Cost Recovery Impact Statement

Forestry in the Emissions Trading Scheme: Proposed updates to cost recovery settings (tranche two)

SCOPE

The Ministry for Primary Industries (MPI) is introducing 22 new services and an annual charge consisting of six components for forestry in the Emissions Trading Scheme (ETS). This will increase costs recovered from forestry participants from 6% to 63%.

AGENCY DISCLOSURE STATEMENT

This Cost Recovery Impact Statement (CRIS) has been prepared by MPI.

There are many caveats in the data and analysis. These are discussed in the CRIS in more detail as the arise. Major caveats are summarised in this disclosure statement.

Afforestation and carbon sequestration

The degree of afforestation depends on many factors including the price of New Zealand Units (NZUs) which foresters receive, the increase in cost recovery which makes participation in the forestry ETS less profitable, among many other factors and policy settings.

This CRIS estimates afforestation at different NZU prices and cost recovery settings, drawing on MPI cost estimates, forecasts of the NZU price by the International Energy Agency and the New Zealand Climate Change Commission, and estimates of afforestation at different NZU prices (and, therefore, prices net of cost recovery) in an MPI Technical Paper from 2022. There are caveats with each of these:

- The analysis makes best use of available cost estimates. At times, different sets of estimates have to be used in combination. As the estimates use different methods which have not been reconciled, the results are inexact.
- There is considerable uncertainty around future NZU prices.
- The Technical Paper's model of afforestation fits historical data well, but extrapolating to higher NZU prices and higher afforestation carries greater uncertainty.

Identification and assessment of options

Options have been developed and assessed in accordance with the cost recovery principles of Transparency, Justifiability, Efficiency and Equity defined in relevant legislation and MPI's cost recovery guidance. A constraint on the range of feasible options and the assessment of options is the lack of time recording and time recording data.

Without time recording to inform the design of options, staff judgement has been used. This carries uncertainty around the accuracy of the charges.

Whether the principles have been sufficiently met also involves a level of judgement. MPI considers that the principles have been sufficiently met for new or updated charges as proposed in the preferred options.

Additional judgement is required around the Equity principle. Equity involves consideration of fairness and, therefore, value judgements. Submissions emphasised that cost recovery increases have a proportionately bigger impact on smaller forests and, in particular, smaller native forests. Submitters proposed discounting charges for very small forests. This CRIS provides options for discounted charges for very small forests and leaves the judgement to the Government about whether the best balance of the Efficiency and Equity principles is fuller cost recovery with lower cost to taxpayers, or discounted charges for very small forests.

Short time frames and impact of weather events on consultation

There were limitations on consultation and these have been discussed in the relevant sections. The consultation period was limited due to the need to get proposals to Cabinet before the pre-election period.

The weather events impacting the North Island as a result of Cyclone Gabrielle also limited consultation. The weather events particularly impacted MPI's ability to consult with Māori stakeholders and provide sufficient time and resources for meaningful Māori involvement. This limited Māori partners' input into the development of the proposed Tranche 2 fees and annual charge, and limited MPI's ability to:

- consider Mana Motuhake being accorded appropriate priority across other ETS cost recovery outcomes and Te Uru Rākau – New Zealand Forest Service objectives, and
- assess cultural sensitivities to support the creation of mana enhancing solutions with Māori partners.

The consultation was extended by two weeks, but stakeholders requested more time. Ultimately, Cabinet deadlines meant we could not extend consultation as much as had been requested.

This CRIS was originally published on Day/Month/2023.

Bruce Arnold, Director Cost Recovery

Day/Month/2023

Executive summary

New Zealand owners of post-1989 forest land can choose to enter the forestry component of the ETS, where they can acquire New Zealand Units (NZUs) for the carbon they sequester. Participants can then sell these units to emitters in the ETS for financial benefit.

Te Uru Rākau – New Zealand Forest Service provides the administrative services that allow the ETS system to function. These services include processing the applications, verifying the type and size of forests, and managing compliance. Administering the forestry ETS costs $29.8 million per annum on average.

Cabinet noted on 15 March 2023 [DEV-23-MIN-0022] that MPI's cost recovery principle of equity deems it fairest that ETS participants should bear the costs of funding the scheme's administration, as they are the direct financial beneficiaries of the scheme. Fees in the forestry ETS were last updated in 2011 and do not reflect the cost to provide the relevant services. Prior to this review of the fees, only an estimated $0.5 million of the total $29.8 million was recovered.

Cabinet agreed in [LEG-22-MIN-0223] to increase seven core service fees and implement two new core service fees through tranche one of this review. Tranche one fees were implemented on 1 January 2023 and are expected to recover $1.9 million per annum on average.

To enable full recovery of costs chargeable to forestry ETS participants under fee-setting guidelines, a second tranche of cost recovery is required. Cabinet agreed in [DEV-23-MIN-0022] to consult on cost recovery tranche two.

Cost recovery tranche two proposes new fees for 22 existing services and a new annual charge based on an aggregation of six components. The proposed fees and charge allow for greater cost recovery of approximately $18.9 million per annum on average from forestry ETS participants, increasing the proportion of cost recovery funding to 63% from participants, and reducing the current reliance on taxpayer funding. The remaining 37% of costs incurred in the administration of the ETS (approximately $10.9 million per annum) will continue to be met through Crown funding in acknowledgement of the public benefit that the ETS provides.

These proposed cost recovery measures are split into service fees or an annual charge based on their private or public (club) good. The proposed fees and charge are calculated based on the average processing time for each service at the standard hourly rate ($165).

MPI publicly consulted on the proposed changes between 22 March and 3 May 2023. 75 submissions were received from individuals, businesses, Māori organisations, iwi and industry bodies. In general, consultation submitters were not in favour of additional fee increases. Feedback centred around the following themes:

- Opposition to the scale of cost recovery. The scale proposed is justifiable, as fees have not been adjusted since 2011 while the cost of administering the system has increased. Cabinet agreed to consult on this scope of recovery in [DEV-23-MIN-0022]. In all modelled scenarios, the net present value of a forest remains above 85% of forecast value over 50 years after the tranche two charges are introduced.

- Opposition to the cost recovery methodology. After analysis of the consultation comments, we believe that proceeding with the proposed fees and charge methodology is the most fair and equitable way to recover costs from participants.

- Desire for exclusions for some forests based on size or type. All forests registered in the ETS, no matter what type, still use the services that Te Uru Rākau – New Zealand Forest Service provides. Therefore, as beneficiaries of the system, they should contribute to cost recovery. The ETS is a voluntary system and participants can deregister before the new fees are implemented if they do not want to be subject to them.

- Impacts on Māori. The consultation submissions highlighted the potential negative implications that the increase in charge and fees may have on Māori as forestry owners. The six-week consultation timeframe and impacts of Cyclone Gabrielle resulted in low uptake to participate in the consultation process. MPI acknowledges that this consultation was limited due to the extenuating circumstances of the cyclone. Any future changes and development of services will be done through greater collaboration and consultation with both Māori and wider forestry sector stakeholders.

The proposed fees and charge meet the Ministry for Primary Industries' (MPI's) cost recovery principles. Cabinet noted in [DEV-23-MIN-0022] that MPI's cost recovery principle of equity deems it fairest that ETS participants should bear the costs of funding the scheme's administration, as they are the direct financial beneficiaries of the scheme.

The fees are the most efficient as they are grouped by use case – either fees for voluntary services or an annual charge for 'club goods'. The amounts were all transparently calculated using existing time requirements for each service and a standard hourly rate.

