Inquiry into Land Use in Tairāwhiti and Wairoa (the Ministerial Inquiry) will have relevance for the permanent category both in terms of adjustments to forest management and with respect to encouraging permanent cover on highly erosion prone land. It should also be recognised though that the Inquiry failed to deliver on a key aspect of its terms of reference – namely addressing how non-forestry land is managed and this is also highly relevant to the permanent category and forestry on farmland.
6. Māori and non-Māori landowners should be treated equally. There is appropriate recognition of the potential negative impacts on Māori of restrictions to the permanent forest category but these impacts, while disproportionately affecting Māori, are not exclusive to Māori. The document fails to acknowledge similar impacts can affect non-Māori landowners, but it should.
7. The FOA supports the incentivisation of indigenous forestry but does not consider that penalising or constraining exotic forestry will assist with this challenge and it opposed to any cross-subsidisation of indigenous by exotic afforestation. In general, if there are additional benefits from establishing permanent indigenous vegetation this should be encouraged separately, rather than distorting the rules that recognise carbon sequestration under the NZ ETS.
8. For Design choice 1 – which forests should be allowed into the permanent category, the FOA supports Option 1.2a – inclusion of long-lived exotic species - as this recognises that there are exotic species that are suited to long-term, permanent cover.
9. The FOA does not support Option 1.2b – Inclusion of only Māori land.
10. The FOA remains neutral on Option 1.2c – inclusion of only small woodlots. There are risks and costs associated that would need to be weighed up and the 50ha cutoff is an arbitrary figure not based on any compelling logic and would inevitably create inequities. That said the option might allow afforestation under some conditions where no other economically viable options exist. To ensure this would be the case we recommend that if this option is adopted, no approvals be granted for land that has production potential. Allowing additional exotic afforestation under option 1.2c will be including short-term, small-scale forestry on farm (if long-term exotic is already allowed under 1.2a). We agree this does also present a material risk that a relatively short-term species such as radiata will be developed instead of opting for a transition regime. There does not appear to be any way of easily precluding this short of significantly incentivising indigenous cover potentially via the accounting methods discussed under Design choice 2.
11. For Design Choice 2 – how transition forests should be managed – we agree that the transition to indigenous is challenging and, in principle, accept that there could be a basis for establishing new carbon accounting rules that would incentivise indigenous forestry but, as noted, this may be better progressed by providing independent recognition of those benefits. Until the detail of any modification of the carbon-accounting rules is made clear further support is not possible.
12. In terms of design Choice 3 – how permanent forests should be managed - FOA supports option 3.2 – new forest management requirements for all forests within, and only within, the permanent forest category.
13. We consider that transition forestry is the highest priority for such controls and that milestones and consequences for failing to meet milestones should apply though it should be recognised

that there will almost certainly be more than one transition pathway that could be appropriate, and this should be recognised in the design. In particular, the FOA supports the use of management plans to allow such flexibility. As recognised, this will require a skilled level of resource with attendant costs, and we agree that these should be cost recoverable.

14. We do not support the existing National Standards for Plantation Forestry (NES-PF), that has been designed specifically for production forestry, being used as the vehicle for establishing new requirements. There is no reason why a parallel National Environment Standard cannot be developed alongside this.
15. Adequate, and likely new, enforcement tools will be necessary although again, we agree that a degree of flexibility will be required to recognise the long-term nature of this category and that this means developments that cannot be predicted and are not attempts to avoid obligations.

Timeframes and Other Related Work

Ministerial Inquiry

Question 1: How do you think the Inquiry's recommendations should be reflected in proposals to redesign the permanent forest category?

The FOA provided a comprehensive submission on the inquiry findings, a copy of which is linked in the footnotes below.²

FOA does not support all the recommendations from the Ministerial Inquiry panel and we consider that the inquiry has not fulfilled its terms of reference in that it did not undertake a comprehensive review of all land use practises. Nonetheless we are continuing to work with Government and the Minister of Forestry on implementing change and achieving sustainable outcomes for the Tairāwhiti and Wairoa communities.

