

Guide to the

Permanent Forest Sink Initiative

June 2011

Ministry of Agriculture and Forestry



Further information and downloadable copies of this publication are available at:
www.maf.govt.nz/sustainable-forestry.

You can request hard copies of this publication by calling 0800 CLIMATE (254 628) or from:

Policy Publications
MAF Policy
PO Box 2526
Wellington
New Zealand
Tel: 64 4 894 0252 or 0800 008 333
Email: policy.publications@maf.govt.nz

Published by:

Ministry of Agriculture and Forestry
Pastoral House, 25 The Terrace
PO Box 2526
Wellington
Tel: 64 4 894 0100
Fax: 64 4 894 0742
Web: www.maf.govt.nz

ISBN 978-0-478-38441-3 (Print)
ISBN 978-0-478-38442-0 (Online)

Cover photos: Left – Indigenous forest of silver beech, Southland.
Right – Exotic redwood forest (photographer Ian Platt).

© Crown copyright – Ministry of Agriculture and Forestry, June 2011.

This document may be copied for non-commercial purposes providing its source is acknowledged.

While every effort has been made to ensure the information in this publication is accurate, the Crown, its employees and consultants do not accept any responsibility or liability whatsoever for any error of fact, omission or opinion which may be present, however it may have occurred, nor for the consequences of any decision based on the information in this publication. Without in any way limiting the above statement, the Crown, its employees and consultants expressly disclaim all and any liability to any person in respect of anything, and the consequences of anything done or omitted to be done in reliance, whether wholly or partly, upon the whole or any part of the contents of this publication. The Ministry of Agriculture and Forestry reserves the right to amend or depart from any procedure, practice or guideline referred to in this Guide.

Contents

About this guide	3
Legislation and the covenant	3
Future changes to the PFSI	3
Introduction	4
PFSI land eligibility criteria	4
Criteria for the land	4
Eligible forest	4
Ineligible land	5
Evidence of land eligibility	5
Applying to join the PFSI	6
Application process	6
Forest Sink Plan	7
Mapping requirements	8
Geospatial data	8
Survey data	8
Mapping accuracy	8
The Forest Sink Covenant	9
Term of the covenant	9
Conditions of the covenant	9
Registration and notification	10
Lapse of the covenant	10
Assessing carbon stocks	10
Carbon stock assessment	10
Methodologies	11
Transfer and Surrender of Units	11
New Zealand Emission Unit Register (NZEUR) holding accounts	11
Requests for units	11
Surrendering units	11
Harvesting	12
Continuous cover forestry	12
Example of harvesting under the PFSI	12
Penalties	13
Salvage	13
Termination	13
Surrendering units on termination	13
Fees and charges	14
Applications	14
Requests for AAUs	14
Records	14
Tax treatment of permanent sink forests	15
Income tax treatment	15
Transfer of AAUs to participants	15
Sale of AAUs	15
Surrender of units	15
Purchase of units	15
GST	15

Relationship to other schemes and legislation	16
Emissions Trading Scheme (ETS)	16
Similarities	16
Key differences between the PFSI and the ETS	16
East Coast Forestry Project	17
Further information	17
Not registering for any scheme	17
Resource Management Act 1991 and Biosecurity Act 1993	17
Further information and contact details	18
Appendix 1: Land titles (computer freehold registers)	19
Title reference numbers and legal descriptions	19
Identifying relevant interests	19
Appendix 2: Example of map showing PFSI forest sink area	20

About this guide

This guide sets out the operating details of the Permanent Forest Sink Initiative (PFSI), and has been prepared to assist applicants understand the requirements of the Initiative.

The document provides a guide only, and does not purport to give advice regarding specific circumstances in relation to the PFSI, New Zealand's climate change legislation in general, or the particular circumstances of individual land and forest owners.

Despite the eligibility requirements set out in this guide, nothing requires the Crown to negotiate, or enter into, any forest sink covenant.

Legislation and the covenant

A landowner who is considering joining the PFSI should refer to:

- the legislation (available at www.legislation.govt.nz):
 - Part 3B of the Forests Act 1949;
 - Forests (Permanent Forest Sink) Regulations 2007 (PFSI Regulations); and
- the PFSI application form and forest sink covenant (available at www.maf.govt.nz/forestry/funding-programmes/permanent-forest-sink-initiative.aspx).

Future changes to the PFSI

The PFSI is subject to a review – along with other forestry programmes – to ensure their effectiveness and alignment with the New Zealand Emissions Trading Scheme (ETS). A final report on the review, which could potentially recommend changes to the operation of the PFSI, is expected in mid-2011.

Updates on the PFSI are provided via MAF's *Sustainable Forestry Bulletin*.

Email sustainableforestrybulletin@maf.govt.nz with “subscribe” in the subject line.

Introduction

The PFSI is one of government's sustainable forestry programmes. It enables private landowners to receive Kyoto Protocol carbon units through the creation of forest sinks – new permanent forests actively established from 1 January 1990. In the first commitment period, the carbon units are Assigned Amount Units (AAUs).

Forests play a vital role in the management of New Zealand's carbon emissions by converting carbon dioxide from the atmosphere into carbon stored in wood. They may also assist with reducing the likely impacts of climate change. For example, forests can reduce erosion, nutrient leaching and flood peaks.

