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ETS - What have you done about it?

- Did you have any 'forest' pre 1990?
- Have you cut any 'forest' down since 1990?
- Have you planted any 'forest' after 1989?
- Have you claimed your carbon units?
- What is the best use of your land?
- Are you trying to ignore this subject?



Ignoring it is simply not an option, time is ticking and **YOU NEED TO DO SOMETHING NOW!**

There are two key deadline dates that are only months away for those with pre 1990 trees:

- 30 September (to apply for an exemption)
- 30 November (to apply for carbon credits)

We have been advised that the time needed to prepare the applications can be significant, therefore **it is essential you start this process NOW.**

Here is a summary of your options and the associated advantages and disadvantages:

Persons who own or have an interest in more than 1 hectare of 'forest' land may be captured by the ETS. 'Forest' is defined as species of trees, that are not species grown primarily for the production of fruit and nut crops, that are capable of reaching a height of five metres at maturity and have, or are likely to have, tree crown cover of more than 30% per hectare. There are exemptions however for shelter belts with an average width of less than 30 metres.

Forest species are then divided into two categories: pre-1990 forests and post-1989 forests.

Pre-1990 forest land is land that was in forest on 31 December 1989, which remained in forest, and was predominantly exotic species on 31 December 2007.

Post-1989 forest land is exotic or indigenous forest land that was established after 31 December 1989 on land that was non-forest land on 31 December 1989.

The options for the two types of forest land are detailed over the page:

Pre-1990 forest (mandatory entry)

ETS scheme options	Advantages	Disadvantages
<p>Apply for a less than 50 hectares or tree weed exemption by <u>30 September 2011</u></p> <p><i>NB: 50 ha exemption applies to total forest land interests, not each individual interest held.</i></p>	<p>You can deforest at anytime with no liability under the ETS.</p> <p>The exemption will show on the land title which may increase the value of the land.</p>	<p>You will not receive any free allocation of credits.</p> <p>Cost of application.</p>
<p>Apply for one off allocation of credits by <u>30 November 2011</u></p>	<p>You do not receive credits as your forest grows but you can apply for a one-off allocation of credits.</p> <p>The credits then can be sold.</p> <p>Provided you replant the land after it has been harvested no liability will arise.</p>	<p>You will have to surrender credits if you deforest more than two hectares in each five year commitment period from 1 January 2008.</p> <p>You will have to ‘map’ your forest to claim the credits.</p> <p>Required to file a return either annually or at least every five years.</p> <p>The land value will decrease due to the ETS liability on deforestation.</p> <p>If you have sold your credits and subsequently deforest you will have to buy back credits at the current market price. There is the risk that this price may be higher.</p> <p>Credits likely to be regarded as an asset which creditors could make a claim against.</p> <p>Compliance costs</p>
<p>Or: Do nothing</p>	<p>If you have less than two hectares of forest land there are no implications.</p>	<p>If you deforest more than two hectares in any five year commitment period from 2008 you will be a mandatory participant in the ETS, meaning you will need to buy credits to meet your ETS liability.</p> <p>You will not receive a free one off allocation of credits.</p> <p>You will not have an exemption on your land title.</p> <p>Potential decrease in land value.</p>

Post-1989 forest (voluntary entry)

ETS scheme options	Advantages	Disadvantages
Register before <u>31 December 2012</u>	<p>Claim credits for the first commitment period (2008–2012).</p> <p>Credits can be sold and used to assist cash flow.</p> <p>Post harvest the credits surrendered will be less than the credits earned due to carbon stored in the roots etc.</p>	<p>You need to pay a registration fee.</p> <p>Required to file a return either annually or at least every five years.</p> <p>You will need to surrender credits when the trees are harvested.</p> <p>Credits likely to be regarded as an asset which creditors could make a claim against.</p> <p>Compliance costs.</p>
Register after 2012	<p>You will receive credits from 1 January 2013</p>	<p>You will not receive credits for the 2008-2012 commitment period.</p> <p>Credits likely to be regarded as an asset which creditors could make a claim against.</p> <p>Compliance costs.</p>
Do nothing	<p>You will have no ETS liability when trees are harvested.</p> <p>No compliance costs.</p>	<p>You will not receive any credits.</p>

Either the land owner or the forestry right holder may enter a lot of land into the ETS. However, only one party is allowed to be the participant. The person who enters the ETS assumes the liability and receives the credits.