It is clear from the recent cyclonic events, and the changing climate, that some land previously intended for production forestry will need to be transitioned to permanent non-production forestry. The permanent forestry category has the potential to be a suitable vehicle in some circumstances to facilitate this.

Key forestry and climate change policy work in 2023-24 (page 5)

The discussion document notes a significant number of proposed changes to policy that we'll have a bearing on the attractiveness of forestry as an investment. In addition to those listed on page 5 and the potential inquiry outcomes we would also note that both the major political parties have indicated that constraint on plantation forestry will be introduced, particularly relating to permanent forestry under the NZ ETS. This will take the form of either greater, but unspecified, controls by local authorities; restrictions under the Resource Management Act (RMA) or its successor, or via additional controls under the Overseas Investment Act.

Forestry and Wood Processing Industry Transformation Plan (page 6)

² <https://www.nzfoa.org.nz/resources/file-libraries-resources/submissions/2023/875-ministerial-inquiry-into-land-uses-associated-with-the-mobilisation-of-woody-debris-including-forestry-slash-and-sediment-in-tairawhiti-gisborne-district-and-wairoa-district/file>

The Industry Transformation Plan (ITP) is fundamentally reliant on increased processing which means maintaining and or enhancing domestic supply. Permanent non- production forestry has the potential to compromise the core objectives of the ITP.

Nationally Determined Contribution Strategy (page 7)

While offshore mitigation may be needed to achieve the Nationally Determined Contribution (NDC) this should be regarded as a last resort. Spending billions of dollars of taxpayers' money purchasing offshore offsets will be risky both politically and in terms of securing supply. We note that the NZ ETS review lists as one of its criteria "*The prioritisation of domestic action ahead of offshore removal mitigation*".

Agriculture

We question why the He Waka Eke Noa process is not included in terms of other policy work. This too could have implications for forestry both in terms of the need for offsetting and with respect to consistency of the rules.

Climate change and forestry: afforestation is an important part of New Zealand approach to tackling climate change (page 8)

An estimate of the amount of additional afforestation is needed by 2050 is provided (page 9). The estimate of 970,000 hectares is used which equates to approximately 36,000 hectares per annum. This figure is very close to the estimated level of afforestation required from exotic plantation by the CCC under its demonstration pathway estimates. We consider there is very little likelihood of this figure being maintained consistently for the next 20 to 30 years. The level in 2022 was 10,200 hectares (page 14) and the current season is expected to be considerably up on that and possibly over 30,000ha. However, there are now so many constraints being applied to forestry that confidence in investment, especially under the NZ ETS, has been significantly dented. The list of developments likely to constrain afforestation includes:

1. Constraints and restrictions to be applied to the Permanent Forestry category.
2. Restrictions or bans on overseas investment in the NZ ETS, including existing processors who are trying to expand their resource supply.
3. Additional but unknown local authority control on forestry land use.
4. Additional operational requirements arising from the Ministerial Inquiry.
5. Loss of workforce capacity as a result of market and cyclonic impacts.

Of particular concern are the options that are being canvassed already in the NZ ETS Review consultation document supposedly on the basis of advice provided by the CCC despite the advice on separation of units being only draft and not expected to be finalised until the end of the year.

Feedback from 2022 consultation (page 10)

The feedback on whether changes and restrictions should be implemented was mixed although "*overall, a majority of submitters supported at least some restrictions*". FOA was amongst those who sought the inclusion of additional controls. The FOA supports the use of fast-growing exotic species within the permanent category but only on the basis of a long-term plan to establish permanent cover as was the intention of the category.

We consider that a significant proportion of Māori land is in the category of being under-developed and could be substantially impeded if the option of accessing the permanent category is not available

(notably transition forestry). This situation, however, is not unique to Māori landowners and FOA does not support any changes that only apply to some landowners. This would be inequitable.

We agree that more information is needed about the management and conditions for success of transition forests, and that a degree of conservatism should be applied accordingly (page 11).

