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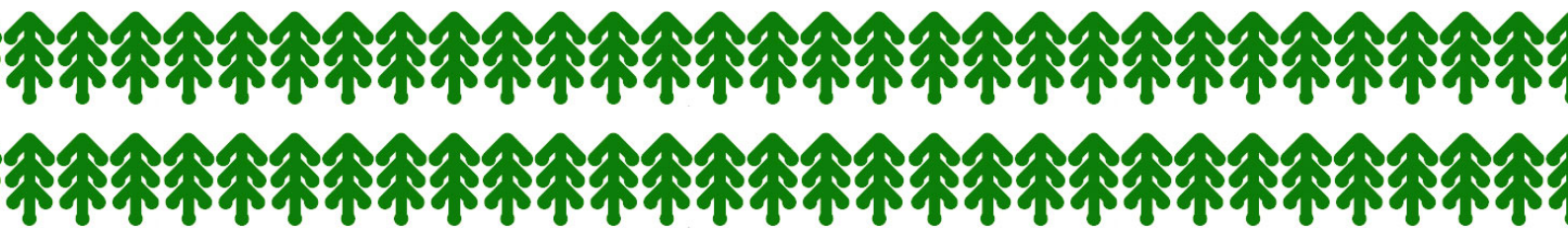
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## **A Better ETS For Forestry**

Discussion Paper No: 2018/02

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## FOA

1. The New Zealand Forest Owners Association Inc (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. This submission is made on their behalf.
2. The Forest Growers Levy Trust (FGLT) is the body responsible for collecting the harvested wood products levy from forest growers. Forest growers via the FOA and the NZ Farm Forestry Association (FFA) manage the allocation of levy funds to industry good projects.
3. Investment by the industry via the Harvested Wood Products levy, in research and technology, means plantation forestry is highly innovative. This is reflected in the commitment of the FOA and its members to the highest standards of sustainable silviculture, environmental practice and workforce safety.
4. FOA has been involved extensively with the development of both domestic and international climate change policy and has submitted previously on a number of the matters contained in the consultation document.

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## General Comments

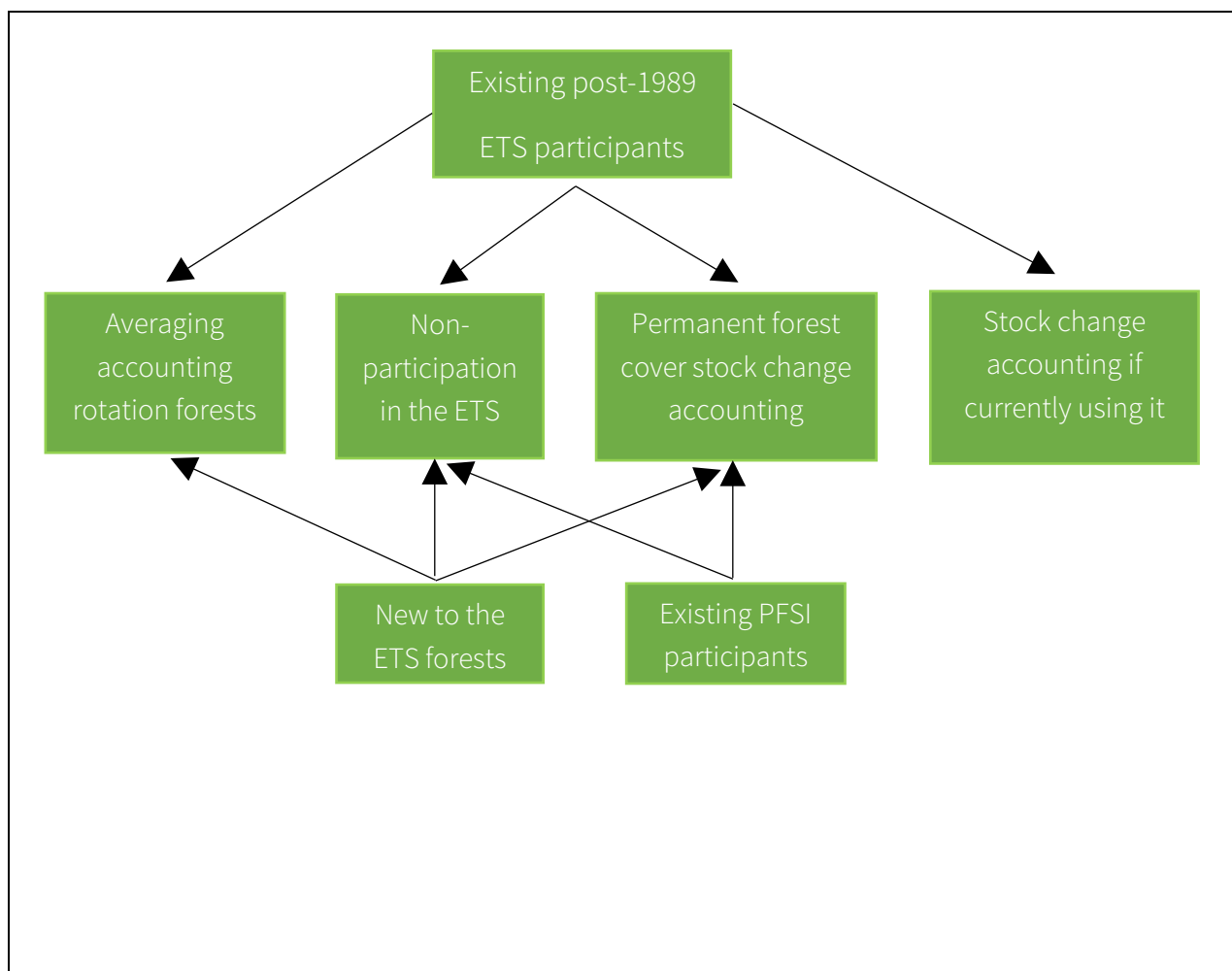
### Introduction

1. As noted in the introduction the New Zealand Emissions Trading Scheme (ETS) is New Zealand's key climate change policy tool to reduce greenhouse gas emissions.
2. Emissions pricing is a key tool for achieving emissions reductions because it encourages businesses to take the cost of their emissions into account when making investment decisions. Forest offsetting of emissions is a valuable tool for New Zealand to manage the transition to a low carbon economy but should not be a basis of deferring action by emitters. Such a delay in taking action will only serve to make the transition harder and more costly.
3. As the document notes, since 2000 there has been very little establishment of new areas of commercial forests and some areas that have been in commercial forests have been changed to other land uses. Large areas of forests planted in the 1980s and 1990s are coming up to harvestable age in the early 2020s. Those forests will then become a significant source of emissions. The current carbon price of \$21 has decreased rates of deforestation but has only had a small effect on afforestation so far.
4. FOA agrees that a carbon price in excess of \$20/t has disincentivised conversions of plantations to dairy pasture i.e. *decreased rates of deforestation* but the current price cap of \$25 has only had a small effect on afforestation so far.

