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Introduction

Purpose of this document

This guide provides information for landowners on:

- the exemption available for the deforestation of tree weeds on pre-1990 forest land;
- the criteria and priorities that tree weed exemption applications will be assessed on; and
- the application process.

New Zealand Emissions Trading Scheme and tree weeds

The New Zealand Emissions Trading Scheme (ETS) supports global efforts to reduce greenhouse gas emissions by helping New Zealand reduce net emissions and comply with international obligations.

Under the ETS, pre-1990 forest land is land covered by forest species (either exotic or indigenous) on 31 December 1989 that remained in forest, and was predominantly exotic forest species on 31 December 2007. Also, forest land is considered deforested when the land use is changed from forestry to another land use, such as grazing. Under the ETS rules, the landowner, or person with the right to deforest, incurs liabilities for the carbon released (or emitted) when pre-1990 forest land is deforested.

Despite the positive benefits of carbon sequestration, some areas of forest are considered tree weeds due to their ability to spread and colonise other land. These forests need to be deforested to protect the amenity, recreational, ecological and economical values of the surrounding landscape. Wilding pines and other conifers growing in high country tussock grassland in the South Island are an example of uncontrolled tree weeds that have an impact on natural values.

Exemptions are provided for under the ETS to ensure the clearance of tree weeds is not discouraged. A tree weed exemption allows the landowner to deforest pre-1990 tree weed areas without incurring deforestation liabilities under the ETS.

Both naturally regenerated tree weeds, and planted or sown tree weed forests are included under the tree weed exemption.

Tree weed exemptions are expected to be made available in each commitment period¹. The availability of the tree weed exemptions, the quantity of emissions that will be covered by the exemptions granted, and the criteria and priorities that will be used to assess applications must be advised by public notice.

Tree weed control work not requiring an exemption

Before discussing tree weed exemptions, it is important to cover the situations where tree weed control operations **do not** incur liabilities for the carbon emitted and **do not** require a tree weed exemption. In these situations tree weed clearance can be conducted as and when landowners wish.

Tree weed clearance **does not** require an exemption in the following situations:

1. The trees or land do not meet the definition of a forest species or of pre-1990 forest land, such as:
 - forest species not capable of reaching 5 metres in height at maturity in the place they are growing (whether due to site conditions, or land management practices such as grazing);

¹ A five year period within which parties to the Kyoto Protocol are required to meet their quantified greenhouse gas emissions reduction commitment. The first commitment period is 2008-2012.

- the scattered seedlings and trees present at 31 December 1989 had, or would have had as they grew, less than 30 percent per hectare tree crown cover (and did not meet the definition of forest land);
 - areas of wildings established from 1 January 1990 - this is post-1989 forest land and can be cleared without incurring any deforestation liabilities **provided it has not been registered in the ETS**.
2. The clearance has not resulted in the land being deforested: that is, the cleared land is left to regenerate back into forest or forest species are planted and the resulting stocking meets the required threshold.² Because there is not a change in land use out of forest, the land remains pre-1990 forest land.
 3. The landowner deforests two hectares or less during each commitment period.
 4. Long-term land management practices mean that land is regularly cleared **before** the threshold of 30 percent crown cover of forest species is achieved, the land is not considered forest land, and therefore does not require a tree weed exemption.
 5. The forest has been declared exempt land under a less than 50 hectares exemption – a one-off exemption for land that was owned on 1 September 2007 by a person who owned less than 50 hectares of pre-1990 forest land in total.

A Guide to Classifying Land for Forestry in the Emissions Trading Scheme provides more detail on classifying pre-1990 forest land, and what is considered deforestation. See page 14 in this guide for where to find this and other guides.

² Pre-1990 forest land is not considered deforested under the ETS if:

- 4 years after clearing, each hectare has been replanted or has naturally regenerated with at least 500 stems per hectare of forest species; or
- 10 years after clearing, predominantly exotic forest species are growing, and each hectare has tree crown cover of at least 30 percent from trees that have reached 5 metres; or
- 20 years after clearing, predominantly indigenous forest species are growing, and each hectare has tree crown cover of at least 30 percent from trees that have reached 5 metres.