Impacts for Māori

The description of Māori land often being remote, less versatile and well suited to permanent forestry is accurate. We also agree that it is disproportionately so. We further agree that there is a unique opportunity for the carbon revenue under the permanent category to be used to help develop land and provide investment back into rural communities. We stress though that this unique opportunity is not exclusive to Māori land. There are also non-Māori landowners who are remotely located, who have limited other options and who are capital constrained but the document only recognises potential for Māori (for example, page 14). Any final amendments to the permanent forestry category should be on a consistent, across-all-landowners basis. Any other approach would be inequitable. We are concerned that officials “*acknowledge that options which restrict the forest species that can register in the permanent forest category, limits options for Māori participants to develop the productivity of their land*” but no such recognition that non-Māori may be similarly disadvantaged is acknowledged.

Barriers to indigenous afforestation

The FOA supports the incentivisation of indigenous forestry but does not consider that penalising or constraining exotic forestry will assist with this challenge. We fully agree, for example, with the statement that “*it is unlikely that any restrictions on exotic forests in the permanent forest category will address the financial barriers to indigenous afforestation*” (page 13). Consequently, we do not agree with the statement that allowing only indigenous forestry in the permanent category will achieve positive outcomes (page 15). Indeed we consider that without allowing the superior, nearer-term carbon income from fast growing exotics as a transitional measure, the expansion of indigenous cover will be extremely limited.

The FOA is also opposed to the cross-subsidisation of indigenous by exotic afforestation. If there are public good benefits from the expansion of indigenous forestry, as there are, then it is not appropriate to demand that a single group of landowners should provide financial assistance.

We agree that there are risks from over-cooking the permanent category and incentivising inappropriate forestry which is why the FOA has called for controls, but the facilitation of indigenous forestry should be tackled in its own right. Constraining the successful part of the equation is not a solution for resolving the non-successful part. Such an approach will only result in a net decrease in all afforestation.

Multiple outcomes

The overall objective of avoiding incentivisation of inappropriate forestry, achieving multiple outcomes and taking a cautious approach are all supported. We are concerned though that there appears to be a view that exotic afforestation is out of control.

We disagree with the statement that “carbon prices within the NZ ETS have incentivised afforestation, particularly afforestation, beyond what was previously expected”. In contrast we consider that annual level of exotic afforestation is in-line with the expected and needed level of and indigenous afforestation has fallen woefully short. Indeed this statement is inconsistent with MPI’s own estimates. “MPI estimates that under the current settings up to 350,000 hectares of permanent exotic forest could be planted over the next decade”. At 10,200 hectares in 2022 this is still well short of the average annual new planting of 32,000 hectares needed for exotic forestry or even the previously stated 25,000ha. We acknowledge that the current planting season is likely to deliver a level close to the average needed to achieve the 350,000 over the next decade but in our view, on the basis of contact with members and the wider industry, we see zero chance of this being maintained year in year out for a decade to deliver the 350,000ha estimate.

Options to redesign the permanent category

Design Choice 1: Which forests should be allowed into the permanent forest category (page 17).

Questions 4 and 5 (page 19). The first consideration in this section is whether entry to the permanent forest category should be restricted to only transition forests and indigenous forests (option 1.1) or whether other exotic forests should be allowed under certain conditions option 1.2. The FOA association does not support option 1.1 on the basis that it may preclude some circumstances where exotic plantation that is not transitional may be appropriate, notably long-lived exotic species. Option 1.2 allows for this flexibility without necessarily opening up the permanent forest category to too much exotic forestry although we acknowledge this could entail a significantly greater assessment burden for MPI depending on what is allowed.

The second question then is related to the conditions under which other exotic forestry may be approved under the NZ ETS. A range of options are presented but, as stressed in the document these are not mutually exclusive and our position is that they are not mutually exclusive. That said, the FOA does not support all of them, and we agree with taking a conservative approach and limiting the level of permanent afforestation.

Option 1.2a – FOA supports option 1.2 - Including long-lived species (such as Redwoods).

Clearly there is significant interest and support from previous submissions for this. The benefits (soil protection and biodiversity) are well noted (page 17). Such species are typically high value timber which could allow limited extraction and will not cause any issues within the horizons of any reasonable NDC or other national climate change goal timelines.

