

Appendix Two: minor and technical changes table				
No.	Issue title	Description	Agreed Change	Submissions summary
1	A simpler process for Section 60 exemptions.	<p>Section 60 of the CCRA allows exemptions from emissions liabilities in cases where unanticipated events occur, subject to the Minister for Climate Change being satisfied of certain matters, including that the environmental integrity of the ETS is maintained, and the costs are not excessive. Exemptions are granted by regulation to the Climate Change Response Act.</p> <p>This section is not clear that these exemptions can be granted after the emissions (e.g. for deforestation in the past) which makes granting the exemptions more time consuming. While the structure and history of the exemption-making systems implies that this form of regulation is appropriate, the CCRA does not explicitly empower retrospective application of this regulation.</p>	Specifically empower section 60 regulations to apply retrospectively (i.e. to activities, parts of activities, proportions of emissions, or a combination, that have already taken place).	<p>Submitters indicated 68% supported, 32% unsure 0% opposed on this issue for forests.</p> <p>Those unsure provided either no comment or commented they were unfamiliar with section 60's operation.</p>
2	Clarify roles of executors/administrators following participant death.	<p>Whenever there is any change in legal ownership (except when < 40% of the members of an unincorporated body change), the parties involved must notify the EPA and submit an emissions return within 20 working days of the date of transfer. Currently the Act captures those who only temporarily hold land, e.g. executors of a will.</p> <p>The rate of compliance with these requirements is currently low which results in an administrative burden for MPI to find a way to complete the transfer and comply with the Act.</p>	<p>When a participant dies and the land (or their share of the land/forest) transfers to an executor/administrator, the interest will be considered temporarily held by the executor/administrator, but will not require a notification to the EPA or consequential emissions return. When the estate is distributed and the post-1989 forest land interest transfers to the new participant, that transfer will be considered a transfer from the deceased to the new participant. The executor/administrator is required to meet all other obligations of the CCRA while they are temporarily the participant.</p> <p>This change will apply equally across non-forestry sectors, as applicable.</p>	<p>Submitters indicated 79% supported, 21% unsure 0% opposed this issue for forests.</p> <p>Those unsure provided either no comment or were reinforcing other issues raised in their submissions.</p>
3	Interested parties notification when a person applies to become, or stop being, a participant	<p>If a land owner is a post-1989 forestry participant, the holders of either a forestry right or lease over the land are considered to be interested parties under the Act. Similarly, if a forestry right or lease holder is the participant, then the land owner is an interested party.</p> <p>When a participant adds or removes land then the EPA must notify the interested party. However, interested parties are not required to notify the EPA if they change their contact details which means MPI must find the new contact details of interested parties when needed, which can be difficult and time consuming.</p>	<p>Require applicants, rather than the EPA, to notify interested parties on application to become registered as participants, or to be removed from the register of participants.</p> <p>This will be monitored via a declaration on the prescribed form.</p>	<p>Submitters indicated 75% supported, 18% unsure 8% opposed this issue for forests.</p> <p>Those unsure provided few comments, while the concerns of those opposed can be managed via Regulations.</p>
4	Reconfiguring Carbon Accounting Areas	Policy intent is to allow post-1989 forest land participants to reconfigure their carbon accounting areas to allow for changes to harvest intentions as market conditions change while (in the case of stock change accounting) minimising harvest liabilities within the intention of the Act.	Amend the Act to allow the reconfiguration of carbon accounting areas occur without participants having to surrender their full unit balance at the time the reconfiguration occurs. The unit balances would carry over to the new carbon accounting areas, to be surrendered at harvest or deregistration.	<p>88% supported, 8% unsure 4% opposed.</p> <p>The two submissions in opposition were from the same individual (but different companies) and no explanation was provided.</p>

		However, the Act is not operating as intended, effectively preventing reconfiguration, and amendments are needed to enable the process so it does not result in a large cost to participants.		