The consultation feedback noted that some participants may choose to leave the forestry ETS based on these new fees. MPI does not have information available to estimate the percentage of participants who may depart the forestry ETS. However, it is important to note:

- All post-1989 forests within New Zealand's domestic forestry stock contribute towards the Nationally Determined Contribution (NDC) and greenhouse gas targets, irrespective of whether it is registered in the ETS or not. Modelling over a 50-year period shows that afforestation within the ETS will remain above 96% of forecasted rates, even with low carbon prices. Afforestation outside of the ETS will not be impacted.

- Consultation feedback indicates smaller forest owners may be more likely to exit as the impact of the fee increase is proportionally higher for these owners. Smaller forests (under 50 hectares) only make up 9% of the total land within the forestry ETS and 9% of the ongoing revenue from cost recovery, so any fluctuation in these participants will only make a marginal difference to the land registered within the forestry ETS and the cost recovery from participants.

- Participants who are registered in the ETS and choose to not sell NZUs to preserve their position do not receive revenue from the sale of NZUs, yet they are still receiving a private benefit. These 'stockpiling' participants may deregister from the ETS as a result of the proposed fee increase. If these participants decide to exit the ETS, they must surrender their NZUs directly to the Crown, which will positively impact the Crown's financial position as it will regain ownership of the NZUs.

The consultation period was limited due to the need to get proposals to Cabinet before the pre-election period. Funding for forestry ETS services expires on 30 June 2023. If the implementation of second tranche of cost recovery is delayed, the operational costs currently committed by Te Uru Rākau – New Zealand Forest Service, including the costs associated with the IT system Tupu-ake, will be a significant cost pressure from FY23/24 onwards. This

would result in a funding gap that would need to be addressed through an alternate funding approach (for example, further Crown funding).

The proposed cost recovery settings will be implemented through amendments to the Climate Change (Forestry Sector) Regulations 2022 and publicly notified in the New Zealand Gazette. The changes will come into effect mid-October 2023. MPI will notify forest owners with land registered in the ETS of the new rates and update existing forms and other material to include the appropriate rates.

1 Description of current settings

The New Zealand Emissions Trading Scheme (ETS) was created as a policy tool to help meet New Zealand's emissions budgets, domestic targets, and international climate obligations. By pricing greenhouse gas emissions, the ETS incentivises emissions removals through forestry. The ETS is optional for foresters to enter and forestry outside of the ETS also contributes to the above stated budgets, targets, and obligations.

In June 2020 the Climate Change Response (Emissions Trading Reform) Amendment Act 2020 (shortened to 'the Amendment Act' in this document) was passed into law. The Amendment Act made extensive changes to the ETS to increase the incentive for afforestation and to simplify the ETS for participants. Most of the major changes relating to forestry came into effect on 1 January 2023.

Te Uru Rākau – New Zealand Forest Service is undertaking a multi-year work programme to deliver a replacement operating model and technology platform for forestry in the ETS. The business case detailing this programme signalled significant cost recovery for services provided would be required to sustainably support the funding of this programme and the wider forestry ETS. The new ETS online system, Tupu-ake, supports Te Uru Rākau – New Zealand Forest Service in administering forestry ETS participation in accordance with the updated Act and regulations once fully implemented. It also helps enable participants to comply with their obligations through improved tools such as providing the ability to calculate a participant's emissions return, based on the information in the system. The Tupu-ake system went live on 24 January 2023 to support the new requirements laid out in the legislative amendments.

There has been a significant increase in forestry ETS participant numbers since mid-2022 (from approximately 2,500 to approximately 3,900 participants). In the same period, forest area registered in the ETS has increased from approximately 390,000 to 540,000 ha. These increases have been driven by the increasing benefits participants can receive, primarily NZUs, which have gone from a low of under $2 per NZU in 2011 to a high of $86.60 in November 2022. There was also a drive to register before the averaging accounting method came into effect. The average total annual allocation to post-1989 participants between 2018 and 2022 was 10.8 million NZUs, valued at $556,200,000 (using a May 2023 spot price of $51.50).

The cost of running the ETS system is estimated to be an average of $29.8m annually. This has changed from an original estimate of $16.9m as a result of rescoping and identifying further resources required to effectively implement the legislative and regulatory requirements of the ETS. The key elements of the cost increase are additional staff and IT costs required to administer the required service to participants.

Cabinet noted on 15 March 2023 [DEV-23-MIN-0022] that MPI's cost recovery principle of equity deems it fairest that ETS participants should bear the costs of funding the scheme's administration, as they are the direct financial beneficiaries of the scheme. Fees in the

forestry ETS were last updated in 2011 and do not reflect the cost to provide the relevant services. Prior to this review of the fees, only an estimated $0.5 million of the total $29.8 million was recovered.

Fees in the forestry ETS have not been updated since 2011. Recently, the impetus to update fees and increase cost recovery has grown due to increased costs, largely because:

- The number of registered post-1989 participants in the forestry ETS has increased significantly, from 2287 on 31 December 2021 to 3900 on 31 March 2023, an increase of 70.5% in little over a year.

- Climate Change Response Act 2002 was amended between 23 June 2020 and 1 January 2023, including major changes to the forestry ETS, such as averaging accounting, input returns and permanent forestry. The changes necessitated replacement of the forestry ETS IT system, which was no longer fit for purpose.

Cabinet agreed in [LEG-22-MIN-0223] to increase seven core service fees and implement two new core service fees through tranche one of this review. Tranche one fees were implemented on 12 January 2023 and are expected to recover $1.9 million per annum on average.

To enable full recovery of costs chargeable to forestry ETS participants under fee-setting guidelines, a second tranche of cost recovery is required.Tranche two of cost recovery proposes new fees for 22 existing services (in addition to the nine tranche one fees) and a new annual charge based on an aggregation of six cost recoverable component items. The proposed fees and charge will increase total annual cost recovery to approximately $18.9 million[1] on average from forestry ETS participants. Once approved, the changes to cost recovery would increase the proportion of participant funding from approximately 6% to 63%, reducing the current dependence on government funding.

2 Cost Recovery Principles and Objectives[2]

MPI applies four cost recovery principles to determine the best approach to situations:

- *Transparency* – costs are transparent
- *Justifiability* – costs are reasonable
- *Efficiency* – net benefits are maximised
- *Equity* – costs are fair

These principles are set out in MPI's cost recovery guidelines,[3] and various MPI statutes. The principles are also consistent with guidance published by the New Zealand Treasury and the Office of the Auditor-General. The principles build on each other with Transparency and Justifiability providing a foundation to the consideration of, and sometimes trade-offs

1 Statistics including estimated annual cost recovery revenue, annual expenditure for the ETS, and cost recovery proportions & percentages throughout this paper are based on averages forecasted over the next three year financial cost recovery period from FY 23/24 to FY 25/26 and assume implemtation from 1 October 2023.

2 A principle is a general rule that should be used to guide cost recovery design, a feasible option must meet the stated principles. An objective is more of a goal that a specific cost recovery proposal should meet, the recommended option does not need to meet all of the objectives.

3 https://www.mpi.govt.nz/dmsdocument/30855/direct

between, Efficiency and Equity. Essentially, MPI can cost recover only if it has first sufficiently met the Transparency and Justifiability principles.

The Efficiency and Equity principles state that the beneficiaries of a service should generally pay for that service. That is, beneficiaries pay 100% of costs of a service they use unless there is a strong efficiency or equity reason for why they should not. Efficiency is about maximising benefits and minimising costs.

Costs should be charged to those who benefit from the service and/or whose behaviour generates the need for the service. Equity involves value judgements. It will normally be considered fair that beneficiaries or those whose behaviour generates the need for the service pay (in line with the Efficiency principle), but there may be reasons why governments – local or central – might want to make a contribution. This could be because governments want to support small businesses or emerging industries, or because parties cannot afford to pay, and governments would rather not see parties stop operating. Additional information on the principles and how they relate to each other is available in Appendix 1.