### Summary

5. FOA supports the proposals to simplify the NZ ETS in order encourage planting. However, we doubt that the proposed changes alone will double the number of trees planted over the next ten years, without a commitment to bring pastoral agriculture into the ETS (albeit on a Trade Exposed basis). Without agriculture in the ETS, we do not believe that New Zealand will achieve the desired 30m tonnes of emissions abatement from afforestation, which amounts to about 15% of the total emissions reductions required to meet New Zealand's 2030 Paris target.
6. The current proposals will result in a matrix of choices for foresters and potential forest developers inside and outside the ETS. We consider those choices should be as follows:

## Potential future ETS choices for forest managers



7. The FOA considers that an important principle should be that those early adopters of the ETS, who have made investment commitments based on the signals and policy to date, should not be penalised by any of the changes now being introduced. This necessarily requires some flexibility and a degree of additional administrative management for the government, but we consider this will not be excessive and is justified to protect the investment decisions already made.
8. In particular we consider that post-1989 forest owners in the ETS who are already operating forests under stock change accounting should:
  - a. Have the choice between continuing under stock change or switching to averaging. An all or nothing one-off choice

- b. If opting to continue under stock change they should be permitted to add new forest to the ETS under the same accounting approach
  - c. If switching to averaging they should be able to claim units up to the level they would have been able to over the long term under the existing stock change approach i.e. back to 2008, but that this will need to be transitioned. This affects how such forests would be transitioned. Indeed, this should also apply to post-1989 forests outside the ETS who join up to averaging i.e. they should be treated as new forests.
9. Creation of an Averaging category has been advocated by FOA for several years. For new entrants to forestry and the ETS we support this being the sole accounting approach consistent with the way New Zealand will report internationally.
  10. The FOA agrees with the proposal to provide additional recognition through the ETS for the carbon sequestered in harvested wood products just as New Zealand is currently benefitting from this same recognition. In line with the objectives of the changes, it is important that most of this recognition is provided to the person making the decision about planting and whether to enter the ETS, but we also support a funding pool being established for forest industry good purposes and to advance wood processing. This position has previously been advanced as a pan-industry supported solution and we are concerned that this appears to have been ignored.
  11. Also, under the Harvested Wood Products policy discussion, the FOA is disappointed that no recognition is made of the potential role of biochar made from harvest residues and incorporated into soil as we believe this to be the ultimate form of Carbon Capture and Storage (CCS). Equally tanalised wood products e.g. broken CCA-treated vineyard posts buried in a segregated landfill (a clean fill) will also represent a very long-term form of CCS. Clean filling of treated wood should not be subject to Ministry for the Environment's Waste minimisation charge but rather landfill operators should qualify for earning NZUs.
  12. The current focus is on post-1989 forestry, but pre-1990 also needs addressing. We question the logic of stating that "*our forestry proposals are primarily intended to improve the ETS so that it incentivises additional forests to be planted and this is clearly not relevant for existing forests*" (p6). The determinant of whether the ETS has been improved should be whether the changes result in more carbon being sequestered than would have otherwise been the case, not whether we have more trees planted. In that sense if changes can be made to the ETS that would encourage management decisions to be taken (additionality) that would result in pre-1990 forestry sequestering more carbon, then such changes are entirely legitimate and should also be investigated.

Recognising the carbon contribution from pre-1990 forestry is something that should be a high priority for the net zero and other emissions reductions goals. Such sequestration can qualify as additionality under international rules, is easily measurable and would help incentivise both planting and replanting. FOA has raised this matter through numerous channels and submissions over several years and yet there appears to be no appetite by officials to pursue the opportunity further.

13. The FOA agrees with the proposal to create a new category of longer rotation, limited harvest, forestry as a replacement for the PFSI, but recommends that this is called Permanent Cover Forest rather than Permanent Forest. All forest in the ETS, pre and post-1989, can be considered relatively permanent because of the increasing cost of changing land use. The transition paths to permanent cover forestry should not leave participants materially worse off.
14. With respect to other gases, FOA wishes to register concern about the flagged proposal to treat biological methane separately. This proposal undermines the emission charge faced by landfill operators for methane over the past 10 years and stands to create a new grand-parented emission right for existing dairy farmers to the disadvantage of hill country sheep and beef farmers and farm foresters.

## Specific comments

15. FOA's position on each of the proposals is summarised below:

FOA concurs with the anticipated benefits from introducing the averaging approach to the ETS.	11
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FOA conditionally supports Option 1 (preferred) – the government is able to change the number of units received under averaging to reflect carbon storage but consistent with the previous proposal should set a maximum change that could be applied in a given period.....	15
FOA does not support the preferred option and considers that all participants should be able to claim growth back to, or net additional from, 2008 rather than being based on any given MERP..	15
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FOA supports not including a covenant for permanent cover forests (preferred option).....	21
FOA supports the mandatory transition of PFSI to a permanent forest cover category or leaving the scheme.....	22

FOA agrees that once the 50-year limited harvest clause expires for permanent cover forests there will be three choices available:.....	22
FOA supports a combination of Options (1 and 2) for those exiting prior to 50-years for permanent cover forest, viz without additional penalty for exceptional bona fide reasons or with additional penalty otherwise. ....	22
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FOA supports putting the majority of pre-1990 weed deforestation operational detail in to regulations and allowing those with Forest Allocation Plan NZUs to apply for an exemption. ....	25
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FOA is not in a position to support extending cost recovery powers without further information on the areas that it would apply to.....	26

