

ETS and Carbon Forestry – Legal Update

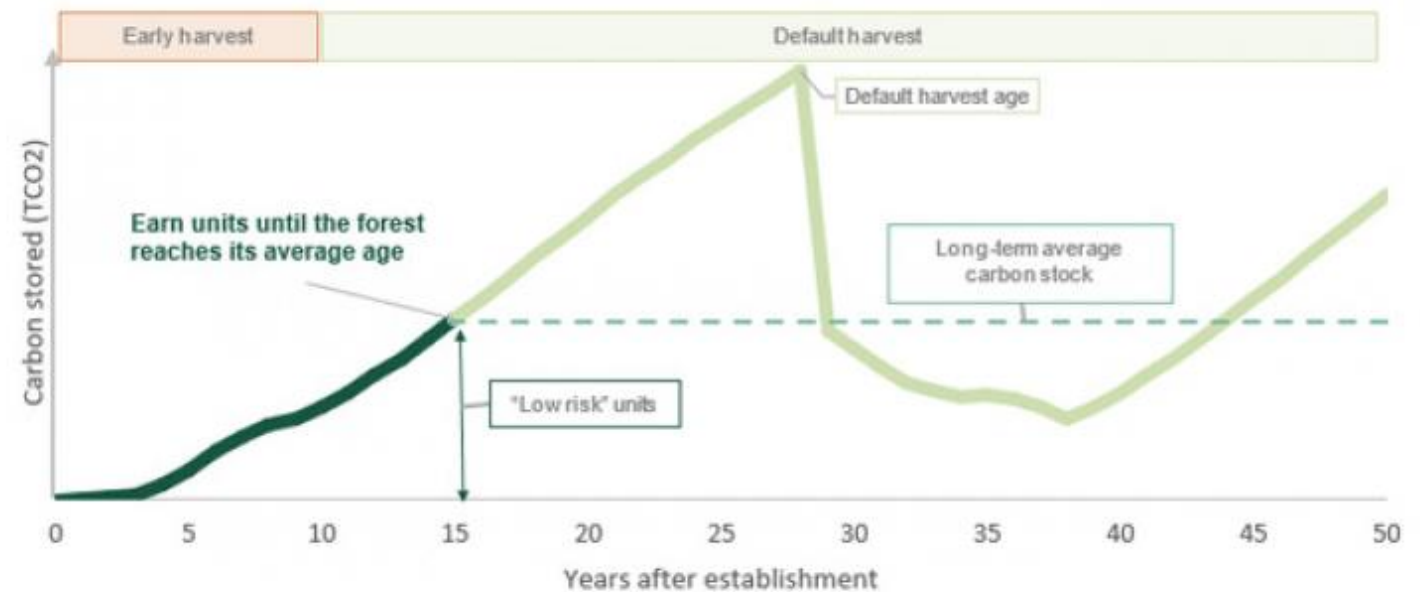
Updates to the ETS

- The CCRA has been amended by the Climate Change Response (Emissions Trading Reform) Amendment Act 2020, which includes a number of forestry specific amendments in respect of the ETS. The aim of these amendments is to simplify the ETS process and encourage the planting of new forests.
- Most of the new provisions affecting the forestry industry came into effect on 1 January 2021 or will come into effect 1 January 2023.
- The detailed rules and settings for most of these changes will be set out in amendments to the forestry sector regulations, a draft copy of which has now been released (the Climate Change (Forestry Sector) Regulations 2022)