We consider that only one of the three risks listed on page 18 has relevance as follows:

- a) It is a fallacy to think that eliminating a long-lived exotic species option (which may in the future have some production potential) will automatically mean that such interest will turn to indigenous forestry. The vast majority of the time it will simply mean that no afforestation is undertaken.
- b) Yes, some regions would still be a target for afforestation due to limited port/processing infrastructure. Rather than a risk this means that there would be options available for landowners and communities that will not be available if this option is closed off. This does

not mean all such development should be approved but it is not appropriate to classify it all as a risk.

- c) We agree that without appropriate controls there can be an increased risk of fire, wilding and pest and weed issues.

While there is a risk that productive land will become non-productive we consider that the risk is minimal if it only involves longer-term exotic species because this will only involve a relatively small amount of land, does not impact the core forest industry work force or processing and could, at some point in the future still be suitable for harvesting if conditions or rules change (unlike *Pinus radiata* which the expansion of the New Zealand industry via the ITP does rely on and which could significantly impact processing and the workforce).

Option 1.2b. The FOA strongly opposes limiting exotic afforestation (outside transitional forestry) exclusively to Māori land owners.

As we have noted above Māori are disproportionately represented in ownership of land that has limited development options but that does not mean they are the only ones in that category. Other landowners similarly face many of the same challenges. The disproportionate representation we would expect to be reflected in the number of applications and approvals for Māori land versus other land. It would be inequitable and unfair to exclude other landowners from the option of utilising, for example, redwoods where it could allow benefits that will otherwise not exist. Either all landowners should have this option, or it should not be made available to anyone.

Option 1.2c. Small-scale forests on farm

The FOA is neutral on this option. While we consider it is compatible with Option 1.2a it is associated with a lot more uncertainty and risk and there is no compelling argument why a woodlot of 50 hectares should be permitted when a woodlot of 60 is not. This option was not “among the most frequently suggested options” suggested by submitters but the fact that it was sought illustrates that there could be instances where short-rotation blocks on farm could provide an economically viable option where no others exist (e.g. production, or transition forestry). It does, also, pose the question of happens to these blocks long-term. *Pinus radiata* can be grown for well over one hundred years and that could allow this option to be viable within the horizons of the CCC budgets, particularly if it was part of any on-farm emissions budgeting whether He Waka Eka Noa or otherwise but it could be a difficult, and costly, category for MPI to manage.

The FOA acknowledges there is a risk that exotic afforestation under Option 1.2 c could displace other productive land uses in those areas. As noted, we do not support any incentivisation that turns productive land in to non-productive land and to address this we recommend that if this option was implemented then criteria should be established that would reject land where a viable production option (agriculture or forestry) exists. In such cases the forest blocks should be treated no differently to any other sized short-term exotics and be available for the NZ ETS only.

We also acknowledge there is a risk that afforestation under Options 1.2 a-c could undermine incentives to register transition forests in the permanent category. Again, we consider this risk is minimal for Option 1.2a but is a more significant risk for Option 1.2c because the species in question for transition will likely be radiata. Distinguishing between a small farm woodlot that generated sufficient revenue to allow a transition to native versus one that did not would be extremely difficult. As noted in the document “all options also introduce greater complexity” (page 19) but we content that some will be more complex than others.

We concur that the Government will need to carefully monitor applications for the redesigned permanent category. This may not mean a case-by-case level of approval but depending on what is permitted it could come close to that for exotic approvals or transition forests. This could be addressed to an extent by applying cost recovery principles. As well as providing something of a sieve, this could also provide a relatively greater incentive for indigenous forestry. The more exceptional and unusual the application the greater the assessment required and the greater the cost faced by the applicant.

Question 6: We consider there is an opportunity to use permanent forest to stabilise erosion-prone land but has now become more challenging. For investors managing highly erosion prone land was always a less preferred option. As a consequence of the media focus, council proclamations, and Ministerial Inquiry the interest in managing such land will have almost completely evaporated. It will take more than the NZ ETS to encourage stabilisation and permanent canopy cover on such land now.