Cost Recovery Objectives

There are five key objectives of this cost recovery proposal:

1) Ensure charges for services reflect the costs of providing them (equity and efficiency).
2) Promote consistency by using a common approach to cost recovering for services of a similar nature and cost structure (efficiency).
3) Maintain simplicity of charges, by using fees and annual charges where appropriate.
4) Provide incentive for MPI to perform the service efficiently and within the standard timeframe.
5) Minimise Crown funding requirements to maintain the ETS.

3. Policy Rationale: Why a user charge? And what type is most appropriate?

Fees in the forestry ETS had not been adjusted since 2011 while the cost of administering the system has increased, due to the increasing number of participants and the need to develop new administrative IT systems. Cabinet agreed in December 2022 [LEG-22-MIN-0223] to update existing cost recovery for the forestry ETS.

As stated above, if tranche two is successfully implemented, MPI will shift from recovering 6% to 63% of the costs associated with running the system.

The remaining 37% of costs incurred in the administration of the ETS (approximately $10.9 million per annum[4]) will continue to be met through Crown funding. This portion of the costs represent the wider administrative and regulatory tasks required to provide for the operation of the ETS. In meeting these costs the Crown is paying for certain services where cost recovery is not consistent with the legislation, or there is an overall public benefit provided. Examples of these services include:

- Policy advice by teams across government.

[4] This is based on current participation rates and effort associated with the related service provisioning. This could change as participation increases or decreases.

- Meeting the costs of prosecution activities to ensure the ETS is robust.
- The provision of general education material including web pages and guidance.
- Ensuring the ETS is assisting New Zealand to meet its domestic environmental targets and international obligations.

It is considered appropriate that the portion of the costs relating to ensuring the consistent and fair regulatory function of the ETS is borne by the Crown.For costs that are to be recovered, the appropriate type of charge to use depends on whether the service is a private good or club good.

Private good - fees

Fees are used for private good – services that are of direct benefit to individual businesses. This includes services like registering as a participant. The benefit of registering as a participant is the potential to receive NZUs. The benefits of NZUs are received by the individual participant rather than all participants as a group, or the wider public. Fees have been categorised as core or non-core based on the scenarios where they are required and the predicted frequency of participant requests. Core services are those that are required to comply with the legislation, such as mandatory emissions returns, non-core services are elective services that a participants may choose to do such as reconfiguring land.

The timeframes for the provision of fee-based services, as outlined in the tables below, were calculated using the time taken to complete each service. Processing times are based on the historic average time required to provide each service where data is available. Estimates are used for new services where data is unavailable. All processing times are predicated on business knowledge and experience gained through operating the system. While it is expected that the new Tupu-ake system will improve efficiency in some areas, complex processes such as land assessment will continue to take significant time to complete and will therefore not significantly benefit from systematic efficiency gains. See Tables 1 and 2 for a list of the proposed service fees.

Club good – annual charge

Annual charges pay for club goods – activities that benefit sectors or entire groups of businesses. Monitoring and compliance activity, for example, helps ensure that the forestry ETS is robust and protects value for all participants. The IT systems which underpin the operation of the forestry ETS, likewise, benefit all forestry ETS participants

This impact statement also includes a new annual charge comprised of six existing components. All forestry ETS participants would be charged based on the amount of land they have registered in the scheme. The introduction of an annual charge to the forestry ETS is proposed to recover the costs of providing “club goods” (services that provide benefits to participants as a whole) or where charging costs as fees would create problems such as natural justice issues.

Including an annual charge is an economically efficient way to spread the costs of value adding activities across beneficiaries in proportion to the benefit in NZUs they receive. This benefit is primarily determined by a participant’s forest size. This is because the time taken to support the forester is likely influenced by the size of their land holding for many components of the annual charge. See table 3 for a list of the proposed annual charge items.

The annual charge proposed is $30.25 per hectare (ha) and would be charged at the beginning of each financial year, covering the year ahead. The first year of implementation

(2023) will run slightly differently, with participants being charged from the date the regulation amendments come into force (mid-October), not for the entire financial year.

An annual charge will impact forest types and accounting methods differently. We expect this to be most pronounced for those forests registered in averaging, as these forests have two clear periods: below the average age (and receiving units) and above average age, or on the subsequent rotation (and without unit entitlements or obligations if the land remains forest land).

As it stands, there is no forest above the average age registered in the ETS under averaging accounting. Therefore, there is no immediate impact on these participants

As the averaging method was first introduced on 1 January 2023, there is only a small amount of land currently registered under the method. This is expected to increase as new forests registering in the ETS from 1 January 2023 can only join using averaging accounting or permanent forestry. It is currently unclear what the use of these enduring services will be by participants with averaging forests and how this will change as the forests move from below to older than the average age. We will seek to revaluate the annual charge for these participants in the future once more data on participant behaviour and forests registered into averaging is available and prior to trees reaching the average age (i.e. 16 years).

Assessment of proposal against objectives

Objective	Assessment against proposal
Transparency – costs are transparent	**Strong alignment.** The costs for each of the services borne by the users are based on an average time (and therefore cost) to complete the service. The cost of each service will be publicly available. For the annual charge, it is clear what components need to be charged for, why this is the case, and how much the forestry ETS participant will need to pay.
Justifiability – costs are reasonable	**Strong alignment.** Fees had not been adjusted since 2011 while the cost of administering the system has increased, due to the increasing number of participants and the need to develop new administrative IT systems. Cabinet noted on 15 March 2023 [DEV-23-MIN-0022] that MPI's cost recovery principle of equity deems it fairest that ETS participants should bear the costs of funding the scheme's administration, as they are the direct financial beneficiaries of the scheme.
Efficiency – net benefits are maximised	**Strong alignment.** The charge and fees are split out based on private vs club goods. All post-1989 participants will contribute to club goods, while only those that use the services will need to pay service fees.
Equity – costs are fair	**Alignment.** All users of the system receive financial benefit from voluntarily participating. Cabinet [DEV-23-MIN-0022] noted that MPI's cost recovery principle of equity deems

	it fairest that ETS participants should bear the costs of funding the scheme's administration, as they are the direct financial beneficiaries of the scheme. Charges directly reflect the costs of providing services, by calculating fees based on time to complete the service. Māori forest owners are acknowledged as being disproportionately affected by any new or increased costs for advisory services (following up on applications and seeking clarification). This issue is discussed in detail in section 5.

Assessment of alternatives

MPI considered the following alternatives to the proposed fixed fees and annual charge:

Alternative	Assessment
Variable fees	Retaining a variable charge could incentivise fee payers to submit correct and complete information, to minimise costs. Against this, a variable charge may reduce the incentive on Te Uru Rākau – New Zealand Forest Service to efficiently complete processes within the standard timeframes and is less certain for participants. Te Uru Rākau – New Zealand Forest Service has reviewed historic data for the proposed fixed fees and considers that the time the fees are based on will limit any risk of participants paying for services they will not benefit from.
Tiered fees vs fixed fees	For the two services with proposed tiered charges, setting one fee for all forest sizes at an average cost was considered. However, this would be less equitable, with smaller foresters paying a far larger share of the costs than they should, given the proportionately greater time (and therefore cost) to provide these services for larger forests.
Annual charge vs fees	Charging the components of the proposed annual charge as fees was considered. However, this would have raised natural justice issues and lead to disincentivising various interactions with valuable services. This would negatively impact efficiency of the ETS and create inequitable scenarios, which goes against the cost recovery principals. These annual charge line items were also defined as club goods which provide benefit to all ETS participants and were non-rival – meaning it was not possible to identify per-instance scenarios where individuals could be charged specific amounts to recover costs. Therefore, annualised cost recovery across all ETS participants based on the size of forest land they have in the ETS was preferred, as this determines the level of benefit they receive through NZUs.
Alternative approaches for recovering IT costs	IT systems could be cost recovered as an overhead contributing to the hourly charge out rate. If IT costs were allocated to services and service volumes turned out to be lower/higher than anticipated, then there would be significant deficits/surpluses which would look to be carried through to service users in the next fee reset. Therefore, we proposed allocating IT costs to the annual charge to be paid on a per hectare basis. As total hectares per participant in the ETS is more stable and predictable than forecast service volumes, we expect that this approach will generate more predictable and reasonable charges through time while also having some relationship to demand, as those with more hectares use services more frequently.