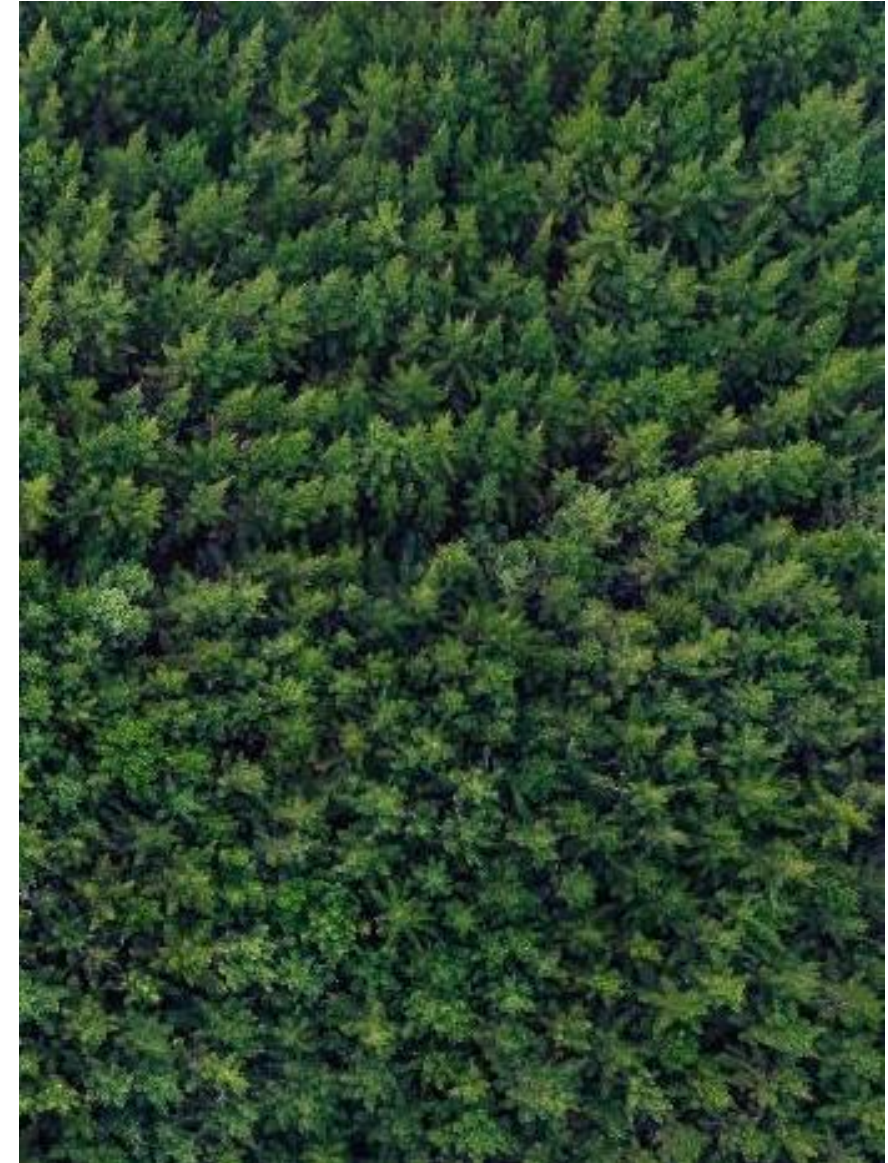
Average Accounting

- Average accounting introduced from 1 January 2023.
- The 'simple' approach has been selected.
- Average ages have been determined.
- Manner of calculating carbon stock has been settled.
- 15 year stand down period introduced (not affected by weed clearing).



New permanent post-1989 category

- Permanent post-1989 category will be available from 1 January 2023.
- Forests registered after 2018 but before 2023 in the ETS can opt in to the permanent category at any time.
- Penalty confirmed based on carbon stock value at time of harvesting.
- Notices will be registered on title.



Temporary adverse event exemption

- A new exemption whereby no NZUs need be surrendered when trees are lost due to temporary adverse events (such as fire or windthrow), but no NZUs will be issued for the replanted trees until they reach the age they were at when they were lost / destroyed.
- Clearing associated with the adverse event is able to be included in the exemption.