The PFSI is complementary to the New Zealand Emissions Trading Scheme (ETS) as it applies to forestry. These schemes are part of a range of initiatives introduced by government for tackling climate change.

The PFSI is an opportunity for landowners and investors to earn AAUs for the increase in carbon stored in eligible forest land from 1 January 2008. One AAU is equivalent to one tonne of carbon dioxide, and as AAUs are internationally recognised carbon units, they can be sold overseas.

You may be interested in participating in the PFSI if you are one of the following:

- A landowner who, since 1 January 1990, has planted exotic or indigenous forest on land that was non-forest land on 31 December 1989.
- A landowner who since 1 January 1990 actively changed the use of the land (for example, retiring farmland from grazing) which has resulted in the establishment of indigenous forest.
- An investor interested in growing permanent forests to earn AAUs.

Entry into the PFSI is by way of a covenant between the Crown and the landowner. Key differences between the PFSI and other sustainable forestry programmes are outlined in this guide.

Under the PFSI, limited harvesting is permitted, but participants are liable for any net loss in the carbon stocks in their forest from harvesting or any other cause up to the net amount of AAUs previously received for the forest.

PFSI land eligibility criteria

Criteria for the land

To be eligible to enter the PFSI, the land must be Kyoto-compliant land. That is, the land must not have been in forest at 31 December 1989, and there must have been a change of land use from non-forest to eligible forest since 31 December 1989. Active steps such as planting, seeding or facilitating natural regeneration must have been taken to create the eligible forest.

Eligible forest

Eligible forest is an area of land of at least one hectare that has, or will have at maturity, tree crown cover (or equivalent stocking level) of more than 30 percent in each hectare in which the trees have the potential to reach a minimum height of five metres at maturity in the place where they are located.

Eligible forest includes areas normally forming part of an eligible forest that are temporarily unstocked as a result of human interventions, such as harvesting or natural causes, but which are expected to revert to forest.

A guide to determining what is, and is not, eligible land is provided in *A Guide to Classifying Land for Forestry in the Emissions Trading Scheme*, available at www.maf.govt.nz.

Ineligible forest includes horticultural crops, shelterbelts which are less than 30 metres wide on average, and forest which is less than 30 metres wide on average unless it is contiguous with eligible forest.

Ineligible land

Land that is ineligible is land:

- that had eligible forest growing on 1 January 1990;
- land which has a current agreement under the Afforestation Grant Scheme (AGS) or which has entered the Emissions Trading Scheme (Forestry); or
- in effect, land that involved the clearance on or after 1 December 2007 of greater than five hectares of naturally occurring indigenous trees species – this aspect is an important distinction between the ETS and the PFSI.

Evidence of land eligibility

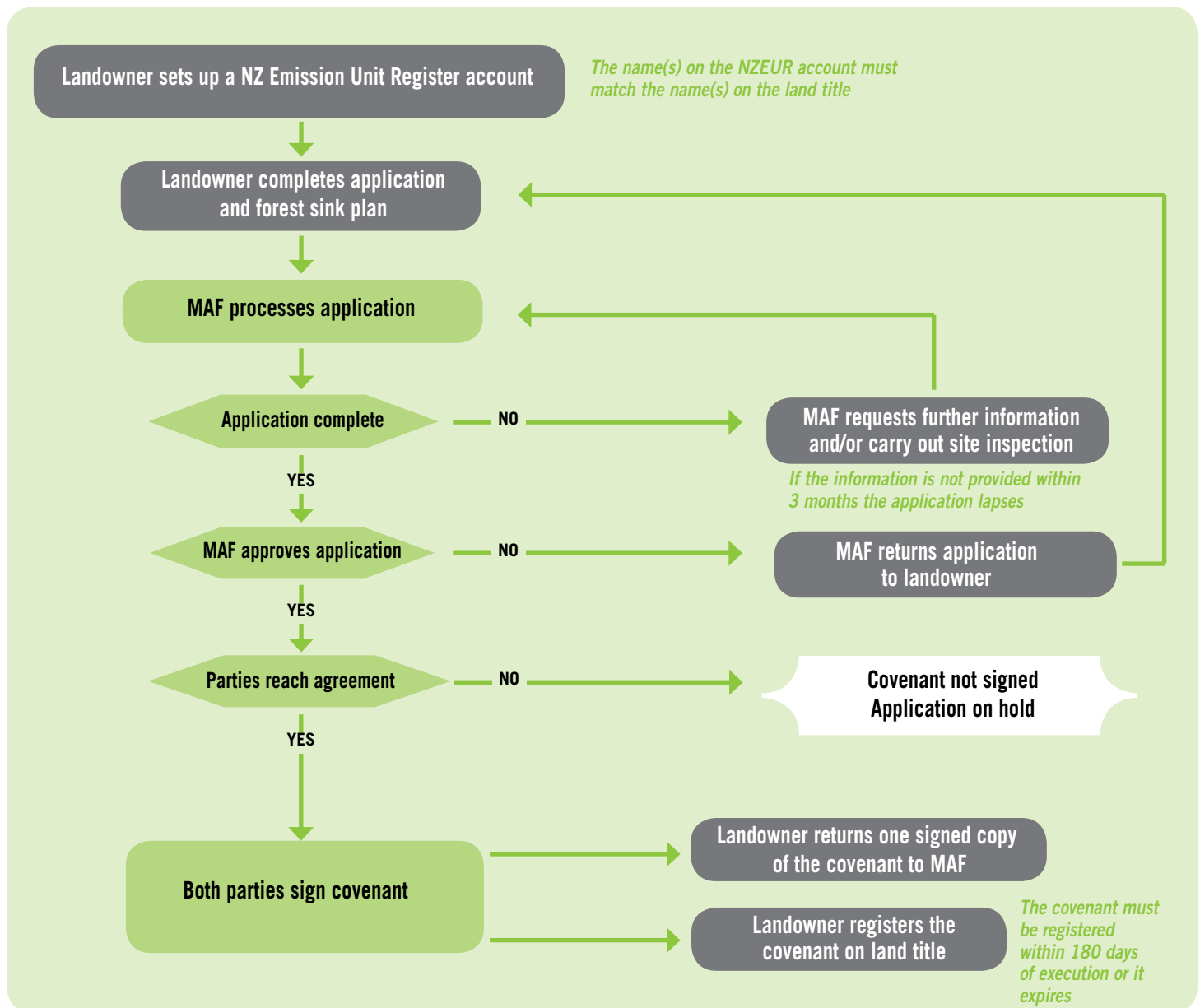
Applicants must provide evidence of the land's eligibility as part of the application. Examples of evidence that may assist in determining land eligibility include:

- an aerial photograph of the land close to 1990;
- oblique photographs of the land close to 1990 with verifiable dates such as diary entries or work records;
- planting records; or
- contractor invoices and other receipts.

Applying to join the PFSI

Application process

The diagram below shows the process for applying to join the PFSI.



The following information must be provided on or with the application form:

- names of landowners;
- NZ Emission Unit Register holding account name and number (the names on the NZEUR account must match the names on the land titles);
- recent search copy of computer freehold registers (certificates of title) showing the current owners OR Māori Land Court titles;
- the names of parties with a registered interest in the land (as their signed consent is required on the covenant);
- full application fee paid by cheque, credit card or internet banking;

- evidence of land eligibility;
- details of how the forest will be actively established and managed - called the forest sink plan;
- maps of the general location and the forest sink area¹;
- electronic shapefiles of the forest sink area and blocks; and
- a declaration that the establishment of the forest sinks has/will not involve the clearance of 5 or more hectares of indigenous tree species.

A PFSI application form is available at www.maf.govt.nz. The application form must be signed by the landowners, and include the completed forest sink plan.

Information on land titles and identifying a registered interest is provided in Appendix 1.

If MAF requests further information after an application has been submitted, this must be provided within 90 days of notification. A site inspection by a MAF adviser may be required to verify land eligibility.

Forest Sink Plan

The forest sink plan will be attached to the forest sink covenant. Its primary purpose is to demonstrate that a permanent forest has been, or will be, actively established through planting, seeding or promotion of natural seed sources.

Active establishment means the direct human-induced conversion of non-forest land to eligible forest through planting, seeding or promotion of natural seed sources. Active establishment must not involve the clearing on or after 1 December 2007 of five or more hectares of land predominantly in naturally occurring indigenous tree species.

The covenant requires that the forest sink area be managed according to the forest sink plan. The forest sink plan should include:

- details of how the forest has been or will be established and managed on each block;
- harvesting plans, if any;
- a map showing the boundaries of the forest sink area, access route, the blocks with species, and year of establishment;
- contact details for access to the forest sink area.

The plan requires the year of establishment to be specified. This is the year when each block became eligible forest, and thus qualifies to earn AAUs. Blocks that have not yet achieved sufficient stocking of forest species to qualify as eligible forest can still be included within the forest sink area with the year of establishment noted as "To be established". Alternatively, blocks can be added to the forest sink area at a future date through a variation to the covenant.

MAF may conduct audits to ensure compliance with the plan.

An example of a map showing the boundaries of a PFSI forest sink area and blocks is provided in Appendix 2.

¹ The land or parts of the land containing the forest sink, described in Schedule 2 of the Forest Sink Covenant.

Mapping requirements

PFSI applications must include mapping information of the proposed forest sink area. This must be submitted either in the form of geospatial data (shapefiles) or a survey plan, in the formats prescribed below.

MAF prefers that all mapping, both geospatial data and survey data, be in the New Zealand Transverse Mercator 2000 (NZTM2000) map projection. However, shapefiles captured in other spatial coordinate systems will be accepted provided the map projection is clearly specified – such as New Zealand Map Grid 1949 or similar.

More information on the NZTM2000, and the transformation of data, is available from Land Information New Zealand, either on their website at www.linz.govt.nz/geodetic/datums-projections-heights; or by phone: 0800 ONLINE (665 463).

Applicants who are not familiar with using geographic information system (GIS) software or global positioning system (GPS) receivers may wish to engage a mapping professional to assist them with the preparation of their forest sink map.

Geospatial data

Geospatial data that is submitted as GIS shapefiles², or GPS derived boundary coordinates according to the standards specified below are acceptable.