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FOA does not support either option – amending the Act to exclude all tree weed land registered after 2012 is patently unjust. FOA believes that this policy is misguided and misaligned with our Paris target. ....	28
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FOA supports making the transfer of participation by a land owner under a forestry right or lease voluntary to allow the seller to remain the ETS participant if this is preferred.....	29
FOA supports amending the criteria to allow a combination of planting and natural regeneration to re-establish a forest.....	29
FOA supports amending the Act to allow pre-1990 deforested exempt land to be considered as post-1989 forest land nine years after deforestation instead of the current situation where such a change would require the owner to surrender NZUs.....	29

## Our Submission on Proposals

### 3. Simplified Accounting Approach for the ETS (Averaging)

#### General Comment

FOA concurs with the anticipated benefits from introducing the averaging approach to the ETS.

The move to use of averaging for international reporting was an essential step for New Zealand avoiding a difficult to manage, and costly, roller coaster experience in the post-Kyoto rules environment. Moving to averaging domestically is consistent with this.

This uncertainty particularly affects owners of small single stands of trees. If the concern about adverse event (storm, fire, bug incursion) and harvest liability is effectively removed subject to replanting, this is expected to improve both participation in the ETS and the supply of units to the market. This will be most likely where alternative land use options other than forestry are minimal and/or where an ongoing income from wood production is also established.

The challenge with averaging is that it is being introduced to an already existing system. It is important to ensure that this does not create perverse signals that disincentivise interest in the ETS by some players, or worse disincentivises forest planting.

At present, qualifying post-1989 forests that entered the ETS sometime after 2008 cannot immediately claim the carbon associated with the years between 2008 and the date of entry to the ETS, during that rotation. However, some of this carbon can be claimed in the next rotation once emissions from harvesting slash and below ground biomass are accounted for. A transition to averaging will effectively be a second-best option for any forest owner in this situation because the “missing” units will never be able to be claimed. The response to this will vary, but could include avoiding transitioning to averaging if given the choice, deforesting for a required period and then re-entering the ETS as a new forest, exiting the ETS, or exiting forestry.

#### 3.1 Option for introducing averaging accounting for newly planted forests

FOA supports a modified option – require all new ETS entrants to use averaging accounting but allow existing participants using the stock change approach to use this option for any new ETS additions.

We note that Te Uru Rakau has discarded the option of allowing those establishing new forests to have a choice between averaging or stock change on the basis that it would add unwanted complexity to the scheme and would maintain misalignment.

For these reasons and where participants are new to the scheme we support a mandatory change that allows only the option of averaging. Such conditions would thus be known before any decision was made by the forest owner.

FOA submits that where forests owners are already participating in the scheme and where they do elect to make a one-off choice of moving from the stock change approach to averaging i.e. if Option 3 under 3.2 is pursued then they should also be allowed the option of either averaging or continuing to use the stock change approach for any expansion to their existing estate in the ETS (new planting or other qualifying forest).

This is argued on the basis that:

- (a) Otherwise the participants will be forced to operate two different systems, and this may impact their ability to manage their carbon budget unders and overs across the total estate in an efficient manner
- (b) The additional complexity of allowing these owners some additional forest will not materially increase the complexity that will exist anyway if option 3.2 (3) is available and selected and not all will elect to use the option
- (c) The national ETS scheme and the international reporting approach are not required to be aligned hence the term “Nationally Determined”. Any misalignment will need to be managed if option 3.2 (3) is supported regardless. Any additional area (limited as suggested above) should not impose any significant additional burden of alignment

### 3.2 Options for accounting for existing forest.

The FOA supports Option 3 – All post-1989 ETS forestry participants with registered forests have a non-time-bound, one-off, one-way choice to use either averaging or carbon stock change accounting.

Consistent with our previous submissions on this topic we do not support compulsory averaging for all post-1989 forest owners (Option 2) even under transition arrangements.

FOA supports Option 3 instead of Option 2 because a number of forest owners currently in the ETS can derive a higher level of return than averaging would provide them. They are able to achieve this because of the mixed makeup of their forest estate and the scale that they are operating at. Such forest owners entered the ETS on this basis and to penalise them now would be a breach of contract and do further damage to the confidence of forest owners given their experience to date with ETS rule changes.

We are aware this works against the principle of simplification and that it does require MPI to maintain a more complex system than would otherwise be the case, but the mixed model still represents a significant improvement on the present. Furthermore, we believe the number of forest owners in this category will be limited to a relatively modest number of larger companies and thus be manageable.

It is unclear if Option 3 under 3.2 is time-bound. FOA believes that one-way choice should be made available at any future point in time.

### 3.3 Transition Considerations for a move to averaging accounting

FOA supports the proposed option of allowing forestry participants who face an obligation, but who have not harvested, to delay the required payment to beyond the next Mandatory Emission Return Period (MERP).

Consideration of transition arrangements needs to be taken in the context of what option is put in place under 3.2 above.

Many small forest owners will in all likelihood not have the cash to go to market and buy back NZ units until harvest time. Forcing such owners to settle prior to harvest i.e. in 5 years or less, at best creates a strong incentive for those owners “above the average” not to opt into the averaging option, and at worst will drive forced forest sales at highly discounted prices.

#### 3.4 (1.) How to define a new forest under averaging

FOA does not consider “trees planted after 1 January 2020” is an appropriate way to define “new” forests and proposes an alternative.

The need to define what forests are ‘new’ under averaging when there are other forests not on averaging accounting is acknowledged, but we consider there will be adverse unintended consequences of basing the distinction on trees planted at any given date.

The obvious issue with picking the date of 1 January 2020 is that this will almost certainly reduce the rate of new planting between now and then by any potential entrant who wishes to use averaging. They will simply wait. A planting season will be lost. This is not a good outcome.