	The IT cost represents not only the underpinning infrastructure to all the services but also involves the capacity for better satellite imagery to speed up and improve decision making including around emission return assessments. One approach would be to allocate the portion of IT costs as part of fees for specific services the IT system supports. However, again, the uncertainty around forecast volumes carries potentially large inefficiency and inequity issues between fee-settings. Allocating these costs to an annual charge per hectare does not allocate costs perfectly as some participants could gain more benefit from the IT systems than others, but on balance, we consider that this disadvantage is mitigated as participants with more hectares do use relevant services (such as emission returns and registering/adding land) more frequently and any remaining disadvantage is outweighed by the advantage of predictable and reasonable charges through time.
Alternative approaches for recovering decision review costs	Many alternatives were considered regarding the annual charge for the costs of decision review processes. One option was to charge for each review. This option would likely discourage participants from seeking reviews, even where the participant is correct in seeking a review, raising natural justice issues. Another option would have been to allocate shares of the costs of reviews to registering and adding land, emission returns etc. This has the advantage of not creating financial disincentives to review associated natural justice issues, and targets one of the likely factors attributing to the frequency of reviews (frequency of service uses). This solution can only partly target the other factor (land size) as only the registering and adding land services have any variation with land size. Additionally, it is likely to be administratively cumbersome to generate cost shares that apply to different services relative to the number of reviews that occur. A third option is including the cost of reviews in the annual charge. This has the advantage of avoiding the financial disincentives and natural justice issues while minimising administration costs and targeting one of the main factors relevant to demand for reviews (the size of land). The disadvantage of this approach is that it would not consider frequency of service use as well. On balance, we prefer to include the cost of reviews in the annual charge as it is the most efficient and justifiable approach available.
Alternative approaches for recovering compliance costs	MPI considered whether the costs for compliance services could be charged as fees to individuals when involved in compliance matters. This raised a range of potential issues, as well as practical implementation limitations. MPI recognises that this may be considered inequitable for participants who are never directly involved in compliance matters. However, we note that all ETS participants benefit from the maintenance of a high-quality system where compliance issues are efficiently and effectively managed by Te Uru Rākau – New Zealand Forest Service. Therefore, this is best considered a club good and should be recovered through the proposed annual charge. MPI has not identified reasons why taxpayers should continue funding what has become a billion-dollar industry and, so, no alternatives have been developed that involve Crown funding for the cost-recoverable services identified. However, we do note that should tranche two proposals be accepted, one third of forestry ETS costs will continue to be funded by the Crown. MPI welcomes submissions in this area and will consider alternative options if equity issues are identified.

MPI did not consider an intermediate level of cost recovery to be a viable alternative option. The operational costs currently committed by Te Uru Rākau – New Zealand Forest Service, including the costs associated with the IT system Tupu-ake, will be a significant cost pressure from FY23/24 onwards. Funding for these services expires on 30 June. Partial implementation of tranche two e.g., to recover only 35% of costs instead of 63%, would result in a funding gap for MPI that would need to be addressed through an alternate funding approach (for example, further Crown funding).

4. Level of proposed fees and their cost components

The first step of the cost recovery process was to define the services that should be included in scope for tranche two. This was done by determining which services primarily provide benefit for forest owners in the ETS. Based on this assessment, the services included mainly benefit forest owners and provide minimal benefits to the wider sector or public. These services were then further assessed as to whether they were private or club goods.

Proposed fees are calculated based on the standard processing time for each service at the standard hourly rate. Fixed fees are predominantly proposed as these provide certainty for forestry ETS participants, are efficient to implement, and standardise the level of effort required to provide the service regardless of factors such as forest size. Tiered fees are proposed for two services based on the area of forest that is being assessed as this is the key driver of the time taken, and therefore cost, of completing the service.

The hourly rate of $165 is based on the initial rate of $132.88 set in 2011 cost recovery, adjusted for inflation. Using the consumer price index, $132.88 in quarter 2 of 2011 equates to $163.47 in quarter 2 of 2022 (an annual inflation rate of 1.9%). Using an MPI cost index, $132.88 in quarter 2 of 2011 is $159.96 in quarter 2 of 2022 (an annual inflation rate of 1.7%). The $165 rate is also in line with the base hourly rate for similar services in other regulatory systems administered by MPI.

The standard approach for calculating fees are multiplying the hours required to complete a service by the hourly rate. For example, to calculate the fee for Service 1 ‘Request waiver from collecting Field Measurement Approach (FMA) forest info – Temporary’, the 2.5-hour processing time is multiplied by $165 providing a fee of $412.5.

There is a small number of exceptions to this methodology where the fee charged for forests under 10 ha is proposed at a lower cost to reduce the impact on smaller foresters, which is aligned with tranche one.

MPI will actively review and monitor the implemented cost recovery against risks of over or under-recovery through regular reviews. For more information on this process, please refer to Section 9: Monitoring & Implementation.

Tables 1, 2, and 3 below set out the proposed fees for tranche two. These are additional to the eleven fee services introduced in tranche one. Please refer to Appendix 3 for a more detailed breakdown of each service including an expanded description, predicted volumes, information on why each fee was determined for its category, and how the fee was calculated. Appendix 3 also includes more information on core and non-core services, and the annual charge.

Core service fees

Core service fees are defined as services forestry ETS participants are required or likely to use while a part of the scheme. Core service fees were grouped based on high volumes of historic and predicted frequency of use. For a more detailed breakdown of services and the annual charge including volume estimates, please refer to Appendix 3.

Table 1 Core service fees

Service number	Service	Fixed fee
1	Request waiver from collecting Field Measurement Approach (FMA)[5] forest info - Temporary	$412.50
2	Request waiver from collecting FMA forest info - Permanent	$412.50
3	Request time extension	$165.00
4	Classify FMA forest - Assign Class	$165.00
5	Classify FMA forest - Change Class	$2722.50
6	Request FMA sample plot locations for collecting FMA information	$412.50
7	Request updated sample plot locations for collecting FMA information	$412.50
8	Apply to reconfigure forest area(s)	$6600.00
9	Apply to change registered activity	$742.50
10	Register standard and permanent post-1989 Land Status Notice	$330.00
11	Apply to deregister as the owner of forest - Post 1989	$577.50
12	Submitting an emissions return processing for the activity of permanent post-1989 forestry	$165.00
13	Preparation or completion of a Failed Notice	$1650.00
14	Notification of a transmission of interest relating to a permanent post-1989 forest	$990.00
15	Application to register a permanent post-1989 forest	0-9ha: $488.89 10-49ha: $1815.00 50-99ha: $1980.00 100-499.9ha: $2640.00 500+ha: $4125.00

5 The Field Measurement approach (FMA) is the compulsory method for calculating forest carbon stocks for participants with 100 ha or more of post-1989 forest land registered in the ETS.

16	Adding one or more Carbon Accounting Areas for a permanent post-1989 forest	0-9ha: $88.89 10-49ha: $1815.00 50-99ha: $1980.00 100-499.9ha: $2640.00 500+ha: $4125.00

Non-core service fees

Non-core services are those services that forestry ETS participants are unlikely to interact with and will only be required under specific circumstances. Fees defined as non-core were grouped based on low volumes of historic and predicted future use. For a more detailed breakdown of services and the annual charge including volume estimates, please refer to Appendix 3.