A shapefile consists of four mandatory sub-files, all of which must be submitted as the cumulative shapefile:

- .shp file – shape format; the feature geometry itself (i.e. forest areas);
- .shx file – shape index format; a positional index of the feature geometry;
- .dbf file – attribute format; attributes for each forest area within the shapefile;
- .prj file – projection format; the coordinate system and projection of the shapefile.

For areas less than 50 hectares, boundary coordinates (waypoints) generated by a GPS unit may be provided in the format

- in the chronological order in which they were captured – i.e. when capturing the boundary of a forest sink area it should begin and end at the same point and submitted to MAF in that order;
- in either a text file (.txt format) or as a database file (.dbf format – available in Microsoft Excel).

Survey data

Survey data that is capable of being deposited under the Land Transfer Act 1952 that identifies the boundaries of the forest sink area are acceptable. Survey data must also specify the projection standard used.

Mapping accuracy

Shapefiles should adhere to a minimum positional accuracy/mapping standard of +/-10 metres – i.e. shapefile boundaries should be digitised/recorded at no more than +/-10 metres from the actual boundaries they represent in the field.

Shapefiles should be captured using orthographically corrected aerial photography³ or satellite imagery with a minimum positional accuracy/mapping standard of no more than +/-10 metres.

The accuracy of GPS receivers can vary depending on the quality of the receiver and conditions at the time of recording waypoints or tracks. As a result, shapefiles created directly from waypoints or tracks may not meet the mapping requirements.

² A shapefile is a digital data format used within geographic information systems (GIS) software which geographically describes an area (i.e. polygon) and its associated attribute information (e.g. forest areas and their attributes).

³ An aerial photograph that has had all distortions due to camera tilt and surface relief removed.

Some sources for mapping services, and aerial or satellite imagery include:

- regional and district councils;
- Terralink International Ltd (www.terralink.co.nz);
- Landcare Research (www.landcareresearch.co.nz);
- Land Information New Zealand (www.linz.govt.nz);
- New Zealand Aerial Mapping (www.nzam.com);
- GeoSmart (www.airlog.co.nz).

The Forest Sink Covenant

Once the application is approved, the landowner enters into a covenant with the Crown. The covenant is a contract between the landowner and the Crown which sets out the rights and obligations of both parties. The landowner is responsible for having the covenant registered on the land title.

The Crown cannot enter into PFSI covenants with forestry right-holders or lease-holders. Forestry right/lease holders wanting to earn carbon units under the PFSI must have a separate agreement with the landowner to that effect.

A forest sink covenant template is available at www.maf.govt.nz.

Term of the covenant

The covenant remains in force for at least 50 years but may be terminated earlier if:

- New Zealand withdraws from the Kyoto Protocol, the Protocol lapses or ceases to be in force;
- there is a material breach of the covenant, and where the party in breach does not remedy the breach within 30 working days of being provided a written notice; or
- other grounds for termination as set out in the covenant.

Conditions of the covenant

The conditions of a forest sink covenant include the following key points:

- The covenant remains in force unless terminated. After 50 years the landowner is able to remove any part of the forest sink area from the covenant. If part of the area is withdrawn, the landowner must repay units pro-rata on area.
- The landowner must establish and/or maintain the forest sink area in accordance with the forest sink plan.
- Harvesting or destruction of eligible forest within the forest sink is not permitted during a restricted period of 99 years, except when felling in accordance with continuous cover forestry (see Harvesting section), or felling as permitted in the forest sink plan.
- The landowner must allow the Crown reasonable access to the forest sink area for the purposes of verifying land eligibility, monitoring and enforcing compliance with the PFSI Regulations and the covenant, or measurement and reporting of carbon sequestration under the Kyoto Protocol or any succeeding or related international agreement. The landowner must be given 48 hours notice.
- If the landowner breaches the terms and conditions of the covenant, the Crown may take any action necessary to restore the forest sink. Reasonable costs for restoration may be claimed by the Crown from the landowner.
- The landowner must comply with Part 3B of the Forests Act 1949 and all other relevant legislation and regulations, including the Resource Management Act 1991 and the Biosecurity Act 1993.
- The covenant does not restrict the Crown's right to amend any legislation or regulations in relation to the PFSI or climate change more generally.

- Neither party is liable for any failure to perform their duties if caused by anything beyond their reasonable control, including acts of God and natural disasters, provided the failure could not have been prevented by the exercise of reasonable care.

Registration and notification

To register the covenant, the landowner must submit the covenant to the Registrar-General of Land for registration under the Land Transfer Act 1952. This can be done either through a solicitor, or by the landowner lodging it themselves. The latter is called “manual dealing”. Information on manual dealing, and current fees, is available:

- on LINZ’s website at www.linz.govt.nz/survey-titles/land-registration/manual-dealing;
- by calling: 0800 ONLINE (665 463);
- by emailing info@linz.govt.nz.

Allow up to 15 days for registration processing. Once the covenant is registered on the land title, the landowner is required to notify MAF in writing.

Lapse of the covenant

If the covenant is not registered within 180 days of being signed, it lapses. A new application must be submitted (and a new fee paid) if the landowner still wishes to participate in the PFSI.