The tree weed exemption

All applications for a tree weed exemption will be rigorously tested against five criteria to ensure they are for legitimate tree weeds.

In addition, the criteria will be used to prioritise applications to ensure exemptions are granted to the highest priority applications. This is because the Government has limited the emissions that it will cover from tree weed clearance in this commitment period to 1 million New Zealand units. This enables the government to budget for and maintain control over the emissions liabilities. This provision is equivalent to approximately 1992 hectares of tree weed forest.

Deadlines for applications

The third round of tree weed exemption applications closes on 30 June 2012. This is for deforestation that has already occurred or will occur between 1 January 2008 and 31 December 2012.

The first and second rounds closed on 31 October 2010 and 31 March 2011 respectively.

Further application rounds for tree weed exemptions are planned in future commitment periods, and these will be advised by public notice.

Fees

No fees will be charged for tree weed exemption applications made prior to the end of 2012. However, fees could be charged in subsequent rounds if prescribed by regulation.

Who can apply

In general it is the pre-1990 forest landowner who can apply for a tree weed exemption.

A third party can apply when the right to deforest has been vested in a third party, and the landowner has no control over the decision to deforest (as may be the case with some leases that permit deforestation without the permission of the landowner, or through a court order or by statute).

How do tree weed exemptions work?

The tree weed exemption applies to a specific (mapped) area of pre-1990 forest land. The exemption runs with the land, and is not affected by any change in ownership.

Exempt land may be deforested (changing the land out of forestry) any time during the commitment period for which the exemption is issued without incurring liabilities for the emissions. If the exemption conditions below are met, the land retains its exempt status in perpetuity. This means further clearance or deforestation may be completed in future commitment periods, such as if tree weeds re-invade the exempt land.

Conditions of tree weed exemptions

- Clearance operations must be completed over the whole exemption area by 31 December 2012, which is the end of the commitment period for which the exemption is granted.

Clearing includes:

- felling, spraying with a herbicide intended to kill, harvesting, removing by mechanical means, burning, or any other human activity that kills the tree; and
- destruction by a natural cause.

However, a 100 percent kill rate may not be always achieved as tree weeds can be difficult to eradicate.

What happens when a tree weed exemption lapses?

If the conditions of the exemption are not met (due to clearing not being started or all of the area not being completed in time) the exemption lapses at the end of the period for which it is issued and the land loses its exempt status. Any deforestation that occurred before the exemption lapsed does not incur liabilities.

If an exemption lapses but part of the land will be deforested in a future period, then a new exemption must be applied for to avoid deforestation liabilities. For this reason, it is important that applications are realistic and reflect the tree weed areas the landowner actually intends to clear.

Restrictions

For the same area of pre-1990 forest land, a landowner cannot receive a tree weed exemption if they have received either:

- an allocation of NZUs under the pre-1990 forestry allocation; or
- a less than 50 hectare exemption.

Deforested exempt land cannot be brought into the ETS as post-1989 forest land, unless the deforestation liabilities that would have been due, had the land not been declared exempt, have been surrendered to the New Zealand Emission Unit Register.

What is the value of an exemption?

Because exempt land can be deforested without incurring a liability to surrender NZUs, the value of the exemption is the value of the liability not incurred, and the NZUs “saved”. This can be determined by using carbon stock look-up tables for the forest type, region and age for the forest at the intended date of tree weed clearance (see *A Guide to Look-up Tables for the Emissions Trading Scheme*).

How will applications be assessed?

Each application for the tree weed exemption will be tested against five weighted criteria and priorities to ensure it is genuine tree weed forest. An application will only be considered for a tree weed exemption if it meets a minimum threshold.

Criterion 1: Tree weed species (maximum score 15)

The first criterion that applications will be assessed on is spreading vigour which varies greatly between species.