The ETS status of land must be considered when purchasing farm land. If a person purchases land that has been registered into the ETS, that person assumes all the associated ETS liabilities. Prior to purchasing land these issues should be discussed with your lawyer and/or real estate agent.

Caution does need to be taken to think through what your land currently in forestry is best suited to **before decisions are made**. What impact will carbon units attached to your land cause?

Following is an article from **Stuart Orme**, a registered Forestry Consultant, to give you more background information and we also attach his brochure.

With 126 Billion USD Traded in carbon in 2009 on a suppressed economic stage (see World Bank Report – May 2009- State and Trends of the Carbon Market) NZ is slowly coming to realise that our emerging Emissions Trading Scheme is part of something much larger with a reality comparable to a Sherman tank in your bathroom.

Pre 1990 forest Land.

'Pre 1990 forest land' (defined as in trees before 1990 and predominantly exotic trees at the end of 2007) owners are captured by NZ's legislation – their land MUST stay in trees forever or incur a serious deforestation liability if they change the land use – they are effectively in 'Jail' with the following options:

1. Apply for an exemption if they owned less than 50 Ha in Sept 2007 (before 30th Sept 2011)
2. Apply for some of the 55,000,000 NZU available for compensation for perceived loss of land value, help pay their potential deforestation costs.(application to be completed before 30th Nov 2011). These compensation credits have a value of (at \$20/NZU) of 1.1 Billion NZD (no obligations attached to them and tax free if sold) and are available to affected lands owners.

What many Pre 1990 forest land owners do not realise is what constitutes Pre1990 forest land?

Many of our clients have been pleasantly surprised to gain a large number of credits once their poplar, willow, homestead and other forest plantings have been mapped in.

We recently had a client with a minimal amount of pre 1990 pine forest request a Pre 90 registration. By the time we mapped in his Poplar, Willow and homestead planting, MAF approved 84 Ha.

84 Ha X 60 NZU x \$20 = a very good tax free surprise.

**If you are a Pre 1990 forest owner,
Doing nothing could be a very ill-informed lack of action!**

Post 1989 Forest land

If you have land that is better in vegetation than its current land use (i.e. poor pasture on slopes better suited to killing cattle and quads) then the ETS provides an opportunity to gain an annual cashflow from credit generation and sale.

"Post 1989 Forest Land" is land that has had a conscious land use change from 'non forest' to 'forest land' on or since 1st January 1990.

Because it now sequesters carbon that otherwise would not have happened before 1990, the international community (via the Kyoto protocol) allows carbon credits to be available to this forest on an annual basis.

Under the NZ Emission Trading Scheme credits can be allocated to Post 1989 forest land (land with forest planted or reverted on it from 1990) for carbon sequestered after January 2008. Any eligible forest registered into the ETS by the end of December 2012 can claim its credits back to 2008.

The scheme (for post 1989 forest) is completely optional and if not registered by 31 December 2012 the forest owner can still sign up the following year but only claim carbon credits from 2013.

Given the amount of registrations on the MAF processing desk we would recommend being in the pipeline early 2011 to ensure that registration is completed on time.

For the first ten years (if planted after 2008) the credits produced do not need to be surrendered when the block is logged if the forest is replanted. At \$20/unit this cumulative volume amounts to \$4,200 that is available to the forest owner. The net effect of this on a Business as Usual forestry model can lift the IRR from 6-7% to 20% – a paradigm shift in forestry economics.

Action required:

- You need to urgently establish if you have any Pre-1990 Forestry Land.
- With your initial queries, please contact **Tony Mossman** at our office. He has extensive knowledge of the ETS scheme.
- You can prepare your own ETS application (check out these websites for assistance:)

www.maf.govt.nz/forestry/forestry-in-the-ets (this discusses forestry in the ETS)

www.nzeur.govt.nz (this discusses carbon credits)

Or:

- Talk to a Forestry Consultant who will work through the area of land involved, discuss your options with you and formulate a plan based on what will best suit your property.

We have enclosed a brochure from Stuart Orme outlining what his firm offers. He is happy to give some priority to our clients who contact him.

Congratulations on reading to the end of this newsletter! ETS is a complex matter, and it is in your best interests to make an informed decision on what you are going to do next.

Whatever you do, please don't do "nothing"!

Please talk to Tony, or Stuart, or a Forestry Consultant to decide your course of action.

DISCLAIMER

The information contained in this newsletter is of a general nature and should be used as a guide only. Before acting on any of this information, please consult Barnes Mossman Ltd.

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