The FOA considers it would be more equitable and less disruptive to acknowledge that any Participant from 1 January 2019 will meet the definition of a new forest if they indicate they wish to operate under averaging subject to it being confirmed and/or they will be able to seamlessly transition to averaging on 1 January 2020. The key difference is that new forests will be based on stated intention as of registration date. This would address a planting disincentive that already exists given that this discussion document is now public.

#### 3.4 (2.) How to calculate the longer-term average carbon storage capacity of a forest under averaging accounting

FOA supports the preferred option of requiring a distinction between look up tables and the FMA approach but calls for an urgent revision of the regional look-up table based on actual data returned via the FMA approach from larger owners.

Settling the basis of the long-term average and conveying this information early will be critical to ensure that systems and processes are not held up.

The argument for requiring the field measurement approach (FMA) for those with over 100ha is that is equally important to ensure the averaging level is being achieved as it would be to ensure the stock change levels were being achieved.

FOA is aware that the current 10-year old regional look-up tables significantly disadvantaged owners because they are very conservative, based on old crop genetics. FOA considers that there is an urgent need to update the regional look-up tables for use in forests of less than 100 hectares.

### **3.4 (3.) How to calculate average crediting age and carbon storage**

FOA supports setting a series of default age bands based on forest type with participants able to nominate a rotation length band (Option 2) and supports using 5-year rotation length bands for radiata. That said, owners need clarity on how this might work for longer rotation crops including Douglas-fir, Redwood and possibly Totara.

Use of default age tables is attractive because of the simplicity but it is important that any additional carbon sequestration contribution is appropriately recognised.

Allowing participants to determine the rotation age will encourage some participants to increase their average carbon absorption and achieve more units. Up to a point this may also deliver better wood quality outcomes as well.

A 10-year age band is a wide range to treat all participants the same. There is also a risk that it might incentivise harvesting at the lower end of the range, given that there is no additional reward for postponing harvest.

Capturing around 75% of the pine harvest in a 5-year age band suggests this is a sufficiently wide band and a relatively low risk of accidentally shifting bands.

### **3.4 (4.) How could a change in the average crediting age be applied to existing participants?**

#### **A. Options for participants above the average age when a change is made**

FOA supports Option 1 (preferred option).

Any requirement to make good the difference, if the average crediting age is lowered, would reduce the incentive to participate and mean less units in circulation.

Similarly, under Option 1, the lack of ability to be able to claim an additional, maximum sequestration year if the average age was increased will also serve as a disincentive.

If Option 1 is adopted, it places greater emphasis on the Crown getting the average age right the first time around. It also supports using more refined age bands e.g. 5-years rather than 10, as discussed under option 3.4 (3.)

We would be concerned if the rules created any unintended incentive to lower rotational age as this would likely adversely affect wood quality and the domestic processing industry. This is a further reason for supporting Option 2 under 3.4 (3.).

Where there is a change to the average age and participants have not changed their management but are above the average, FOA prefers participants not to have any additional liability or ability to earn more i.e. participants only have to worry about their own management and can be confident that they will receive the units they expected when their decision to participate in the ETS was made.

On the other hand, where this is a change to the average age and participants have not changed their management but are below the new average, the Crown prefers participants to be able to earn additional units with an increase but to lose units with a decrease i.e. participants have to worry about their own management and also any change the Crown might make to the average age.

## B. Options for participants below the average age when a change is made

FOA conditionally supports Option 1 (preferred) – the government is able to change the number of units received under averaging to reflect carbon storage but consistent with the previous proposal should set a maximum change that could be applied in a given period.

The key differences between these options is that under Option 2 the participant receives what they expected to receive when they entered the ETS. There is no ability to lose or gain. As to the risk appetite of any given individual forest operator this will vary and thus it is not possible to draw a conclusion about overall level of preferences of FOA members.

That said, if the Crown preferred Option 1 is implemented FOA consider it should be accompanied with some caveats on the maximum level of adjustment that the Crown could make in a given period (say 10 years).

Again, the implications for wood supply from the Crown changing the level of units a participant will receive will need to be taken in to account. If the average age is decreased this could easily result in participants electing to harvest early which could in turn result in the Crown having to make further adjustments. The reverse also applies.

### 3.4 (5.) How far back can a participant claim on entry to averaging?

FOA does not support the preferred option and considers that all participants should be able to claim growth back to, or net additional from, 2008 rather than being based on any given MERP.

As acknowledged in the consultation document *‘if existing forest owners are not permitted to continue earning NZUs on their second rotation this would mean that those who entered the ETS after their forests reached the equivalent of the average age, would be worse-off under averaging.’*

Establishing a position that effectively discourages participation in averaging by some potential entrants because they will earn less units than they would otherwise be able to, is inequitable and counter to the claim that *“this discussion document introduces a package of changes to improve the ETS for forestry participants”*.

The intent here should be that any forestry participant opting for averaging does so to maximise certainty but foregoing the peaks and troughs. None should be left in a materially worse situation.

The cut-off of 2008 is understood, but the cut-off of 2018 is questionable and not supported.

### 3.4 (6.) On-going reporting.

FOA supports Option 3 (preferred). ETS forestry participants are required to report changes to the average age, deforestation and confirm continued management in each MERP.

We consider it is important to capture the benefits of reduced compliance but acknowledge that it will be important for system integrity to confirm average age and management regime.

As it is only confirmation if there is no change then for most participants this is easily done.

## 4. Complementary Proposals to the Introduction of Averaging

### 1.1 Proposal to remove liability for repayments of NZUs for short-term adverse events

FOA (conditionally) supports Option 2 (preferred): No liability for any post-1989 ETS forestry participants, if they pause and begin earning NZUs again once their forest has regrown to the carbon stock it held at the time of the event regardless of whether they opt into the averaging option or remain on the stock change approach.

Removing unmanageable actions of God or Devil from the list of what an ETS participant is responsible for will considerably de-risk the ETS particularly for owners of small forests and make their participations in the ETS more likely. New Zealand is able to manage this at a national level in a much less disruptive manner. The additional complexity is acknowledged but the areas affected in any given reporting period will be limited and temporary.

Adopting Option 2, whereby participants are simply put on hold following a short-term adverse event that affects the carbon balance of the forest is consistent with how New Zealand will manage the same issue internationally and is logical to introduce.