The tree species eligible for a tree weed exemption in the first commitment period are listed in Table 1 below: All tree weed species are either:

- defined or designated as a pest under a pest management strategy under the Biosecurity Act 1993; or
- defined or designated as a tree weed in regulations made under the Climate Change Response Act 2002 (indicated by #).

Table 1: Spreading vigour of species eligible for a tree weed exemption³

Low Spreading Vigour	Medium Spreading Vigour	High Spreading Vigour
Radiata pine# (<i>P. radiata</i>)	Maritime pine# (<i>P. pinaster</i>)	Douglas fir# (<i>Pseudotsuga menziesii</i>)
Bishop pine# (<i>P. muricata</i>)	European larch# (<i>L. decidua</i>)	Contorta or lodgepole pine# (<i>P. contorta</i>)
Ash# (<i>Fraxinus excelsior</i>)	Japanese larch# (<i>L. kaempferi</i>)	Scots pine# (<i>P. sylvestris</i>)
Brazilian pepper tree (<i>Schinus terebinthifolius</i>)	Ponderosa pine# (<i>P. ponderosa</i>)	
Cherry laurel (<i>Prunus laurocerasus</i>)	Crack willow# (<i>S. fragilis</i>)	
Eleagnus (<i>Eleagnus reflexa</i>)	Barberry (<i>Berberis glaucocarpa</i>)	
	Cotoneaster (<i>Cotoneaster glaucophyllas</i>)	
	Dogwood (<i>Dendrobenthamia capitata</i>)	
	Queensland Paplar (<i>Homolonthus populifolius</i>)	
	Sycamore (<i>Acer pseudoplatanus</i>)	
European spindleberry (<i>Euonymus europaeus</i>)	Grey willow# (<i>S. cinerea</i>)	
Evergreen or Italian buckthorn (<i>Rhamnus alaternus</i>)	Poplar species# (<i>Populus</i> spp)	
Fire tree (<i>Myrica faya</i>)	Wild cherry or gean# (<i>Prunus avium</i>)	
Hawthorn (<i>Crataegus monogyna</i>)	Alder species# (<i>Alnus</i> spp)	
Japanese spindle tree (<i>Euonymus japonicus</i>)	Mexican weeping pine# (<i>P. patula</i>)	
Japanese walnut (<i>Juglans ailantifolia</i>)	Corsican pine# (<i>P. nigra</i>)	
Monkey apple tree (<i>Acmena smithii</i>)	Mountain pine# (<i>P. uncinata</i>)	
Paperbark poplar (<i>Melaleuca quinquenervia</i>)	Dwarf mountain pine# (<i>P. mugo</i>)	
Phoenix palm (<i>Phoenix canariensis</i>)	Silver birch# (<i>B. pendula</i>)	

³ This list is current at time of writing. It will be revised as regional pest management strategies are updated and at the start of each commitment period.

Low Spreading Vigour	Medium Spreading Vigour	High Spreading Vigour
Port Jackson fig (<i>Ficus rubiginosa</i>)	Hairy/White birch# (<i>B. pubescens</i>)	
Purple guava (<i>Psidium cattleianum</i>)	Rowan# (<i>Sorbus aucuparia</i>)	
Rhododendron (<i>Rhododendron ponticum</i>)	Boxthorn (<i>Lycium feroissimum</i>)	
Taiwan cherry (<i>Prunus campanulata</i>)	Darwin's barberry (<i>Berberis darwinii</i>)	
Rum cherry (<i>P. serotina</i>)	Elderberry (<i>Sambucus nigra</i>)	
Tasmanian ngaio (<i>Myoporum insulare</i>)	Holly (<i>Ilex aquifolium</i>)	
Tree of heaven (<i>Ailanthus altissima</i>)	Brush wattle (<i>Paraserianthes lophantha</i>)	
Tree privet (<i>Ligustrum lucidum</i>)	Coastal wattle (<i>Acacia sophorae</i>)	
Chinese privet (<i>L. sinense</i>)	Silver wattle (<i>Racosperma dealbatum</i>)	
	Black wattle (<i>Acacia mearnsii</i>)	
	Woolly nightshade (<i>Solanum mauritianum</i>)	

Where there is a mixture of tree weed species, the predominant species based on timber volume determines the spreading vigour.