Assessing carbon stocks

Carbon stock assessment

Carbon stock assessment is the process of estimating the amount of carbon stored within the live biomass of a tree (the trunk, branches, leaves and roots), and the dead biomass (the woody material and fine litter on the forest floor).

The assessment of the change in carbon stocks in eligible forest in a forest sink covenant area is the basis for the allocation of AAUs. Landowners are eligible to earn one AAU (or are liable to surrender one authorised carbon unit⁴) for every one tonne of carbon stock increase (or decrease) in the eligible forest for the period. MAF may request information on the forest species and stocking in the eligible forest for which AAUs are being claimed at the time a request for units is made.

AAUs cannot be claimed for any area in the forest sink that has not yet reached the criteria for eligible forest. This includes areas where regeneration is of shrub species (not tree species) and where the stocking of regenerating tree species is such that the crown cover would be 30 percent or less on each hectare as the tree species grow.

The forestry ETS rules for mapping post-1989 forest land are applied to PFSI eligible forest areas. The rules are described in *A Guide to Mapping Forest land for Forestry in the Emissions Trading Scheme*, and the *Geospatial Mapping Information Standard*, available at www.maf.govt.nz.

A mandatory assessment of the net change in the carbon stocks in the eligible forest for the first commitment period (2008 to 2012) must be submitted by 31 March 2013. This includes a reconciliation of the units received or surrendered to date.

⁴ See section on *Surrendering units*, for the authorised carbon units.

Methodologies

The methodology for assessing the change in carbon stocks in a forest sink area is currently specified in Schedule 4 of the forest sink covenant and enables landowners to claim AAUs from 1 January 2008. Schedule 4 refers to the Climate Change (Forestry Sector) Regulations 2008 which provides two methodologies for assessing changes in carbon stocks:

- default tables for those with less than 100 hectares; and
- the field measurement approach (FMA) for those with 100 or more hectares.

The default tables provide values for carbon stocks based on the forest type, forest age, and for radiata pine, the region. The FMA provides participant-specific tables based on data collected from a network of randomly located sample plots established on the landowner's eligible forest land. The FMA uses industry-standard approaches to forest inventory.

To determine landowners' landholdings for FMA purposes, including the FMA threshold for participation:

- PFSI forest sink areas and ETS registered post-1989 forest areas are considered separately.
- The area is the combined total of the PFSI forest sink areas for the covenants for each legal owner.

Clauses in PFSI covenants provide for the FMA to apply to the PFSI, with appropriate modifications. Details of the FMA and how to apply it to the PFSI are provided in *A Guide to the Field Measurement Approach for Forestry in the Emissions Trading Scheme*, available on MAF's website at www.maf.govt.nz/news-resources/publications.aspx.

Both of the methodologies for determining carbon stocks and the default carbon stock tables may be updated from time to time, and such changes can affect the number of AAUs that the landowner is entitled to. Adjustments can be claimed as part of the annual assessment and claim for units, or under the 5-year mandatory assessments.

Transfer and Surrender of Units

New Zealand Emission Unit Register (NZEUR) holding accounts

The landowner must set up a New Zealand Emission Unit Register (NZEUR) holding account into which the AAUs will be transferred. The account must be nominated on the PFSI application form. The names on the account must match the names on the land titles on which the forest sink covenant will be registered.

Further details about setting up an NZEUR account are available at www.eur.govt.nz.

Requests for units

The landowner may submit a request to MAF to receive the AAUs earned by eligible forest in the forest sink area. One request may be made per calendar year.

To receive the AAUs earned during the first commitment period (2008–2012), the landowner must register their PFSI covenant by 31 December 2012, and submit a request to MAF to receive the AAUs by 31 March 2013.

Surrendering units

Every AAU claimed creates an equal contingent liability. In other words, AAUs are claimed for increases in the carbon stocks in the eligible forest, but correspondingly, AAUs (or another acceptable type of unit) must be surrendered if the carbon stocks fall below a previously reported level. This may occur as a result of forest management such as waste thinning or harvesting, or a natural disturbance destroying or damaging all or part of the eligible forest.

The landowner is not liable to surrender more units than the number of AAUs earned and transferred to the landowner's account for any given area of eligible forest.

The carbon units that can be surrendered currently are New Zealand AAUs (not overseas-sourced AAUs), NZUs, and international Kyoto Protocol units (Certified Emission Reduction Units, Emissions Reduction Units, and Removal Units).

The Crown may, at its sole discretion, accept payment in New Zealand dollars for the value of the units the landowner is obliged to surrender to the Crown.

Harvesting

The PFSI covenant restricts harvesting during the first 99 years in order to establish a permanent forest. During this period harvesting on a continuous cover basis is permitted.

All harvesting restrictions are removed 99 years after the covenant was registered. However, obligations to account for liabilities, should they arise, remain after that date.