The principle behind averaging is to achieve a steady state of forest cover over time.

Interim fluctuations are expected as part of that. In that sense adverse events are no different to planned harvesting.

FOA supports the waiving of liability to all post-1989 forest owners under the long-term average and sees no reason why this has to be restricted only to those operating under an averaging regime. This would be consistent with waiving the emissions return where an adverse event prevents re-establishment (Section 9.7 minor and technical proposals).

The additional benefit of removing the need to find insurance cover for carbon liability will help with ETS participation and afforestation as noted but cover may be required, regardless, for the timber crop so in some cases the saving will not be significant.

## 1.2 Proposal for post-1989 forest owners to be able to “offset” (replant forests on other sites to avoid deforestation liabilities)

FOA supports introducing offsetting for all post-1989 ETS participants not just those who use averaging (refer support of 8.2).

The FOA worked closely with the NZ UNFCCC as part of the NZ delegation to achieve international recognition of offsetting. The reason this was done was because of the importance in New Zealand of not impeding land use flexibility and thus the country’s ability to respond to market signals.

The change in the international rules was achieved in Durban in 2011 when NZ was operating under the Kyoto framework and well before the Paris agreement and any move to averaging. It was always expected that once secured under the international rules this flexibility would be made available domestically to forest owners in New Zealand and was done so for pre-1990 forestry which otherwise faced significant liability.

FOA supports the extension of the option of offsetting to post-1989 forest owners but sees no reason why this has to be restricted only to those operating under an averaging regime. All the benefits listed in the discussion document equally apply to all actual or potential post-1989 forests. The length of time to re-establish the same level of carbon in a forest operating on the stock change may be shorter or longer than a forest operating on the averaging system, but the principle remains the same.

Similar to the previous considerations around adverse events and harvesting, anyone offsetting a post-1989 forest and operating on averaging accounting, is simply undergoing a temporary transition back to the long-term steady state.

The flexibility could be particularly land use important for small scale and/or farm forestry ETS participants.

The Flexible Land Use (FLU) rule is recognised internationally, and New Zealand will be utilising it in its averaging based reporting and accounting. This option would be consistent with that.

## 5. Recognising the Emission Mitigation from Harvested Wood Products.

FOA supports providing additional units based on harvested wood products to all forest ETS participants, not just those on averaging, and also creating an industry good fund to assist the wood processing industry (but funded by those qualifying post-1989 forests not registered in the NZ ETS). Option 3 alone is not supported.

Options 2 and 3 are not mutually exclusive and there is no compelling reason why additional NZUs from harvested wood products accounting should only be available to those forest owners using averaging accounting.

The forest industry has considered this issue at length previously and provided a pan-sector position as part of input to previous government consultations on the ETS, namely in a request for feedback on a Forestry Technical note in March 2016. This is the second time in 3 years we have been asked for feedback on the same topic and previous feedback appears to have been ignored.

We are disappointed that the Wood Council of New Zealand option (Woodco 2016) is not included in the discussion document given the collective industry position or an explanation provided as to why it has been rejected. The documents can be found on the Wood Council of NZ website at

[http://woodco.org.nz/images/stories/pdfs/WoodcoHWPSubmission\\_29\\_April\\_2016.pdf](http://woodco.org.nz/images/stories/pdfs/WoodcoHWPSubmission_29_April_2016.pdf)

or on the FOA website at:

[www.nzfoa.org.nz/resources/file-libraries-resources/submissions/climate-change/580-woodcoets/file](http://www.nzfoa.org.nz/resources/file-libraries-resources/submissions/climate-change/580-woodcoets/file)

The pan industry position makes some key points:

- HWP credits and liabilities should be allocated to the industry
- The calculation should not adhere to differing product decay life cycles listed in the IPCC guidelines but rather just assume a New Zealand average
- A portion of the HWP recognition should be provided in the form of additional units based on deferred harvest liability and a portion should be set aside as a funding pool to further develop and promote long-lived wood products (including removal of regulatory and institutional barriers to medium and high-rise construction in wood).

That latter funding should come from the value in the Crown account from those post-1989 forest owners who opt not to register in the NZ ETS but whose forests contribute to total mitigation. (Currently around half New Zealand's eligible post-1989 forests are not registered in the ETS). A conservative estimate can be used to allow for any anticipated uptake in the scheme.

If the emissions mitigation of HWP is not provided to the sector it is inconsistent with New Zealand's international approach, is inconsistent with New Zealand's commitment to encourage mitigation and decrease emissions and provides no signal to incentivise ETS participation.

We strongly support ETS forest growing participants receiving additional NZUs to recognise the contribution of long-lived wood products that New Zealand is benefitting from because this will:

- Ensure that those who are responsible for generating and managing carbon credits have an increased incentive to do so
- Deliver more new planting including on under-utilised and marginally economic land
- Improve the supply of wood for processing
- Considerably reduce the impact of harvest liability for those not operating under an averaging system
- Increase the supply of units that are potentially available to the market
- Be relatively simple and inexpensive to incorporate within the already existing ETS framework for managing NZUs
- Providing benefit to any point in the forestry value chain will inevitably deliver benefits to all parts of the value chain

The Wood Council of NZ is in agreement that attempting to establish a system that provided an allocation of units to recognise HWP mitigation and associated obligations to any point further along the value chain than forest growing was not supported. This is because this would be extremely complex and consequently costly. Notwithstanding this the industry does support using some of the estimated 8.8m t/CO<sup>2</sup> contribution to our 2030 target to establish a funding pool to encourage a greater level of harvested wood products. At a carbon price of \$21 this is estimated in the document to be \$16 million per year that New Zealand is claiming. The price is now \$25.

As much of this would be directed towards those forest growers participating in the scheme we expect that any funding pool would be a much more modest sum in the order of \$2–3m/ annum.

The twin objectives of increasing afforestation and increasing long-lived wood products need not be mutually exclusive.

We also note that any fund is proposed to be directed towards incentivising longer-lived wood products rather than the current product mix from our production forests and also that this emphasis on product longevity would not be present if forest growers received the additional NZUs.