Table 2 Non-core service fees

Service number	Service	Fixed fee
17	Apply to offset deforestation – Pre-1990 Land	$5775.00
18	Apply to offset deforestation – Post-1989 Land	$7425.00
19	Apply for exemption from deforestation obligations - Under 50 ha pre-1990	$1650.00
20	Apply to suspend accounting on land cleared by a temporary adverse event	$4207.50
21	Notify offset deforestation complete for pre-1990 forest (release criteria notice)	$247.50
22	Apply to add more land to an offset deforestation application for pre-1990 forest	$5775.00

Annual charge components

This section sets out the proposed annual charge broken down by the six components Te Uru Rākau – New Zealand Forest Service provides to administer the forestry ETS. Annual charges pay for club goods – activities that benefit all sectors or groups of businesses as a whole. The monitoring and compliance activity, for example, helps ensure that the forestry ETS is robust and protects value for all participants. The IT systems which underpin the operation of the forestry ETS, likewise, benefit all forestry ETS participants. Annual charge component services were apportioned based on the forecast costs associated with each component divided by the forecasted volume of forest land in hectares registered in the ETS.

Table 3 Component annual charge services

Service number	Service	Fee
23	Removal of Land Status Notice	0.8% of proposed annual charge ($0.24 per ha)

24	Request Review of a Decision	15.6% of proposed annual charge ($4.71 per ha)
25	Inter-agency reporting –post-1989 forest land only	7.3% of proposed annual charge ($2.21 per ha)
26	Compliance management	18.8% of Proposed annual charge ($5.69 per ha)
27	Administration and management of enquiries	12.5% of Proposed annual charge ($3.78 per ha)
28	IT system	45% of Proposed Annual Charge ($13.61 per ha)
Total Annual Charge	Sum of all annual charge components payable (rounded to the nearest cent)	$30.25 per ha

5. Consultation

Overview of submissions

MPI released a Discussion Document[6] to publicly consult on the proposed changes to cost recovery for participants in the ETS. Consultation ran for six weeks between 22 March and 3 May 2023 and included a two-week extension at the request of participants.

During this time 75 submissions were received. Feedback was received from 30 individuals, 32 businesses, seven Māori organisations, one iwi and multiple industry bodies.

All submissions were analysed, and high-level themes were identified from each submission. These themes and summary comments, organised by frequency of theme from high to low, are summarised in Table 4.

Table 4 Summary of consultation themes

Theme	Summary comments
Annual charge methodology	Request some services under annual charge be service fees, oppose per ha methodology for charging annual fee, or oppose annual charge
Opposing additional fees	General opposition to fees due to timing, impacts of fees on the sector, or ratio of Crown to forestry ETS participant funding
Exclusions	Requests for exclusions (particularly small forests, native forests, and pre-1990 forests)
Service fee methodology	Concerns regarding the inefficiency of the system and the impact on service fee costing.
Scale of cost recovery	Support increase in cost recovery but not to the scale proposed. Scale of cost recovery does not adequately reflect public good provided through forestry.

[6] Forestry in the ETS: Proposed updates to cost recovery tranche two (mpi.govt.nz)

Equity	Concerns regarding impact on Māori, small foresters, and farmers from the increase fee structure
Impact on investment	Concern for impact on investments and fees disincentivising participation in the forestry ETS
Management of the ETS	Propose that the service model is inefficient, concern that fee structure does not align with other government priorities (i.e. afforestation)
Impacts on Māori	Concern about disproportionate effects on Māori
NPV analysis	Disagree with assumptions used in modelling

Proposed responses to cost recovery consultation themes

After analysis of the consultation comments, MPI believes that proceeding with the proposed fees and charge methodology is the most fair and equitable way to recover costs from participants. The rationale for these decisions and responses to consultation feedback are provided in Table 5.

Table 5 Response to consultation feedback

Theme	Summary of feedback	Response
Annual charge methodology	Oppose inclusion of some services in the annual charge (particularly inter-agency reporting and compliance management)	No change: 1) Services such as inter-agency reporting and compliance management are required for the effective end-to-end running of the ETS including components administered by other agencies. The system is administered by the Environmental Protection Agency, who also require performance reporting. This is in the best interests of all participants and therefore fair to pay. 2) Including services such as review of decisions as user pays would be a prohibitively high burden on individual participants which would go against natural justice
	Propose all fees should be user pays	No change: For all fees to be user pays does not recognise the collective benefit participants receive from the relevant services being delivered and/or through the effective running of the ETS.
	Opposition to “per hectare” as metric and scale of annual charge (including services covered)	No change: The annual charge components were considered as per use fees. Implementing this would have raised natural justice issues and disincentivised interactions with valuable services, devaluing participation in the ETS. This would negatively impact the systems overall efficiency and create inequitable

		scenarios and therefore act against the cost recovery principals. The annual charge components were also defined as club goods as they provide benefit to all ETS participants. While all components provide benefits, it is not possible to identify consistent per-use scenarios required when developing fees. Also, in some instances, the work required in calculating a fee would be worth more than the service provision, which goes against the cost recovery principles. The annual charge is required to provide income to cover the costs of administering the ETS and maintaining system integrity. Annualised cost recovery across all ETS participants based on the size of forest land they have in the ETS was preferred, as this determines the level of benefit they receive through NZUs.
Opposing additional fees	Do not think additional fees are appropriate	No change: Appropriate to increase cost recovery due to cost to administer the service to provide benefit to participants from participating in the scheme. Cabinet noted in [DEV-23-MIN-0022] that MPI's cost recovery principle of equity deems it fairest that ETS participants should bear the costs of funding the scheme's administration, as they are the direct financial beneficiaries of the scheme.
	Propose participants should be able to exit without being subject to fees	No change: Participants will be notified of the finalised fee changes when they have been signed off (approximately June or July 2023). Participants have until mid-October 2023 to deregister from the forestry ETS if they do not wish to be subject to the fee structure. The Crown will ensure participants are aware of how they can exit the forestry ETS when communicating about the fee structure. As per standard process with any deregistration participants would be required to surrender any units they have accrued.
Exclusions	Propose small forests should be exempt from paying annual charge	No change: Annualised cost recovery across all ETS participants based on the size of forest land they have in the ETS was preferred, as this determines the level of benefit they receive through NZUs. In all modelled scenarios the net present value of a forest remains above 85% of forecast value over 50 years after the tranche two charges are introduced, meaning there is strong private financial benefit from participating in the forestry ETS.

	Propose exempting not-for-profit organisations	No change: Likely that the number of Not for Profit (NFP) in the ETS is so small that it outweighs the additional costs of administration. We will monitor the number of NFP participating in the industry in the coming years.
	Propose fee waiver for IT system breakdown	No change: Existing legal ability to wave or refund fees when required.
	Propose forests under averaging should be exempt from paying annual charge	No change: As it stands, there is no forest above the average age registered in the ETS under averaging accounting. Therefore, there is no immediate impact on participants under averaging accounting. We will seek to revaluate the annual charge for these participants in the future once more data on participant behaviour and forests registered into averaging is available and prior to trees reaching the average age (i.e., 16 years).
	Propose permanent forests should be exempted	No change: While the government encourages permanent forestry, permanent forest owners still use the ETS system and therefore should contribute to the administration costs. The proposed costs are not a significant barrier to transferring to permanent forestry and modelled NPV remained positive in all scenarios.
	Propose native forests should be exempted	No change: While the government encourages native forestry, native forest owners still use the ETS system and therefore should contribute to the administration costs. The proposed costs are not a significant barrier to planting native forests and modelled NPV remained positive in all scenarios.
	Propose pre-1990 forests should be exempt from paying annual and service charges	No change: Pre-1990 forests are exempt from annual charges as they are not included as a part of the system. However, service fees align with active choices that the forest owner makes and require administrative time to process. Therefore, these services are cost recovered.
Service fee methodology	Propose creation of an independent review of charges	No change: Cost recovery at MPI is reviewed through standard internal processes and confirmed though Cabinet.
	Propose scaled or banded rather than fixed fees – especially because fixed fees do not reflect quality of application and will disincentivise foresters	No change: Operational complexity precludes charging variable fees outside of where they are currently used.