Note: Many of the tree species above that are listed in pest management strategies (not indicated by #) are unlikely to meet the definition of pre-1990 forest land or forest species, and therefore do not incur deforestation liabilities when cleared.

Criterion 2: Dispersal affected by site features (maximum score 15)

Distant seed dispersal is affected by the features of the site. For example wind dispersed seeds may remain close to the parent tree at a sheltered site compared with distant seed dispersal at an exposed site. Wind dispersed species will be assessed on the site features listed in Table 2.

Table 2: Site features (ascending priority order)

Take-off' site (i.e. a ridge top, or slope greater than 10 degrees)
Undulating land fully exposed to strong/prevalent winds
Site fully exposed to strong/prevalent wind
Site fully exposed to a water body
Site partially exposed to strong/ prevalent winds
Site partially exposed to water body
Sheltered site
Slope facing away from strong/prevalent winds

Species which have seed that is not wind-dispersed are given a median rating.

Criterion 3: Surrounding land use vulnerability (maximum score 10)

The surrounding land use reflects the risk of new tree weeds establishing. For example, intensive grazing has been shown to reduce the risk of spread of wind-dispersed palatable tree weed species. Where there is a range of different land uses, the predominant land use should be used. Applications will be assessed on the surrounding land use within 2 kilometres as listed in Table 3.

Table 3: Surrounding land use vulnerability (ascending priority order)

Extensive grazing only
No grazing
Disturbed site (including historic disturbance)
Wetland, or perennial water body downstream
Semi improved (some fertiliser use in past), occasional grazing
Urban
Developed pasture/regular grazing
Closed canopy scrub or forest

Criterion 4: Threatened values (maximum score 10)

This criterion was established to protect areas of value (including natural, landscape, cultural, historical, or recreational values) within two kilometres of the application site. The following factors will be used to assess value:

- Significant Natural Areas from regional and district council planning maps;
- Protected Natural Area Programme Recommended Areas for Protection – from the Department of Conservation (DOC) reports and maps;
- Gazetted sites of Special Wildlife Interest - from Department of Conservation;
- Covenants such as:
 - Queen Elizabeth II National Trust;
 - Nga Whenua Rahui;
 - Nature Heritage Fund;
 - Tenure Review Covenant;
 - Heritage Covenant;
- Iwi Management Plan sites of significance;
- Conservation Act 1987 and sites protected by reserve acts;
- Resource Management Act 1991 protected sites (e.g. outstanding landscapes);
- Threatened Environment Classification (Landcare Research) – Categories 1 and 2.

Criterion 5: Priority (maximum score 10)

Criterion 5 assesses other factors that may contribute to how the tree weed forest should be prioritised. These factors include:

- a listing in the relevant pest management strategy or DOC wilding tree management plan;
- evidence of territorial authority support such as funding through the relevant long term community council plan, grants or other in kind support;
- a realistic management plan outlining where the control work will be carried out each year - the management plan can be written by the regional council, a forestry consultant or contractor, or by the landowner;
- demonstrated active community group involvement or support; or
- an enforcement notice issued by the regional council.

How to apply

Information required from applicants

The information provided by applicants for their tree weed application areas is needed to verify applications are for legitimate tree weed forest, confirm the legal entitlement of the applicant, and to prioritise them against the criteria.