This is consistent with the intent of the ETS and the international rules pertaining to HWP which is why there are different half-lives applicable depending on the length of time carbon is sequestered in the various wood product streams. The wood processing industry in New Zealand has, however, expressed concerns about the impact on current investment of incentivising long-lived C products over shorter ones. This is another reason why the pan-industry has proposed post-1989 ETS eligible forest planting receive additional units as well as creating a limited pool of funding that could be used for general industry-good advancement and not tying it to the life of the wood product.

The FOA does not support Option 3 by itself. Numerous independent reports have reinforced the message that if New Zealand is to have any hope of meeting its targets in the near term (10-30 years) this can only be achieved through land use change and afforestation. Option 2 is therefore a recognition that should be implemented at a minimum. However, again, we do not understand why this has been restricted to only ETS participants using averaging accounting.

## 6. Creating a Permanent Forests Category in the ETS

Options for a permanent post-1989 activity in the ETS

FOA supports the preferred option of moving PFSI forests from the Forests Act to the Climate Change Response Act, which means establishing a new post-1989 category to be labelled permanent canopy cover forest, noting that the deforestation cost imposed on freehold forest land means that most other ETS forest can also be considered permanent.

The FOA is supportive of the general principle of the ETS providing encouragement for permanent forestry but the definition of permanent remains ill-defined. Many existing forests in the ETS are likely to be very long-lived forests and thus can be considered permanent.

All of the benefits/characteristics listed as applying to permanent forests also apply to production forests where harvesting is involved. If the definition of permanent pertains more to canopy cover than to the ETS requirement of not-changing land use away from forestry, then this should be used, and it would considerably improve the clarity of this section.

All forests associated with the ETS should be considered relatively permanent. The FOA agrees that there will be areas where permanent production forests that cyclically involve periods where the forests have been cut over and the trees are very young, will not be suited to some sites. Other public good benefits are greater biodiversity and improved water quality as cited in the discussion document.

There may also be the potential to develop alternative markets based on the species involved.

The document notes that these forests can also provide economic benefits through selected timber extraction or honey production, for example. While this can be the case, any move away from the core commercial production species will come at a significant economic cost to the landowner and much lower levels of carbon sequestration. This is the prime reason why there is the concentration on radiata pine, much less Douglas-fir, Redwood and a few other limited species.

FOA accepts that there is a role for the Crown in incentivising the provision of public good benefits where the market will not otherwise provide them at the level that is desirable. We thus support an option that allows increased ETS recognition. We also acknowledge the additional complexity of the existing arrangement that provides this recognition – the PFSI and believe there is merit in operating one single forestry framework under the CCR Act.

## 6.1 How would units be earned by forest owners for permanent forests?

The FOA supports having the choice between using either the current stock change accounting process or the averaging approach for permanent cover forests (Options 2 and 1 respectively).

Longer rotational species will require more incentive particularly given the lower economic returns compared with existing alternatives. It is important to provide the maximum benefits possible from carbon to incentivise long-lived species and Option 2 provides this. It also provides a greater incentive to participate in the ETS which is the reason it should also be available for post-1989 rotational forestry.

Nonetheless, Options 1 and 2 are not mutually exclusive and a third approach would be to allow owners of permanent forests to make a one-off choice as is proposed as an option for other post-1989 forestry. In the case of permanent cover forestry, we consider the number of people who would opt for averaging would be low because the level of harvesting would be limited and therefore so would any repayment liability and this would be more than offset by the additional revenue gained from stock change accounting. Nonetheless, it is conceivable that some owners, concerned about the level of the future price of carbon when carrying out some harvesting of longer rotation forests, may wish to elect for averaging.

## 6.2 How will the “permanent post-1989 forest land” and “post-1989 forest land activities” interact in the ETS?

FOA agrees with the government’s preferred approach that all post-1989 forests activities should share the majority of operational processes.

## 6.3 What restrictions will apply for permanent forests registered in the ETS?

FOA supports the government’s preferred approach for permanent cover forestry of a 50 year clear-fell restriction while allowing limited extraction that maintains 30% canopy cover during that time.

## 6.4 Should we introduce a 50-year permanence clause for forests registered in the permanent forestry category?

FOA supports a 50-year permanence clause as a minimum non-harvest period.

This question should have preceded the previous one and is effectively asking the same thing. If a permanent cover forest category is to be established, it needs to be meaningful and sufficiently different from rotational production forestry (which includes Douglas-fir or Redwood) as to justify its inclusion.

## 6.5 Should we introduce a covenant for permanent cover forests?

FOA supports not including a covenant for permanent cover forests (preferred option).

We concur that the ETS provisions will provide adequate enforcement of permanence and other covenant options are available under the QEII Trust for those who qualify.

## 6.6 Managing the transition for current Permanent Forest Sink Initiative (PFSI) participants to a permanent forest cover category

FOA supports the mandatory transition of PFSI to a permanent forest cover category or leaving the scheme.

The proposed alternative still meets the needs of those involved in the PFSI, the transition is costless for them and the administrative cost of maintaining two systems is not justified.

## 6.7 Dealing with permanent cover forests after the 50-year permanence clause expires

FOA agrees that once the 50-year limited harvest clause expires for permanent cover forests there will be three choices available:

- a. Sign up for another non-harvested period (using stock change or averaging)
- b. Switch to averaging
- c. Exit

## 6.8 What process could apply for participants to exit the ETS permanent category activity prior to the end of the 50-year non-harvest clause

FOA supports a combination of Options (1 and 2) for those exiting prior to 50-years for permanent cover forest, viz without additional penalty for exceptional bona fide reasons or with additional penalty otherwise.

A commitment to long-term permanent cover forestry should be reasonably inflexible once made if the system is to have any integrity. As it is, 50-years only represents a further 20-years on from many normal forest rotation lengths.

FOA concurs that it is reasonable to differentiate, if possible, between those who need to exit and those who prefer to exit, but this puts the government in the situation of making a subjective judgement. Any bona fide conditions should be exceptional and beyond what could reasonably be foreseen or insured against.

