

# ETS almost four years old

Stuart Orme

*Within two months of you receiving this issue of Tree Grower the ETS in New Zealand as we know it will be four years old – effectively born on the 1 January 2008. In another year, December 2012, the first commitment period will be over and New Zealand will roll into the second commitment period spanning 2013 to 2017.*

The opportunity to apply for an exemption to allow land owners closed on 30 September. If you read this article before the end of November you will have the days left in the month to apply for any pre 1990 forest compensation credits for which you may be eligible. After 30 November that windfall will be gone.

New plantings can benefit from receiving ETS carbon credits that do not need to be surrendered – as long as the trees are replanted after harvest. This lifts forestry returns from an estimated five per cent to 19 per cent internal rate of return excluding land value, and has seen an increase in new plantings. Most of this planting is on land which will benefit from the added vegetation. It has seen an increase in interest in land that was struggling to move due to its poor production history or lack of future opportunity.

## Registrations to mid October 2011

	Applications approved	In processing	Total area hectares
Pre 1990	1,393	1,027	859,547
Post 1989	1,514	230	236,320
Exemptions	422	939	16,350
Total area			1,112,217
Official New Zealand forest estate			1,737,590

The above table indicates that, excluding exemptions, 4,164 applications have been made to MAF at time of writing. In an earlier article published in the February *Tree Grower* we estimated that there were an estimated 13,060 affected forest owners in New Zealand.

Conservatively if we deduct from this figure 4,164 above and also deduct the 1,361 exemption applications and treat them as individual land owners, we are left with in excess of 7,000 forest owners who could take advantage of the ETS. Also based on the above numbers, 35,418,477 NZUs of the available 55,000,000 NZUs have been allocated for pre 1990 forest land. This is compensation to 859,547 hectares of the estimated 1,285,992 hectares that could apply.

## Emission returns

If you are ETS registered, be ready to claim your credits in January. If you are not registered into the ETS, try to be registered by mid-March 2012 to be able to claim your 2008 to 2011 credits.

Voluntary emission returns can be submitted between the 1 January and 31 March next year for any forest registered into the ETS by the end of March 2011. Records of calculations need to be held for 20 years and care should be taken to get the return correct as penalties may apply of up to \$30 for each NZU for failing to surrender the number of units required fine – in addition to the NZUs owed. MAF

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### Providing forest carbon consulting services to pre 1990 and post 1989 forest land owners

#### We can help you with

- Confirming applicant eligibility for both post 1989 and pre 1990 forest land
- Opening of a NZEUR account
- Pre 1990 and Post 1989 MAF ETS Applications
- Completing emission returns, holding records and advising accountant if required
- Credit sales options
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- Insurance options for trees and carbon

#### Important dates

<b>Entity to get the pre 1990 Allocation of Compensation Credits</b>	<b>Land owner on 20 July 2010</b>
<b>Applications for allocation of credits for pre 1990 forest</b>	<b>Closes 30 November 2011</b>
<b>Applications for Post 1989 Credits for 2011 and previous years</b>	<b>Must be registered and claimed by March 2012</b>
<b>Applications for Post 1989 ETS Participation</b>	<b>Applications must be Approved by 31st December 2012 or earlier to receive the first 5 years credits.</b>

*"The Woodnet Team would like to wish you all a very Merry Christmas, pleasant break and a prosperous 2012"*

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advises the most common mistake is rounding errors, so pay particular attention to this.

Under the ETS rules a mandatory emission return must be made at the end of each commitment period and the first one is due between 1 January 2013 and 31 March 2013 covering the whole commitment period. If this assessment shows the participant is entitled to more units than those already received under the voluntary return, they are entitled to receive the difference. Where the assessment shows the participant has received more units than entitled, the participant will be required to surrender NZUs for the difference. Differences can arise from changes in the method for determining carbon stocks during the period covered by the return.

## Forest measurement approach

The forest measurement approach has now been formalised and forest owners with 100 hectares or more of forest land must measure their forest. If it is less than 100 hectares they are required to use the look-up tables. A main point here is that, if you are required to use the field measurement approach, we recommend that you secure the services required for the above measurement as soon as possible. Make sure the process is complete in time to meet MAF's deadlines.

Estimates to date suggest that an average-to-good forest of radiata pine may add more carbon than the MAF tables. If you are in this situation but have less than 100 hectares registered you may like to look at securing more post 1989 forest so that a measurement can take place.

Poorer growing areas, and possibly the indigenous sequestration, may be overestimated so be prepared to have to surrender units if the final MAF determination of

so will put you in breach of the Act.

At the same time the vendor is responsible for getting to MAF a 'transfer of participation' form. Regardless of whether the previous owner completes the transfer form, if you buy or acquire land in a different entity which is post 1989 registered, you will automatically inherit the obligations registered against that land unless the previous participant withdraws the land from the ETS before it was transferred to you.

Experience shows that due diligence practice and legal advice is not as good as it could be. If relevant there will be a notice on your land title that a post 1989 forest is registered on it. The Act is clear on everyone's responsibilities. Those in breach of the Act will eventually be caught – possibly at the time the mandatory emission return is not filed by a land owner who does not realise they are in the ETS.

## Transfers of registered interests

The following is an edited extract from the transfer of participation form ETSP89TT.4 but you should read the original for the full details

When a post 1989 ETS participation or transferor transfers, by way of sale, assignment or by operation of law, an interest in all or part of the forest land, the ETS participation automatically transfers to the new ETS participation or transferee as shown in the table.

Within 20 working days of the date of any transfer of an interest in post-1989 forest land shown in the table above, both the transferor and transferee must notify the chief executive of MAF of the transfer. Forms are available online at [www.maf.govt.nz](http://www.maf.govt.nz)

Existing ETS participant	Interest entered into	New ETS participation
Landowner	Forestry right	Forestry right holder
Landowner	Lease	Lease holder
Owner of Crown land	Crown conservation contract	Party to the Crown conservation contract
Existing ETS participant	Interest transferred	New ETS participant
Landowner	Post-1989 forest land	New landowner
Forestry right holder	Forestry right	New forestry right holder
Leaseholder	Lease	New leaseholder
Party to Crown conservation contract	Crown conservation contract	New party to Crown conservation contract
Existing ETS participant	Interest expired or terminated	New ETS participant
Forestry right holder	Forestry right	Landowner
Leaseholder	Lease	Landowner
Party to a Crown contract	Crown conservation contract	Owner of Crown land

carbon sequestered falls below the allocation to date. Early measurement and indicative calculations should give you some idea where you stand on this.

The logic is simple. Ask the question – What is my best land use? If you are more than one of the 7,000 who could still apply for either pre 1990 compensation or to register post 1989 forest land we suggest that you consider doing so.

There is another not so well known but established fact regarding registered post 1989 forest land. If you sell your property or change the names on the title then you must make a mandatory emission return to MAF within 20 working days of the land transfer being affected. Failure to do

If you are affected by this we would advise remedying any oversight as soon as possible. It is an offence to knowingly or without reasonable excuse, not provide any required emissions returns, notifications information or documents.

Thank you to everyone who has supported our region by attending the NZFFA conference this year, supported our business or just taking the time to read this column. Have a great run up to Christmas and hopefully a good break somewhere along the way.

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