	Propose increased transparency on how service fees were established	No change: Proposed fees are based on the standard processing time for each service at the standard hourly rate of $165.00. Fixed fees are predominantly proposed as these provide certainty for ETS participants, are efficient to implement, and the level of effort required to provide the service is standardised regardless of factors such as forest size. Tiered fees are proposed for two services based on the area of forest that is being assessed as this is the key driver of the time taken (and therefore cost) to complete these services. There are a small number of exceptions to this calculation methodology where the fee charged for forests under 10 ha is proposed as a lower cost to reduce impact on small foresters (for example 0-9 ha service 15 *Application to register a permanent post-1989 forest* in the consultation document Forestry in the ETS: Proposed updates to cost recovery tranche two MPI Discussion Paper No: 2023/05 (page 7)). The proposed fees are based on historical average processing time and estimated effort required by the business. The amount of effort required will be reviewed in line with the process set out in Section 10. The new IT system has been implemented to increase processing efficiency, therefore these service fees may reduce over time as these efficiency gains are realised. Whenever there is a change to the price, the process and justification will be explained transparently.
	Propose creation of an Oversight Body	No change: The process is overseen using the existing checks and balances in place within MPI as a government entity. There is no precedent for establishing oversight bodies for cost recovery mechanisms and therefore has not been deemed necessary for this process.
Scale of cost recovery	Over emphasis on the NZU price and its impact on cost recovery	No change: NZU price does not form the basis of cost recovery. Cost recovery is based on recovering the costs incurred in the delivery of services. If the NZU price changes this will not change the scale of cost recovery or level of service provided.
	Propose ratio of participants / taxpayer cost recovery should be flipped – based on the recognition of the public good	No change: Cabinet noted in [DEV-23-MIN-0022] that MPI's cost recovery principle of equity deems it fairest that ETS participants should bear the costs of funding the scheme's administration, as they are the direct financial beneficiaries of the scheme. Fees in the forestry ETS were last updated in 2011 and do not reflect the cost to provide the relevant services. The

	forestry provides to all New Zealanders	proposed fees and ratio of cost recovery is reasonable as it reflects the significant value provided to the sector and the investment of the taxpayer to administer the ETS to date. To provide this service so that the sector can take advantage of this value opportunity, the Crown needs to recover the costs of this service. The cost recovery implementation will be reviewed once every three years as set out in Section 10. This will include an assessment of whether the fees constituted an over or under recovery of costs.
	Propose cost recovery does not recognise the contingent liability attached to NZUs	No change: The contingent liability attached to NZUs is a part of each individual business' cost benefit analysis for participating in the ETS. The proposed fees are required to continue administering a high integrity system and do not relate to the profitability of NZUs over time.
	Propose introducing a ceiling cap to what any one entity can face	No change: The proposed fees are required to continue administering a high integrity system. Beyond the annual charge, users only incur costs for the services they undertake.
Equity	Propose new fees put foresters at a disadvantage against other rural land users	No change: ETS system decision and outside the scope of the consultation
	Propose polluters should also be contributing towards cost recovery (transaction fee for emitters using ETS)	No change: ETS system decision and outside the scope of the consultation
	Cost recovery principles were not followed	No change: Cost recovery governed by cost recovery guidelines issued by the Treasury, the Office of the Auditor General, and by MPI's own guidelines. The discussion document adheres to cost recovery principles and due process was followed.
Impact on investment	Propose cost recovery will disincentivise investment in forestry	No change: In all modelled scenarios the net present value of a forest remains above 85% of forecast value over 50 years after the tranche two charges are introduced, meaning there is strong private financial benefit from participating in the forestry ETS.
Management of the ETS	Propose system is inefficient and complex – review into it to ensure efficiency	No change: System is being iteratively implemented to improve usability and efficiency. Noting that the new IT system has reduced the processing of emissions returns down to 2-3 Business days, compared to an average of 14 days in previous years.

	Concern that if Government changes ETS regulations user charges may change	No change: ETS charges will be reviewed once every three years, or more often if necessary to ensure scale of recovery accurately effects the costs incurred to deliver the service.
	Propose independent enquiry into the system to ensure efficiency	No change: IT system is being implemented iteratively to improve usability and efficiency. Cost recovered revenue will support the ongoing development of the system. Fees will be reviewed to reflect any changes or efficiency gains once every three years, or more often if required.
	Propose inefficiency in service delivery and IT system should be addressed first to reduce cost recovery amounts	No change: IT system is being implemented iteratively to improve usability and efficiency
Impact on Māori	Propose lack of consideration of Crown Forest Licence land that has been returned to Māori under Treaty Settlements and are no longer harvestable under new regulations and / or CFL land that is considering transitioning from exotics to natives	No change: The annual charge will not apply to pre-1990 forest land. Fees for elective services will apply, e.g., to offset deforestation of pre-1990 forest land. There was feedback that Crown Forest License land may not have been appropriately considered under the cost recovery proposals. Crown Forest License land is likely to be pre-1990 forest land and is treated like other pre-1990 forest land. Crown Forest License land that has been acquired through a Treaty Settlement process may receive NZUs held by the Forest Emissions Unit Trust.
	Needs to be greater collaboration between Government and groups such as Te Taumata and Māori to increase afforestation and benefit the country – this work does not do this.	No change: This comment is noted but does not specifically relate to this proposed cost recovery mechanism.
	Propose cost recovery proposal may limit the ability of Māori to exercise	No change: The ETS supports tino rangatiratanga by providing opportunity for economic advancement (whai rawa) for Māori participants through the assurance that NZU integrity is maintained. Strong

	tino rangatiratanga over their whenua, kāinga and taonga	market integrity gives confidence in the market and keeps the market strong. For example, monitoring and compliance activity helps ensure that the forestry ETS is robust and protects value for all participants. Keeping the integrity of NZUs allows forest owners to profit off strong NZU prices, therefore all participants who derive benefit from strong NZU prices should pay to uphold the integrity of the system. There is also a specific Māori education workstream within the ETS which aims to increase understanding of the forestry ETS and its costs and benefits.

Overview of Māori consultation and Te Tiriti analysis

In addition to public consultation, MPI undertook engagement to receive feedback specifically from tangata whenua.

MPI reached out to tangata whenua through the following methods:

Post-Settlement Governance Entities (PSGEs) whose settlements could be impacted were prioritised for consultation, followed by iwi as The Crown's treaty partners, and Māori Forestry Collectives.

Consultation with Treaty Partners took a phased approach with intent to consult directly with Post Settlement Governance Entities (PSGEs) with settlement obligations taking priority and then Iwi/Māori in cyclone affected regions. This group is largely comprised of Tairāwhiti iwi, who were impacted by Cyclones Gabrielle and Hale and therefore had very limited capacity to engage with MPI in the consultation timeframe.

Of the six PSGEs that have settlement obligations in relation to Forestry interests:

- Four of the PSGEs are in cyclone affected regions, three of whom were unavailable to take the call or responded to follow up emails with the last PSGE remarking of their priority of responding to the recent weather events and ensuring whānau and community were taken care of.
- The remaining two PSGEs were called by MPI but did not answer.
- All of the PSGEs contacted were part of the mailing list that were emailed of the proposed ETS cost recovery changes.