Question 7: If there are proven additional risks with specific species (as there are with Contorta pine for example) and/or susceptible landscapes it would be appropriate to take these into account.

Design choice 2: how should transition forests be managed to ensure they transition from exotic to indigenous forests (page 21).

Questions 8 & 9: We concur that under stock-change accounting there is a financial hurdle to be managed in transitioning to indigenous forests although this has not stopped multiple successful applications. The “*large financial liability*” needs to be weighed against the significantly higher level of carbon available under stock change that is now only available under the permanent category.

In principle the FOA is not opposed to the development of new carbon accounting rules that would incentivise indigenous forestry but, until the detail is known the support cannot be more than in principle. Any adjustment of the rules to cushion investors from the actual impact of the carbon flows and normal accounting procedures will, necessarily, involve subsidisation of the holding costs in some form. How this is applied will determine whether the FOA continues to support this option beyond the in-principle. If the objective is to ensure greater development of indigenous forestry because the carbon benefits are insufficient then this may be better to be supported through other means that recognise the additional benefits rather than distorting the NZ ETS signal which is directly, and appropriately, related to the level of carbon sequestered.

Design Choice 3: how should permanent forests be managed? (page 26)

The FOA agrees that there is currently an anomaly in that production forests are required to operate under the NES-PF while permanent non-production forestry is not. We have sought additional rules to address this but strongly recommended that a separate, parallel instrument be developed rather than amending the NES-PF which is specifically tailored to managing production forestry hence the “P” in the title. Despite the fact that the document concedes that “*the NES-PF may not be the most effective regulatory tool to achieve this*” this advice seems to have been ignored.

We agree that different forest models (exotic, transition or indigenous) under the permanent category may require tailored rules. We do not agree that the issues that need managing under the permanent category relating to pest, fire, forest health, plant and leave etc necessitate any changes to the NES-PF relating to production forestry (as the discussion document confusingly implies by referring to exotic forestry rather than exotic forestry under the permanent category). This is another reason why

it would have been more logical to develop a separate National Environmental Standard for permanent forestry.

Question 11. FOA supports Option 3.2. The FOA has previously called for increased controls relating to forestry under the permanent category. The absence of such controls has created issues and has the potential to create considerably more issues in the future if left uncontrolled. The most pressing area for such controls is the transition category but all forests managed under the permanent category will bring with them aspects that need considering and managing.

Question 13. Ensuring that transitional forests complete the journey to their intended final forest composition is vital. We expect that there could well be more than one path that achieves the transition but strongly agree that there should be milestones that are required to be met along the way and also consequences for not meeting them.

Question 14. The establishment of indigenous species is very challenging and any tools that improve the success rate should be considered. One of the pathways to success in some instances will be to provide small coupes, or light wells, within the transition species to enhance the probability of success. FOA supports this option.

Prescriptive versus outcome focussed requirements.

Question 15. The FOA supports the use of forest management plans. As noted, much is still being learnt about permanent forestry, particularly transition forestry. Maintaining flexibility that allows for multiple approaches that may reflect differences in local ecosystems, site specific conditions or simply differences in approach should be catered for. This does not mean that milestones cannot be set but these can be allowed to vary depending on what management plan has been approved.

Questions 16 to 20. The use of plans has parallels in the agriculture sector with the use of farm plans. As with those plans it relies on a sufficiently equipped resource that can provide a professional and consistent approach. We consider that a core level of resource should be established within Government to ensure familiarity and consistency but this does not preclude the use of independent, suitable skilled verifiers, to supplement the government expertise. Such expertise, if confirmed, could also be used to verify plans. In the event that there are insufficient people to verify forest management plans they should be put on hold until such time as there are, or a pro-forma standard that has been pre-approved be offered. To do otherwise would compromise the whole system.

Questions 21-24. We concur that adequate enforcement controls are required. Given the characteristics of the permanent category we expect that new tools will be needed to supplement the existing compliance options that already exist within the NZ ETS – notably the withholding of units, bonds or equivalent. We agree that the accommodating the reasonable but unexpected should be catered for and that minor deviations should not be classified as non-compliance.

Note on making this submission public

We do not object to the submission being made public.



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