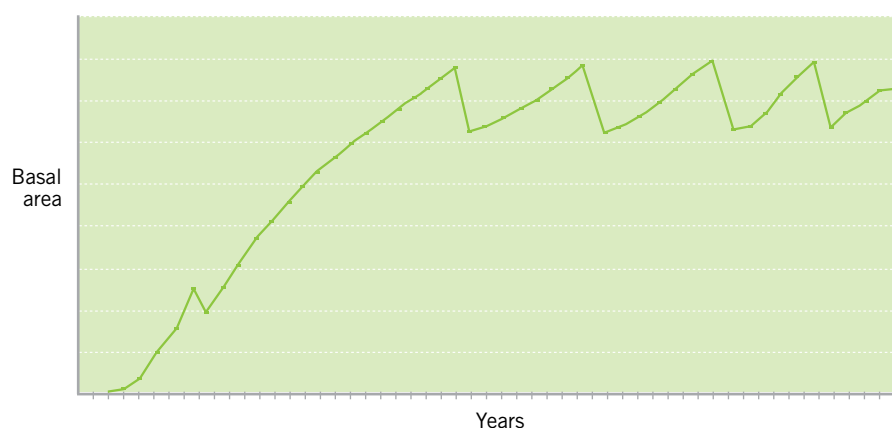
Continuous cover forestry

Continuous cover forestry encourages the development of an uneven-aged forest structure through the progressive harvesting of individual trees or small coupes of trees.

Under the PFSI, harvesting operations must retain a minimum of 80 percent of the pre-harvest basal area on each hectare for the first harvesting operation. For subsequent harvests, either a minimum of 80 percent of the existing pre-harvest basal area⁵ on each hectare or 80 percent of the previous pre-harvest basal area on each hectare (whichever is the greater) must be retained.

Waste thinning operations are not included in the harvesting basal area restrictions.

Any relevant local planning rules, or controls under the Resource Management Act 1991, still apply to harvesting operations conducted on a continuous cover forestry basis.



Example of harvesting under the PFSI

An example of how harvesting can work under the continuous cover forestry provision is depicted in the diagram below. The forest is then harvested at regular intervals from age 25. Harvest removals (per hectare) can not exceed 20 percent of basal area.

⁵ Basal area is the sum of the cross-sectional area (m^2/ha) of all of the trees measured at breast height (1.4 metres above ground). It is a relatively simple measure to perform.

- Radiata pine forest is established at year 0.
- It is thinned to waste at year 7. These removals do not count towards the basal area cap.
- At age 25 the forest has a basal area of 76m² per hectare, and 14m² per hectare is harvested leaving 62m² per hectare.
- Harvesting cannot take place again until the basal area of the forest reaches 76m² per hectare.
- Basal area reaches 77m² per hectare at age 33, and another 20 percent is harvested.

This pattern of harvesting occurs every 7 to 8 years until the total forest is replaced after 5 to 6 harvesting events. This assumes that replanting or natural regeneration occurs after harvest, and that this growing stock adds to the total basal area.

Penalties

Landowners who breach the harvesting restrictions by harvesting outside of the allowable limits will be liable for, in respect of the portion of the forest sink area in breach of the harvesting restrictions:

- surrendering any AAUs received; and
- additional AAUs calculated at an annual compounding rate of 10 percent applied to each year's increase in carbon stock from the beginning of the covenant.

Salvage

The Minister of Forestry may approve a harvesting practice other than that consistent with continuous cover forestry, where it is necessary to salvage timber from a forest sink area that has been affected by a natural disturbance such as windthrow. Penalties do not apply in such cases.

Termination

There are a number of grounds for *termination of the covenant*:

- Either party may terminate the covenant if the other party commits a material breach of their obligations, and does not remedy them.
- The Crown may terminate the covenant on grounds of insolvency, if the forest sink ceases to be eligible, or on other grounds which may be set out in the Regulations⁶.
- The landowner may terminate the covenant any time after 50 years.

The Crown may *terminate its obligations to transfer units* to the landowner in the following cases⁷:

- the Kyoto Protocol is no longer in force or ceases to exist, if the forest sink no longer qualifies to earn units;
- NZ withdraws from, or fails to meet its obligations under, the Protocol;
- if the Crown considers that performance of its obligations under the covenant would be a breach of New Zealand's international obligations.

If the Crown does terminate its obligations under the covenant, then either:

- the covenant remains in place, the landowner completes mandatory returns every five years, the Crown is not required to transfer units, and the landowner only has to surrender units if the carbon stocks fall below a previously reported level - such as through harvest or clearing; or
- the landowner may *terminate the covenant*.

Surrendering units on termination

If the covenant is terminated by the Crown, the landowner must surrender units within 60 business days. If the covenant is terminated by the landowner, the landowner must surrender of units within 10 business days.

⁶ Currently there are no other grounds for termination specified in the Regulations.

⁷ Other cases apply also. Refer to section 11 of the Permanent Forest Sink Initiative covenant.

The number of units that must be surrendered by the landowner is the equivalent of the net number of units transferred for the forest sink since the commencement of the covenant.

Fees and charges

Applications

The table below outlines the fees for PFSI applications. Fees are current at the date of publication, and may be amended from time to time.

ACTIVITY	INCLUSIONS	CHARGE METHOD	AMOUNT (EXCLUDING GST)
APPLICATION PROCESSING	Application checking, verification of land eligibility, approval of forest sink plan, and preparation of covenant.	One-off application fee up to 4 hours, and hourly rate thereafter	\$575.00 fixed fee \$132.25 per hour over 4 hours
TRAVEL	Travelling to and from site to assess application and land eligibility if required.	Rate per kilometre, actual and reasonable costs for meals and accommodation.	69 cents per kilometre for motor vehicle travel Actual and reasonable costs for meals, accommodation, and transportation (including airfares) \$132.25 per hour of travel.