The second part of the phased approach to consultation included a number of Māori Forestry Collectives.

Of the three:

- One collective requested an extension until the end of June. An extension was granted for 2 weeks.
- The remaining two collectives were uncontactable.

All other efforts were through the initial email alert with Māori Foresters registered on the ETS.

- MPI also consulted with several iwi. As a number of these have also been impacted by the cyclones, this engagement was also limited. One iwi responded with a request for an extension of the consultation timeframe, which was provided.

- All participants registered in the Forestry ETS were emailed and invited to a dedicated Māori consultation hui. Due to the low response rate and limited availability of tangata whenua, both of which were directly linked to the impacts of the cyclones, MPI could not deliver these hui.
- Te Puni Kōkiri, Te Arawhiti, and Te Tumu Paeroa were emailed at different phases of the cost recovery development to inform them of the proposal and seek feedback. Te Arawhiti provided feedback on both tranche one and tranche two. Te Tumu Paeroa made a submission during the tranche two consultation period.
- Despite MPI's efforts to consult with Māori who have existing interest in forestry, Māori land trustees owning blocks with the potential for future forestry, and claimant groups who may receive land with forestry potential, these stakeholders are extremely difficult to identify as MPI has no data that could be used to identify them. As a consequence, emails were sent to the subscribers of the Forestry ETS Alert and the Māori Foresters Group.

This consultation resulted in four responses, which were received verbally through formal hui facilitated by MPI. For various reasons (e.g., Cyclone Gabrielle), most tangata whenua did not have the time or capacity to engage with MPI for consultation. This is reflected in the low number of responses from tangata whenua received during the consultation period.

MPI also received five written submissions on the cost recovery proposal from Māori submitters as part of the wider consultation, all of whom submitted their responses on behalf of Māori organisations, trusts, or iwi as noted above in Table 4.

In total, there were nine responses from Māori organisations. Within these submissions there were explicit statements opposing the introduction of the new fees and three requested more time to allow them to respond. Four of the nine submissions recognised the need for cost recovery, or agreed with some service fees, but none support all of the proposed changes. Three of these submissions directly challenged the cost recovery rationale by arguing that whilst participants receive a private benefit from the ETS, the Government also receives a public benefit.

Impacts identified through consultation feedback

MPI has also conducted a Te Tiriti analysis as part of tranche two consultation. Consultation feedback and the Te Tiriti Analysis identified following key points:

- Māori interests in forestry are significant and very wide-ranging.
- A high proportion of Māori land is unsuitable for economic development. Whenua Māori tends to be in lower capability land use classes therefore, it has low versatility of use.
- The complexity of Māori ownership structures, combined with the difficulty and cost associated with obtaining quality information on Māori land and the technical nature of land use information, mean that Māori are more likely to require assistance through Te Uru Rākau – New Zealand Forestry Service's elective services.
- Approximately 74% of forested Māori freehold land is indigenous forest established before 1990, and is not subject to the ETS.
- Post-1989 Māori-owned forests are more likely to be disproportionately impacted by costs associated with advisory services. Due to highly technical land use information, difficulties and costs associated with obtaining quality information on Māori land, and the complexity of Māori ownership structures, Māori may be more likely to seek assistance to

comply with ETS rules. Māori with pre-1990 forest land will also face additional costs to deforestation in addition to the existing liabilities (surrendering of NZUs), which are already strong disincentives to deforest. However, it is noted that there is a specific exemption from deforestation liabilities provided for those that own small areas of pre-1990 forest land (less than 50ha). In addition, landowners have the ability to offset the deforestation of pre-1990 forest land under specific criteria.

- There has been a short timeframe provided to Māori with low uptake to participate in the consultation process, with no additional opportunities to participate through the legislative process.
- Some Māori submitters highlighted the need for opportunities to co-design future changes to the ETS.

Recommendations to mitigate impacts on Māori:

- Exempt the elective services for all pre-1990 forests. The liabilities for deforestation (surrendering of NZUs), already disincentivise deforestation, and for Māori the land use options are already notably limited.
- Note that some Māori submitters highlighted the need for opportunities to co-design future changes to the ETS in the future.

It is important to note that pre-1990 forests, which make up the majority of Māori-owned forestry, are exempt from annual charges as they are not included as a part of the system. However, pre-1990 forests will be required to pay the service fees proposed in this cost recovery proposal if it is implemented. These fees will only apply if forest owners choose to use these services, e.g., offsetting deforestation of pre-1990 forest land, which require administrative time to process.

MPI remains consistent with its decision that users who volunteer to be a part of an ETS system that requires time and resource to administrate should contribute to those administrative costs. Therefore, MPI believes that the original proposal should remain unchanged.

MPI acknowledges that this consultation was impacted by the extenuating circumstances of the cyclone. MPI intends to regularly review its Māori Engagement Strategy to undertake earlier and meaningful engagement with tangata whenua in the future.

As reflected through both feedback received from tangata whenua and the impact on Māori identified in Section 2 of this analysis, the principles of Te Tiriti o Waitangi may have been impinged by this cost recovery proposal.

The full Te Tiriti Analysis can be found in Appendix 4.

Impact on area in forestry ETS, domestic carbon stocks, and cost recovery revenue

The consultation feedback noted that some participants may choose to leave the forestry ETS based on these new fees. Consultation feedback indicates smaller forest owners may be more likely to exit as the impact of the fee increase is proportionally higher for these owners (see Financial Implications below). There are approximately 2,480 participants with 50 or less ha of land, holding an approximate total of 48,450 ha. These owners represent 64% of the forest owners in the ETS but only 9% of the total post-1989 forest land area registered in the ETS.

We do not have information available to estimate the percentage of participants who may deregister from the ETS. However, the numbers above show that some fluctuation in the forestry owners under 50 ha will only make a maximum reduction to projected annual revenue of approximately $1.9m.

It is important to note that all post 1989 forest forests within New Zealand's domestic forestry stock contribute towards the Nationally Determined Contribution (NDC) and greenhouse gas targets, irrespective of whether it is registered in the ETS or not. However, we do recognise participants leaving the ETS may change their future land use away from forestry. Modelling over a 50-year period shows that afforestation within the ETS will reduce by a maximum of 5% of forecasted rates, even with low carbon prices (See Section 6).

Impact on availability of NZUs

Participants who are registered in the ETS, and currently choose to not sell NZUs to 'preserve their position' may also deregister from the ETS as a result of the proposed fee increase. This is based on a small proportion of feedback received, where some participants noted that they earn NZUs with no intention of trading them in the market, meaning the new costs involved are not offset by any revenue from unit trading.

While some participants have claimed that they do not sell NZUs to address future surrender requirements if their forest is harvested, it appears that a key factor behind this behaviour is to stockpile NZUs as an asset which increases the wealth of the land and is the "least risk position". This activity is a purely private benefit and MPI's regulatory operations that support the forestry ETS are required regardless to ensure the market maintains integrity irrespective of the level of market participation.

If a number of stockpiling participants decide to exit the ETS, the Crown may see an influx of NZUs surrendered. This positively impacts the Crown's financial position as units previously distributed to forest owners will be returned to the Crown and cancelled at no cost. It is currently estimated that there are approximately 170 million NZUs sitting in private accounts that are effectively inactive, as of 31 March 2023[7].

Any participant who deregisters from the forestry ETS will be required to pay the new fee of $577.50. A participant deregistering from the ETS may have to purchase NZUs to meet their surrender liability if they have sold any NZUs, or another person previously earned NZUs for the participant's land before they transferred their interest to the participant.