Option 3 is not supported because of its complexity and uncertainty, but there appears to be the ability to apply both Options 1 and 2. Under exceptional and defined bona fide circumstances a participant may be allowed to exit and repay all their units (without additional penalty) otherwise participants can voluntarily opt to exit but will repay the units with a multiplier applied.

The importance of the loss of the forestry from the ETS to New Zealand will be inversely proportional to the prevailing price of carbon and this then acts as a self-adjusting disincentive to exit.

## 6.9 How to manage transfers from post-1989 rotation forests over to the ETS permanent cover forest category (when the forest is already above average crediting age)?

FOA does not support the sole option presented of only allowing post-1989 participants who transfer from rotation to permanent forest cover to gain units back to the start of the MERP but instead consider such forests should be able to claim back as far as 2008.

This is the same issue as covered under Option 3.3 – Transitional consideration for a move to averaging accounting and more specifically 3.4 (5) on page 16. The option as proposed would set up an inequitable situation with the options that such forests currently have.

At present a post-1989 forest entering the ETS that is already several years into its rotation will only be able to claim units from the start of the latest MERP. However, under the stock change approach, the earlier units will be able to be claimed during the second rotation (along with accounting for decay emissions and other liabilities). Over the long-term the forest will thus qualify for all of the sequestered carbon for the full rotation. It is not correct to state (as the discussion document does) that the option presented on ‘capping the number of units’ is the same as the correct approach to crediting.

Faced with this option the most logical choice for a post-1989 forest owner who will only be able to claim a fraction of the full averaging amount, would be to opt for the stock change approach or, if this is not available, to avoid entering the ETS completely because the cost of exiting the ETS will be the full average level. Neither of these choices is something the ETS rules should be incentivising.

Having the maximum number of ETS participants accounting under averaging improves the alignment with the government’s international reporting approach and having more forests in the ETS lessens the numbers whose fate is uncertain. Any forest not in the ETS can be deforested at any time without penalty – something that will affect government’s averaging account, the billion trees programme and achieving our NDC.

Instead the government should be allowing forest owners to claim the full level of units up to the averaging just as for a new forest. The FOA accepts that this should be delivered over a time-frame that recognises the gradual contribution, rather than a windfall gain, but that is a question of how the units are provided, not whether they are provided. FOA proposes that the ‘missed’ units be allocated to the forest during the second rotation consistent with growth in the forest and on a one-off basis. All post-1989 forests under averaging would thus be treated the same and this would also be consistent with what the government will be accounting for internationally.

## 6.10 Options for transitioning rotation post-1989 forests in the ETS to permanent cover forests once they are past the first rotation

FOA supports Option 2 - deferring earning of credits as a means of transitioning rotation forests already in the ETS where the carbon stock is below the average but proposes a different approach to that proposed where such forests are above the average, namely that they should be allowed to earn units back to 2008 not just the MERP when they register for the permanent canopy category.

We would again make the point that the term permanent forests as it is being used in the document will create confusion. The distinction that is being used to differentiate forests is the level of harvest involved and the use of the word 'permanent cover forests' or limited harvest forests would be more suitable.

The document seeks feedback on the more appropriate way to transition forests already registered in the ETS that are subject to averaging and specifically what should happen where the current stock is below the average.

As noted in the discussion there is an intention to link any option adopted here with the option opted for second rotation forests under averaging (3.4 (5) on page 22).

As the document notes, this is linked to the considerations on page 22 – Section 3.3 (5).

As noted previously, FOA does not support how it is proposed that forests outside the ETS would be transitioned. Furthermore, we do not support what is proposed in this section for how forests in the ETS (and under the stock change approach) would be transitioned.

The document proposes that forests already registered in the ETS and subject to the carbon stock change approach, would earn units back to the start of the MERP when they register for permanent canopy forests and notes that “these forests would have already earned units as a post-1989 forest”. The number of units they earned will depend on when they registered. Hence, we have the situation where they may be under or over the average.

With respect to those that are under, the FOA supports Option 2 that would defer any earning of units above the average that are associated with the permanent cover canopy forest until the carbon stock reaches the average.

FOA acknowledge the complexity involved in monitoring the carbon stock until it reaches the average that the forest had already been credited for (Option 2) and that it might otherwise create a perverse incentive to the system by commencing with averaging and then switching.

It should be noted, however, that the preferred option would most likely mean that forest owners under averaging would be disincentivised to adopt a limited harvest regime until such time as the forest had surpassed the average level of carbon.

Where a forest is in its second rotation and above the average, we do not support the proposed approach being the same as for first rotation i.e. back to the start of the MERP when registered.

Because they are post-1989 forests, and already in the ETS, and will ultimately qualify for all of the sequestration over the course of one or more rotations, the credit should be related to when the forest was planted not when it was registered.

### **6.11 How long should harvesting restrictions apply when transferring from post-1989 forest to permanent post-1989 forest?**

FOA supports the preferred option of having the 50-year harvesting restrictions apply from the date of registration as a permanent cover forest so long as the ability to earn units is the same as if it was a new forest.

Given that the basis of what is being called “permanent” is restricted harvesting then it is appropriate to apply such restrictions from the date of participation and FOA supports the preferred option.

## **7. Operational Improvements to the ETS**

### **7.1 Significant Operational Changes**

The FOA supports developing publicly available maps to describe pre-1990, post-1989 and ETS eligible land and amending the Climate Change Response Act accordingly.

We concur with the benefits that this development would provide for all parties and support the provision of land eligibility and unit balance data.

### **7.2 Options for improving the deforestation offsetting process for pre-1990 forests**

FOA supports the changes proposed to increase the flexibility of deforestation offsetting for pre-1990 forests.

All the proposed changes – extending the timeframe to 4 years after clearance, redefining areas while the application is live, allowing carry-over of unused offset, clarifying what residual deforestation applies to and clarification of land status – will make use of this mechanism easier and more likely. Flexible land use in New Zealand is very important.

### **7.3 Improving the tree weed deforestation exemption process for pre-1990 forests**

FOA supports putting the majority of pre-1990 weed deforestation operational detail in to regulations and allowing those with Forest Allocation Plan NZUs to apply for an exemption.