If the cost of processing an application is likely to exceed \$575, MAF will advise the applicant and provide an estimate of the likely additional time and costs.

MAF has a network of regional advisors, and will endeavour to use the one closest to the forest sink area should a site inspection be required.

Requests for AAUs

The fee for processing a claim for AAUs is still to be regulated. It is expected to be in line with the fee for emissions returns under the ETS, which is \$102.22 (including GST).

Records

Participants are required to keep records of:

- all carbon stock measurements in respect of the forest sink area;
- harvesting within the boundaries of the forest sink;
- any changes of ownership of the forest sink;
- any records required in the Forest Sink Covenant.

The following information must be provided to MAF:

- any changes of ownership of the land subject to the forest sink covenant;
- details of any person acting on behalf of the landowner in respect of the forest sink covenant; and
- details for physically accessing the forest sink area, including a description of how access may be gained and the contact particulars of the person to be notified if access is required.

Records must be accurate, complete and reliable, and must be made available to MAF on request. Further details on these requirements are set out in the Forests (Permanent Forest Sink) Regulations 2007.

Tax treatment of permanent sink forests

This taxation information has been provided by Inland Revenue. It does not deal with tax treatment related to complex transactions such as contracts for forward sale or purchase of units, put and call options, or derivative financial instruments involving units.

The tax consequences of common transactions for landowners are explained below. Landowners are advised to obtain specific advice in relation to their own tax circumstances.

Income tax treatment

In common with the general tax treatment of forestry, income and expenditure relating to a permanent forest sink area is recognised on a cash basis.

Transactions of the AAUs earned are treated as being on revenue account for tax purposes, which generally means that income is assessable and expenditure is deductible.

Transfer of AAUs to participants

No income tax is payable either on receipt of AAUs transferred for a net increase in carbon stocks from 1 January 2008, or at the tax year end if they are still held.

Sale of AAUs

The proceeds from any sale of AAUs that were received for a net increase in carbon stocks are subject to income tax in the year of sale. This will include any holding gains or losses.

It is intended that sales of all units (however acquired) are subject to income tax in the year of sale.

Surrender of units

If the landowner still holds AAUs previously received for net increases in carbon stocks, the surrender of those units to meet emissions liabilities has no tax consequences.

Purchase of units

If the landowner is required to purchase units in order to satisfy an obligation to surrender units previously issued for net increases in carbon stocks (but subsequently sold), a tax deduction is available for the cost of those units on acquisition.

Purchases of units that are not replacement units will be treated in a similar fashion to trading stock, with any net deduction only being available on disposal.

GST

GST is zero rated for PFSI transactions.

Relationship to other schemes and legislation

The alignment of the PFSI with the ETS and the other schemes below is being reviewed. A report on the review and recommendations is expected in mid-2011.

Emissions Trading Scheme (ETS)

The Climate Change Response Act 2002 is the legislation that provides for New Zealand's ETS. The PFSI has a clear focus on establishing permanent forests for storing carbon, but otherwise is broadly aligned to the forestry ETS.

Post-1989 forests in the ETS cannot also participate in the PFSI.

Similarities

Owners of post-1989 forest land have the choice of entering either the PFSI or the ETS and receiving all of the carbon units and liabilities associated with this forest since 1 January 2008.

Landowners who enter either scheme are obliged to take responsibility for the ongoing net changes in the carbon stocks of their forests. They receive carbon units if the stocks increase as a result of tree growth (though the type of carbon units differ), and are required to surrender carbon units if those stocks decrease as a result of events such as harvesting or fire.

If the land is withdrawn from either scheme, carbon units must be surrendered up to the total net amount received.

Key differences between the PFSI and the ETS

The key differences between the PFSI and the ETS are summarised in the table below.

PFSI	ETS
Forests earn AAUs – an internationally tradable carbon unit valid under the Kyoto Protocol ⁸ .	Forests earn New Zealand Units (NZUs) - carbon units valid under the ETS.
Limited harvesting is permitted on a continuous canopy cover basis.	There are no restrictions on harvesting.
A covenant is registered on the land title.	A notice of participation in the ETS is registered on the land title.
The covenant is in perpetuity, with the option of withdrawal or partial withdrawal after a minimum term of 50 years.	Participants can withdraw at anytime, provided all obligations have been met.
The covenant remains with the land title if the land is sold or transferred.	If the vendor does not withdraw the land from the ETS, the new landowner becomes a participant automatically, unless there is a forestry right, lease, or other arrangement for ownership of the forest in place.
The parties are the landowner and the Crown. Forestry right holders wanting to earn carbon units under the PFSI must have a separate agreement with the landowner to that effect.	The parties are the Crown and the person or organisation with the rights to the trees. The permission of the landowner is required.

East Coast Forestry Project

Landowner wishing to enter the PFSI also may apply for grants under the East Coast Forestry Project (ECFP).