Information requirements are:

1. Applicant details, access and declarations:
 - Name and contact details of the applicant.
 - Contact person to access the site, if required.
 - Declarations that:
 - an allocation for NZUs has not been applied for or obtained for the area;
 - a less than 50 hectares exemption has not been applied for; and
 - all the information provided in the application is true and accurate to the best of the applicant's knowledge and belief.
2. For each application area:
 - Legal descriptions of the land title(s) where the pre-1990 tree weed forests are growing. Copies of titles must be attached to the form. Appendix 1 provides an example of how to locate this and other required information on a land title. If no title exists, New Zealand Gazette Notices and survey data may be acceptable.
 - Evidence that the land is pre-1990 forest land (e.g. dated aerial photographs).
 - Evidence of the tree weed species that is growing on the land, or that was growing on the land prior to deforestation.
 - Geospatial mapping information (electronic maps created in a geographic information system) that delineate the application area. Hard copy maps are not accepted. The mapping information must conform to mapping standards (see below).
 - If the application area is within an area defined in a national, regional or district plan or pest management strategy for the purpose of managing tree weeds, or in another recognised tree weed control area, then:
 - the name of the recognised tree weed control area;
 - the name of the document in which the recognised tree weed control area is defined.
 - If the application area is located within an area that has legally protected natural, landscape, cultural or historic values, or there is such an area located within 2km of the application area such as a conservation park, scenic reserve or archaeological site⁴, then:
 - the name of the legally protected area;
 - type and description of the legally protected area;
 - Copies of any abatement notices.
 - Copies of any relevant sections of the landowner's management plans involving tree weed control operations (optional).
 - Characteristics of the site and tree weed forest:
 - exemption application area(s) in hectares;
 - topography and slope;

⁴ Under the Conservation Act 1987, Reserves Act 1977 and the Historic Places Act 1993 respectively

- wind exposure;
- direction of the prevailing wind;
- downwind land use within 2km (in prevailing wind direction);
- any other factor that should be considered when prioritising the area.

Grouping areas for applications

Landowners can submit multiple applications for tree weed exemptions. Those who have geographically dispersed tree weed forest areas or forest areas with significantly different values for the criteria may want to consider how they group their forest areas for applications because areas that are submitted in the same application will have average values applied for each criteria.

Application forms

Applications are paper-based, and must be on the prescribed form, including the required information, and accompanied by a CD/DVD with geospatial mapping information. All declarations must be checked, and the form signed by all the landowners.

Application forms are available at www.maf.govt.nz/forestry/forestry-in-the-ets/forestry-ets-forms.

Applicants are encouraged to file applications early to allow time for processing.

Mapping forest land

All applications for either an allocation or an exemption must include geospatial mapping information of the pre-1990 forest land. Paper-based maps are not acceptable.

There are specific rules for mapping the forest land and for the electronic file formats that every application must follow (see *A Guide to Mapping Forest Land for the Emission Trading Scheme*).

Landowners' options for mapping pre-1990 forest land include:

- engaging a mapping service provider or a forestry consulting/management firm
- seeking assistance from your regional or district council
- for larger organisations, using your own geographic information system.

Key mapping rules

The key rules for mapping forest land, which should be followed in order, are:

1. Draw the edge of the pre-1990 forest land. In doing so the boundary line may not cross a gap of more than 15 metres from the estimated position of tree crown edges at maturity.
2. Be sure to exclude any forest not on your land (i.e. not within your legal title boundary).
3. Exclude separate forest areas of less than 1.0 hectare in size or less than 30 metres wide on average (such as shelterbelts) as these are not considered forest land.
4. Draw out any internal gaps that are not forest of greater than 1.0 hectare.

What happens next

Processing applications

Once applications have been received, they will be checked for:

- completeness;
- that the applicant is the legal owner;
- that the land included in the application is pre-1990 forest land;
- that the pre-1990 forest is a tree weed species.

A review panel will consider all applications and decide which are successful.

Independent expert advice may be sought to assist with assessment of applications, and input sought from the relevant territorial authority on criterion 5 for applications in their region.

Granting of exemptions

All, part, or none of the area applied for may be granted an exemption. The granting of exemptions for part of an application area may be necessary where one or a few very large applications would take most of the available emissions budget.

It is expected that applicants will be advised whether their application was successful or not within a month of applications closing.