As noted, this will help address the currently highly prescribed and inflexible approach to dealing with wildings in particular.

## 7.4 Exemption for less than 50-hectare blocks of pre-1990 forest land

FOA supports allowing subsequently appointed trustees to apply for the 50 hectare pre-1990 exemption and using the title rather than the trustee given trustees can sit on multiple trusts.

FOA supports extending the ability to apply for an exemption to any agent appointed by the Maori Land Court.

FOA considers the proposal for a generic threshold of 10 owners on 1 September 2007 is practical. We do not have any basis for suggesting an alternate number.

## 7.5 Section 60 exemptions (from ETS obligations)

The FOA supports developing explicit legislation to cover exemption of pre-1990 deforestation including prior to an Order in Council.

## 8. Operational Changes Influenced by Averaging

### 8.1 Redefining Mandatory Emission Return Period (MERP)

FOA supports shortening the next MERP from 5 to 3 years to align with the NZ international reporting timetable contingent on associated adjustments to reduce the cost to the forestry participant.

### 8.2 Deforestation offsetting for post-1989 forests

FOA supports extending the option of offsetting to post-1989 forests.

All the arguments that support this option for pre-1990 forestry equally apply to all post-1989.

### 8.3 Extending Section 60 exemptions to post-1989 forest land

FOA supports extending the section 60 exemptions from mandatory reporting (available to pre-1990 forests) to also be available to post-1989 under either averaging or permanent forest cover land.

As with 8.2 there is no logical reason for this consideration not to apply to all forests under the ETS.

### 8.4 Cost Recovery

FOA is not in a position to support extending cost recovery powers without further information on the areas that it would apply to.

While the general principle of user pays is supported, two other factors have a bearing in determining the extent to which costs should be recovered. Firstly, there is a public good element in encouraging and facilitating greater forestry expansion and also participating in the ETS. It may be that some costs should be absorbed in the public interest to minimise the barriers to ETS participation.

Secondly, particularly with averaging, the government has already stated it will be adopting a conservative approach to crediting. While this is understandable to a degree, from a risk management perspective, it does mean that the Crown will likely be in a position where it could use such income to defray ETS costs for participants. The ETS should not be revenue-generating for the Crown.

## **9.Minor and Technical Proposals**

### **9.1 Simplifying transfers of post-1989 forests**

FOA supports treating executors of wills as if they were the registered participants of the land.

### **9.2 Interested parties notification when land is added or removed**

FOA supports participants, rather than EPA, being required to notify interested parties when they add or remove land.

### **9.3 Reconfiguration of carbon accounting areas**

FOA supports a change in the Act to allow reconfiguration of Carbon Account Areas (CAAs) at no cost to participants.

### **9.4 Timing of deforestation**

FOA supports extending Section 181 of the Act to allow pre-1990 forest owners the option to change their land use within four years even where the decision to deforest is made after the clearance.

### **9.5 Emissions returns for post-1989 forest land with mixed ages**

FOA supports amending the Act to ensure emissions or removals from all trees is included, not just an assessment based on the age of the youngest trees.

### **9.6 Emissions returns for natural disturbance events**

FOA supports removing the requirement to fill out an emission return where a natural disturbance permanently prevents forest re-establishment.

For the reasons given FOA supports waiving this requirement. This is related to the discussion on adverse events on page 24 of the document (page 16 of this submission) and it would be consistent to make the adverse events rules applicable to all post-1989 forestry in the ETS.

## 9.7 Removing unnecessary emissions return requirements

FOA supports amending Section 179A to clarify that forest land with an approved exemption is also exempt from obligations to notification and emission return requirements.

## 9.8 Excluding post-1989 forest land with tree weeds

FOA does not support either option – amending the Act to exclude all tree weed land registered after 2012 is patently unjust. FOA believes that this policy is misguided and misaligned with our Paris target.

Any land owner who has a plan to manage an area of wilding conifers (aka tree weeds) through to a productive forest should be able to register that land in the NZ ETS and draw revenue from the carbon sequestered.

Further adjustment should not be made retrospectively. We understand that the area of wilding conifers registered to be limited and those involved have not acted contrary to the letter of the law.

Those participants who had tree weed land registered before 2012 have already been fairly treated by not having the section applied retrospectively. Taking advantage of this by expanding their area of non-qualifying weed land is counter to the obvious intent of the Act.

## 9.9 Allowing the EPA to review its decisions

FOA conditionally supports allowing the EPA to reconsider, revoke or replace a decision that is deemed incorrect provided that the affected person is consulted and that any decision change is undertaken within one year of being made.

## 9.10 Deregistering forestry participants who cease to be legal entities or are persistently non-compliant

FOA conditionally supports introducing the provision to deregister participants who cease to be legal entities or are persistently non-compliant providing they have been notified in writing that this action is pending and been given sufficient opportunity to rectify the situation post notification.

## 9.11 New rounding rules

FOA supports making the rounding rules in Section 190 and 191 consistent with those in the sector regulations.

### **9.12 More flexibility in submitting mandatory emission returns**

FOA supports allowing persons who have submitted a transmission of interest notification to submit a mandatory emission return.

### **9.13 Standardise timeframes for unit surrenders and payments**

FOA supports moving the current range of 20 to 60 days for surrendering or repaying units to a standard 60 days for all scenarios.

### **9.14 Require all returns to be “net” returns**

FOA supports making all returns “net” returns such that any unit surrender obligations will be deducted from the gross level.

For the integrity of the system and in fairness to other participants, any outstanding obligations should be discharged before further credits are supplied.

### **9.15 Transfer of participation when forestry rights are granted**

FOA supports making the transfer of participation by a land owner under a forestry right or lease voluntary to allow the seller to remain the ETS participant if this is preferred.

### **9.16 Planted and naturally regenerated native forest on cleared forest land**

FOA supports amending the criteria to allow a combination of planting and natural regeneration to re-establish a forest.

### **9.17 Exempt land eligible as post-1989 forest land**

FOA supports amending the Act to allow pre-1990 deforested exempt land to be considered as post-1989 forest land nine years after deforestation instead of the current situation where such a change would require the owner to surrender NZUs.