The ECFP is available in the Gisborne District and is aimed primarily at erosion control on marginal lands, providing grants for activities such as plantation forestry, indigenous reversion and on-farm pole planting.

Further information

Further information on the schemes mentioned above is available from www.maf.govt.nz, or by calling 0800 CLIMATE (254 628).

Not registering for any scheme

Entry into any sustainable forestry scheme is voluntary for post-1989 forest owners. If a landowner already has post-1989 forest, or establishes new post-1989 forest and does not register for any sustainable forestry scheme before the end of the first commitment period (31 December 2012), then the government is responsible for the changes in the carbon stock of the forest. In this case, the Crown retains any carbon units earned for that commitment period, and is responsible for any harvesting or deforestation liabilities.

Resource Management Act 1991 and Biosecurity Act 1993

Permanent Forest Sinks must comply with local planning rules and regulations under the Resource Management Act 1991.

Similarly, Permanent Forest Sinks must comply with regional pest management strategies under the Biosecurity Act 1993.

Further information and contact details

For further information, or to apply to enter the PFSI, please contact:

Permanent Forest Sink Initiative
Ministry of Agriculture and Forestry
PO Box 2526
Wellington 6140

Phone: 0800 CLIMATE (254 628)

Email: sustainableforestry@maf.govt.nz

To speak to a MAF adviser, contact one of MAF's Sustainable Programmes regional offices:

Whangarei	09 430 7850
Gisborne	06 986 8691
Rotorua	07 921 3400
Whanganui	07 348 7312
Nelson	03 543 9183
Christchurch	03 943 3700
Dunedin	03 951 4725

For further information on NZEUR accounts, or to apply, go to: www.eur.govt.nz.

Appendix 1: Land titles (computer freehold registers)

Titles (computer registers) prove the ownership of land and the rights and restrictions that apply to the land.

Title reference numbers and legal descriptions

The reference number for a title is called an “identifier”. It may also be called a Certificate of Title number or a CT number. They look like “386573” on more recent titles or “WN123/115” on older titles.

Recent legal descriptions look like “Lots 1 and 2 DP 456789”. Older legal descriptions look like “Section 1019-1022 Town of Christchurch”.

Identifying relevant interests



**COMPUTER FREEHOLD REGISTER
UNDER LAND TRANSFER ACT 1952**

Search Copy



Identifier NL9B/836
Land Registration District Nelson
Date Issued 30 November 1990

Prior References
NL8A/724

Estate Fee Simple
Area 1027 square metres more or less
Legal Description Lot 90 Deposited Plan 14849
Proprietors John Smith and Mary Smith

Interests

261375.8 Easement Certificate specifying the following easements - 1.8.1986 at 2:10 pm

Type	Servient Tenement	Easement Area	Dominant Tenement	Statutory Restriction
Drain sewage	Lot 99 Deposited Plan 12615 - CT NL 7C/1237	d-e DP 12615	Lot 90 Deposited Plan 14849 - herein	
Drain sewage	Lot 97 Deposited Plan 12615 - CT NL 7C/1235	i-j DP 12615	Lot 90 Deposited Plan 14849 - herein	
Drain sewage	Lot 98 Deposited Plan 12615 - CT NL 7C/1236	f-g DP 12615	Lot 90 Deposited Plan 14849 - herein	

303583.5 Easement Certificate specifying the following easements - 30.11.1990 at 10:40 am

Type	Servient Tenement	Easement Area	Dominant Tenement	Statutory Restriction
Drain water	Lot 92 Deposited Plan 14849 - CT NL 9B/838	M-S DP 14849	Lot 90 Deposited Plan 14849 - herein	
Drain water	Lot 91 Deposited Plan 14849 - CT NL 9B/837	S-T DP 14849	Lot 90 Deposited Plan 14849 - herein	
Drain sewage	Lot 99 Deposited Plan 12615 - CT NL 7C/1237	a-r DP 14849	Lot 90 Deposited Plan 14849 - herein	
Drain sewage	Lot 91 Deposited Plan 14849	r-s DP 14849	Lot 90 Deposited Plan 14849 - herein	

Fencing Covenant in Transfer 209244.1 - 26.7.1991 at 11:20 am
8000161.2 Mortgage to Bank of New Zealand - 12.1.2009 at 2:43 pm

Interests are listed on the land title via instruments, and legal documents such as a transfer of ownership, a mortgage or an easement.

An interest is relevant to the PFSI where it overlaps with the forest sink area. Mortgages usually apply to the whole land holding and therefore consent is required from the mortgagor. Other interests that cover discrete areas (e.g. forestry rights, covenants and easements) usually apply to a part of the land title only. The source documents for the interest should be consulted to determine the exact location of the interest within the title.

You can order a copy of an instrument if you have its reference number and prefix (e.g. “Transfer 309344.1” as shown above).

More information on land titles, and to obtain search copies, go to:

www.linz.govt.nz/survey-titles/land-record-types/titles/index.aspx

Appendix 2: Example of map showing PFSI forest sink area

This example map forms part of an application to the PFSI. Applicants are required to submit the boundaries for the forest sink area with individual sub areas delineated along lines of species and year of establishment (YOE). The forest sink boundaries are to be submitted in an electronic form according to the standards set out on page 8 of this guide.