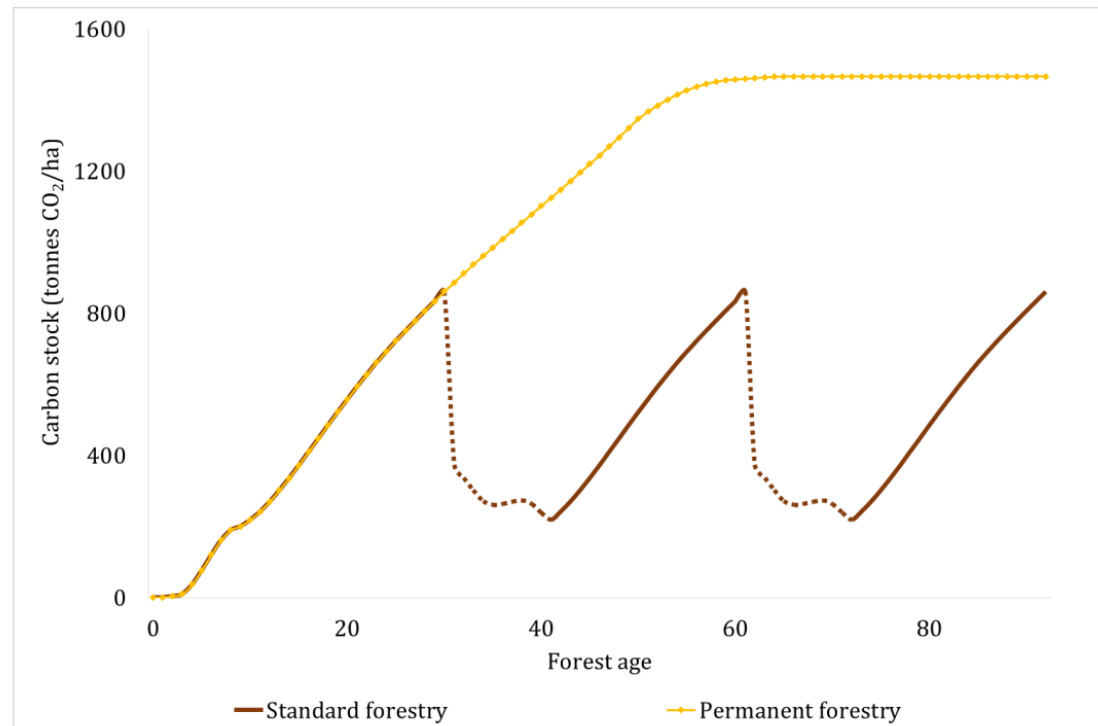
Offsetting deforestation liabilities

- Deforestation liability may be offset by planting forests elsewhere in NZ for post-1989 forests using average accounting (not just pre-1990 forests).
- Intended to make conversion of pre-1990 forest land which may have a higher and better use easier. Improvements includes
 - defined 'usual rotation periods' to determine carbon equivalence;
 - time extension for offset establishment;
 - recently planted is able to be used; and
 - excessland from previous application can be re-used



Impact on Carbon Forests

Figure 2. Carbon stock in standard and permanent forests



- New carbon forests will not be able to be clear-felled for 50 years.
- Earn units for as long as the forest is in the ground and the carbon stock is increasing (under the stock change accounting approach).
- If the forest is clear-fell harvested or deforested within the 50-year period there are penalties as set out in the Regulations.

Options after the 50-year period expires

When the 50-year non-clear-fell period expires a participant has three options:

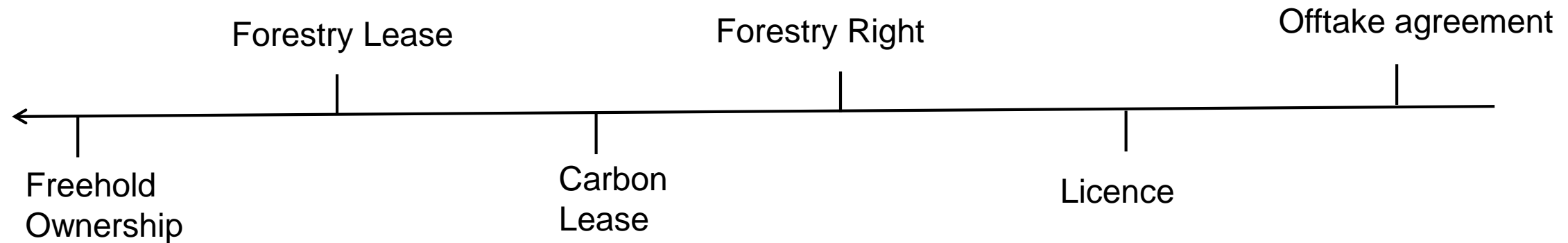
- sign up the Carbon Forest for another 25 years and continue to earn NZUs on the stock change approach (with this right applying every 25 years onwards);
- transition to the averaging accounting approach under the ETS. This would require the surrender of some of a participant's NZUs, but harvesting will subsequently be permitted so long as the participant replants; or
- remove the Carbon Forest (or parts of it) from the ETS, surrendering the NZU balance for the area so removed.



Legal structures for Carbon Forestry Projects

**Increased ownership /
more control**

**Decreased ownership /
less control**



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