5	Clarifying the timing of deforestation	<p>The Act is ambiguous between two sections about the date on which pre-1990 forest land is considered to be deforested, particularly where harvested forest land is sold, and the new owner deforests.</p> <p>This can result in penalties and enforcement action being applied to what could be considered technical and unavoidable breaches of the Act.</p>	Ensure the new land owner is treated as deforesting on the date of the first action on the land (per hectare) that is inconsistent with it remaining forest land, following the land transfer date.	<p>84% supported, 11% unsure 4% opposed.</p> <p>The one submission in opposition proposes testing with a legal professional.</p>
6	Emissions return for post-1989 forest land with mixed ages	Currently the date at which an emissions return period commences is set by the age of the youngest trees in a Carbon Accounting Area (CAA). If there are trees of different ages in the CAA, this may lead to the unintentional outcome of some carbon removals and emissions not being accounted.	Ensure that emissions or removals from all forest land in a CAA are included in an emissions return	<p>82% supported, 16% unsure 2% opposed.</p> <p>The standardisation, and the two sided nature of accounting will resolve the issues of the one submission in opposition, and the unsure submitters who commented.</p>
7	Emission returns for natural disturbance events	Participants with forest land affected by a natural disturbance event that permanently prevents re-establishing forest on that land face unnecessary compliance. They must submit an emissions return related to the area of forest land affected, but are not obliged to surrender any units.	<p>Ensure participants faced with a natural disturbance that permanently prevents re-establishment of forest do not need to fill out an emissions return when they remove the land from the CAA.</p> <p>They will still need to notify us of the area affected by the disturbance (via the removal of the land from the CAA).</p>	<p>92% supported, 8% unsure 0% opposed.</p> <p>Those submitters who were unsure did not provide commentary.</p>
8	Removing unnecessary emissions return requirements	Pre-1990 forest land is not treated as deforested where the land is subject to an offsetting land application. However, the Act is not clear that this land is also exempt from the requirements to notify and submit an emissions return for the deforestation activity.	Ensure that any pre-1990 forest land subject to an approved offsetting forest land application does not need to meet the notification and emission return requirements that apply to deforesting regular pre-1990 forest land.	<p>96% supported, 4% unsure 0% opposed.</p> <p>Those submitters who were unsure did not provide commentary.</p>
9	Reviewing decisions	<p>The Act does not provide an explicit power for the EPA to initiate reviews of its own decisions. However, s 13 of the Interpretation Act 1999 ensures that the power to do any act includes the ability to re-exercise that power to correct errors or omissions in a previous exercise of that power.</p> <p>This proposal is to formalise the use of s 13 of the Interpretation Act in the Climate Change Response Act.</p>	<p>Specifically empower the EPA to revoke, or revoke and replace, one of its previous decisions to correct an error or omission in that decision. These reconsiderations should be time bound by the timeframes for the other sections of the Act.</p> <p>The affected participant would need to be consulted before amending a decision.</p>	<p>Submitters indicated 76% supported, 24% unsure 0% opposed this issue for forests.</p> <p>Those unsure provided no commentary or providing opinions consistent to thinking to date.</p>
10	Rounding rules required for certain calculations	It is possible for forest owner to correctly calculate their carbon stock change, but not have a whole number (e.g. 60.3 tonnes) so need to round. The rules in regulations relate to some situations, but don't specifically apply to other situations specified in the Act i.e. where land is removed from a CAA, or for the amount of repayment following an offsetting forest land.	Amend the Act to ensure consistent rounding can be set by regulation in all cases.	<p>Submitters indicated 88% supported, 12% unsure 0% opposed this issue for forests.</p> <p>Unsure respondents provided no commentary or were speaking to wider issues in their submission</p>

11	More flexibility in submitting mandatory emission returns	<p>In the event of a transfer of post-1989 forest land interests, the transferor is the person who must file a mandatory emissions return. However where participation has transferred, and the process is delayed, the former participant may not be available or willing to submit the return.</p> <p>At present under s 189(4) the person on the register of participants on the last day of any mandatory emissions return period (MERP) must submit the mandatory emissions return. However commonly there are situations where transmissions of interest (s192) occur but where the existing and new participants fail to meet their requirements in the required timeframe thus resulting in the existing participant still being on the register of participants on the last day of the MERP and being required to submit the mandatory emissions return despite not owning the forest/land anymore.</p>	<p>Amend the Act to provide an exception to the rule of who is required to submit a MER.</p> <p>The exception is where a transmission of interest (as defined under s 192), occurs prior to the last day of the mandatory emissions return period but the transmission of interest notification requirements are not completed before the end of the mandatory emissions return period, the final transferee will be the person required to complete the MER (associated with the end of the mandatory emissions return period) had all transmission of interest(s) requirements been completed.</p>	<p>95% supported, 5% unsure 0% opposed.</p> <p>Unsure respondent provided no commentary</p>