Successful applicants receive a notice declaring the pre-1990 forest land to be exempt land.

Landowners should keep this notice for future reference as it has value for the landowner, and goes with the land on sale or transfer of the property.

Confirmation of clearance

At the end of the commitment period, landowners will be asked to confirm whether they have completed their tree weed clearance.

Another application round

Further exemption rounds may be run. In this case, a public notice will be issued inviting applications for deforestation during that specified period.

Further information and next steps

For further information on the forestry allocation and exemptions and applications forms:

Website: www.maf.govt.nz/forestry-allocation

Email: climatechange@maf.govt.nz

Telephone: 0800 CLIMATE (254 628)

Legislation

The legal requirements relating to tree weed exemptions are set out in:

- Climate Change Response Act 2002 (the Act).
- Climate Change (Forestry Sector) Regulations 2008.

These are available at www.legislation.govt.nz.

Guides

Other guides containing more detail on the rules and requirements of forestry in the ETS include:

- *A Guide to the Pre-1990 Forestry Allocation Plan and Exemptions* – provides information on the pre-1990 forestry allocation, and the less than 50 hectares and tree weed exemptions, and how to apply
- *A Guide to Forestry in the Emissions Trading Scheme* – provides detailed information on post-1989 and pre-1990 forests in the ETS
- *A Guide to Mapping Forest Land in the Emissions Trading Scheme* – a detailed guide to mapping forest land, including file formats and mapping conventions, for forest land in the ETS
- *A Guide to Classifying Land for Forestry in the Emissions Trading Scheme* – a detailed guide on classifying land for forestry in the ETS
- *A Guide to Look-up Tables for the Emissions Trading Scheme* – a detailed guide to carbon stock look-up tables for forest land in the ETS.

These are available at www.maf.govt.nz/news-resources/publications or by calling 0800 CLIMATE (254 628).

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You can sign up to receive email updates on forestry in the Emissions Trading Scheme by sending a message to sustainableforestrybulletin@maf.govt.nz with Sustainable Forestry Bulletin Subscription in the subject line.



Post-1989 and pre-1990 participation in the ETS

Information and forms for voluntary post-1989 participation and pre-1990 deforestation participation in the ETS are available online at www.maf.govt.nz/forestry/forestry-in-the-ets/forestry-ets-forms. The website provides downloadable forms for paper-based applications, notifications and emissions returns, and some on-line transactions.

Appendix 1: Navigating land titles

Figure 1 shows an example of how to find required information on a title (computer freehold register). The required information is **Identifier**, **Legal Description** and either **Proprietors** (showing the owner), or under Interests a memorandum showing a transfer to a new owner.

The search copy date (found in the bottom right hand corner) must be after 20 July 2010.

	COMPUTER FREEHOLD REGISTER UNDER LAND TRANSFER ACT 1952	
<hr/>		
Identifier	386573	
Land Registration District	Canterbury	
Date Issued	18 October 2007	
<hr/>		
Prior References		
CB25A/548		
<hr/>		
Estate	Fee Simple	
Area	4096 square metres more or less	
Legal Description	Section 1019-1022 Town of Christchurch	
Purpose	Public Passenger Interchange Facility	
<hr/>		
Proprietors		
Christchurch City Council		
<hr/>		
Interests		
A392649.1 CERTIFICATE PURSUANT TO SECTION 37 BUILDING ACT 1991 - 26.2.1999 AT 1.40 PM		
Subject to a right to convey electric power (in gross) over part marked A on DP 81312 in favour of Orion New Zealand Limited created by Transfer A426097.1 - 22.9.1999 at 11:23 am		

The identifier and looks like “386573” on more recent titles or “WN123/115” on older titles. Land titles may also be called Certificates of Title, CT number, computer registers, or property titles.

If you do not have a copy of your titles, these can be obtained from LINZ at www.linz.govt.nz/survey-titles/land-titles-plans/index.aspx, or for Māori land records, at www.maorilandonline.govt.nz/mlol/searchmlis.jsp.