12	Standardise timeframes for forestry surrenders and repayments	<p>Due dates for different participant obligations (surrenders and repayments) are not consistent. Additionally, the current law can result in situations in which participants are in breach of their obligations through no fault of their own. It is proposed that timeframes for repayments and surrenders be calculated from the date that the Registrar issues the repayment or surrender instruction/notice. This will improve the simplicity, transparency and administrative efficiency of the Scheme.</p>	<p>Standardise the timeframe for surrendering/repaying units for forestry activities to 60 days after the notice was issued.</p>	<p>87% supported, 9% unsure 4% opposed.</p> <p>Unsure respondents provided no commentary, and the sole negative believes 20 days is sufficient.</p>
13	Require all post-1989 forestry returns to be 'net returns'	<p>Currently a participant can claim units, even if they owe and have not surrendered units for emissions from other parts of their forest. Making the returns 'net' not only resolves this issue, it will reduce the number of transactions the EPA must manage.</p>	<p>Ensure post-1989 forestry participants' unit entitlements are made net of any unit repayment/surrender obligations they may have for that activity (i.e. for the participant all Post-1989 forest is one net return, and all permanent post-1989 forest is a separate net return)</p>	<p>85% supported, 7% unsure 9% opposed.</p> <p>Those unsure provided few comments, while the concerns of those opposed can be managed via applying this rule to the Mandatory Emissions Return.</p>
14	Optional transfer of participation when a forestry right is granted	<p>Owners of registered post-1989 forest land who are participants may want to grant a forestry right (e.g. to enable harvest), but remain as the participant. Currently the transfer of participation is mandatory.</p>	<p>Make the transfer of participation optional when a post-1989 forest land owner participant grants a forestry right or lease.</p> <p>This will be presented as an 'opt in', and this notification would need to occur within 20 working days of the right or lease being registered on the land title.</p>	<p>90% supported, 10% unsure 0% opposed.</p> <p>The unsure respondents provided either no commentary, or outlined an issues which is addressed vis the 'EPA' compliance work.</p>

15	Planted and naturally regenerated native forest on cleared forest land	<p>When forest land is cleared, it is treated as deforested unless it is re-established in forest within the timeframes specified in the CCRA.</p> <p>However these tests do not cover cases where the land is reforested by a combination of tree planting and natural regeneration. For example, when tree weeds are cleared, some land owners undertake restoration planting of native tree species (e.g. rimu, totara) within a regenerating landscape to encourage a biodiverse forest to develop more quickly.</p> <p>We intend to clarify the rules to make it clear this practice is not deforestation.</p>	Ensure that cleared land re-established in forest by a combination of planting trees and natural regeneration of trees is not considered deforesting.	<p>93% supported, 7% unsure 0% opposed.</p> <p>Unsure respondents provided no commentary</p>
16	Exempt land eligible as post-1989 forest land	<p>Any prospective post-1989 forest Participant seeking to register forest land previously deforested under an exemption must surrender NZUs for that land as if it was not exempt. At around \$16,000 per ha, this acts as a significant barrier to future afforestation and best practice farm management, and would impact future owners who had no part in the exemption.</p> <p>This rule was introduced to limit the ability of land owners to game the system: deforest exempt land and then rapidly replant a post-1989 forest and earn units.</p> <p>We propose that deforested exempt land that becomes forest land nine years or more after being deforested is eligible to become post-1989 forest land without this surrender obligation.</p> <p>Nine years is used elsewhere in the CCRA to disincentives gaming in pre-1990 deforestation, and we propose to use the same time frame here.</p>	Enable land deforested under an exemption to be eligible to become registered as post-1989 forest land nine years or more after being deforested without an obligation to surrender units equal to what would have been required but for the exemption (assuming all other forest requirements are also met).	<p>90% supported, 5% unsure 5% opposed.</p> <p>While there is good support for the high level proposal (above) in the follow up question there is more difference of opinion e.g. some want a shorter period of time (e.g. 4 years) and/or facilitate the 'conversion' of pre-1990 forest to post-1989 forest (at a fiscal cost to the Crown).</p> <p>However the cost of Implementing these requests would mean increase the cost of the amendment</p>