Impact on NPV analysis based on proposed options

The modelled NPV in all scenarios remains positive for all forest owners

The services included in tranche two vary between non-elective services which are incurred by all participants (e.g., the annual charges, registration, emission return costs), and elective services where the usage is optional and will vary by participant (e.g., fee services such as the option of requesting a time extension for an emissions return, or requesting a temporary waiver from the FMA approach). As such, the impact analysis has been conducted using two methodologies, a Minimum Impact Scenario including only non-elective costs, and an Elective Impact Scenario which includes estimated usage of elective services. In both scenarios, an NZU value of $60 (representing the spot price in late April 2023) escalating at 2% per annum is used for impact analysis.

7 www.epa.govt.nz/industry-areas/emissions-trading-scheme/market-information/privately-held-units/

Table 7 shows the impact to Net Present Value (NPV) by forest area, under the Minimum Impact Scenario calculated using non-elective services only. These figures represent the minimum impact on foresters from costs recovered as part of tranche two and are modelled over a 50-year period for both averaging and permanent accounting approaches. This analysis is based on NZU revenue only. It did not consider the additional revenue or costs of standard forestry practice such as log sale revenue, or costs of forest establishment or maintenance. The baseline NPV from which the impact is measured contains the non-elective costs and services introduced as part of tranche one in January 2023, such as registration costs and emissions returns for standard forestry.

Note the estimated impacts are only from costs recovered, and do not capture additional administration costs borne by foresters or the associated benefits from services that cost recovery funds. Table 7 can be interpreted as the minimum impact on ETS participants, of ETS participants paying a greater portion of ETS costs, rather than the Government.

Table 7 Minimum Impact to NPV for planted pine and indigenous forest land over a 50-year period using non-elective services only

Cost Recovery Analysis – Minimum Impact (Permanent Forest)											
Species		**Pine**					**Indigenous**				
Area (ha)		**5**	**25**	**75**	**300**	**500**	**5**	**25**	**75**	**300**	**500**
NPV $'000	**Tranche one**	126.2	631.0	1,892.9	10,144.4	16,910.5	33.8	169.0	506.9	1,499.3	2,502.0
	Tranche one with tranche two	123.3	618.5	1,859.6	10,017.7	16,699.8	30.9	156.5	473.6	1,372.6	2,291.3
Reduction in NPV from tranche two	**$**	(2.9)	(12.5)	(33.3)	(126.7)	(210.6)	(2.9)	(12.5)	(33.3)	(126.7)	(210.6)
	%	(2.3%)	(2.0%)	(1.8%)	(1.2%)	(1.2%)	(8.7%)	(7.4%)	(6.6%)	(8.5%)	(8.4%)

Cost Recovery Analysis – Minimum Impact (Standard Forest using Averaging Accounting)											
Species		**Pine**					**Indigenous**				
Area (ha)		**5**	**25**	**75**	**300**	**500**	**5**	**25**	**75**	**300**	**500**
NPV $'000	**Tranche one**	65.5	329.9	994.0	5,247.0	8,747.9	25.2	128.0	388.3	1,157.5	1,932.3
	Tranche one with tranche two	63.5	319.6	963.1	5,123.3	8,541.8	23.1	117.7	357.4	1,033.8	1,726.1
Reduction in NPV from tranche two	**$**	(2.1)	(10.3)	(30.9)	(123.7)	(206.1)	(2.1)	(10.3)	(30.9)	(123.7)	(206.1)
	%	(3.1%)	(3.1%)	(3.1%)	(2.4%)	(2.4%)	(8.2%)	(8.1%)	(8.0%)	(10.7%)	(10.7%)

Table 7 shows that the NPVs remain positive for all forest sizes, with and without the minimum impact of tranche two fees. The percentage reduction in NPVs is larger for indigenous forests, standard forests which have adopted Averaging Accounting, and small

exotic forests. The largest impact (in percentage terms) modelled is for a 500 ha indigenous forest under Averaging Accounting (NPV reduces by 10.7%, from $1,932,300 to $1,726,100).

However, officials do not anticipate many indigenous forests to be registered under Averaging Accounting given that it was primarily designed to work with clear-fell harvest regimes of exotic forests. Noting that Part 3A of the Forests Act limits the harvesting of indigenous forests to selective small coupe harvesting, it is much more likely that indigenous forests would register under the Permanent category. As such, the same 500 ha indigenous forest under the permanent category has a NPV reduction of 8.4%, (from $2,502,00 to $2,291,300).

Table 8 shows the impact to NPV by forest area, under the Elective Impact Scenario calculated using non-elective services and assumed usage of elective services. Several of the proposed services are new services and therefore no historical frequency data exists. In such instances, the assumed usage has been determined by MPI's forecast estimates of volume. These tables represent the typical expected impact on foresters from costs recovered as part of tranche two and are also modelled over a 50-year period for both averaging and permanent accounting approaches. The baseline NPV from which the impact is measured under this scenario contains the costs of both non-elective and elective services introduced as part of tranche one in January 2023.

Table 8 can be interpreted as the typical expected impact on ETS participants, of ETS participants paying a greater portion of ETS costs, rather than the Government paying. However, the impacts for individual participants may be higher or lower than these estimated averages depending on the number of elective services they require.

Table 8 Impact to NPV for planted pine and indigenous forest over a 50-year period under the Elective Impact Scenario

Cost Recovery Analysis – Impact Including Elective Actions (Permanent Forest)											
Species		**Pine**					**Indigenous**				
Area (ha)		**5**	**25**	**75**	**300**	**500**	**5**	**25**	**75**	**300**	**500**
NPV $'000	**Tranche one**	126.1	630.9	1,892.8	10,144.2	16,910.2	33.7	168.9	506.8	1,499.2	2,501.7
	Tranche one with tranche two	122.1	617.0	1,857.4	10,010.6	16,664.1	29.7	155.0	471.4	1,365.5	2,255.7
Reduction in NPV from tranche two	**$**	(4.0)	(13.9)	(35.4)	(133.7)	(246.0)	(4.0)	(13.9)	(35.4)	(133.7)	(246.0)
	%	(3.2%)	(2.2%)	(1.9%)	(1.3%)	(1.5%)	(11.9%)	(8.2%)	(7.0%)	(8.9%)	(9.8%)

Cost Recovery Analysis – Impact Including Elective Actions (Standard Forest using Averaging Accounting)											
Species		**Pine**					**Indigenous**				
Area (ha)		**5**	**25**	**75**	**300**	**500**	**5**	**25**	**75**	**300**	**500**
NPV $'000	**Tranche one**	65.0	329.4	993.1	5,245.5	8,745.2	24.5	127.4	387.2	1,155.7	1,929.0

	Tranche one with tranche two	62.4	318.4	960.9	5,117.0	8,513.3	21.9	116.2	354.8	1,026.3	1,692.2
Reduction in NPV from tranche two	$	(2.6)	(11.0)	(32.2)	(128.5)	(231.9)	(2.6)	(11.1)	(32.4)	(129.4)	(236.8)
	%	(3.9%)	(3.3%)	(3.2%)	(2.4%)	(2.7%)	(10.8%)	(8.8%)	(8.4%)	(11.2%)	(12.3%)

Under this scenario, the NPVs also remain positive for all forest sizes with and without the estimated impact of the tranche two proposed fees and annual charge. The percentage reductions to NPVs are higher under this scenario than the Minimum Impact Scenario due to the inclusion of elective services; however, the majority of the impact remains due to the inclusion of the annual charge. Similar to the Minimum Impact Scenario, the impacts are larger for indigenous forest, small exotic forests, and forests using averaging accounting. The largest impact (in percentage terms) modelled is for a 500 ha indigenous forest under Averaging Accounting (NPV reduces by 12.3%, from $1,929,000 to $1,692,200).

Generally, when modelling NPV impacts for indigenous forests over 100 ha, weighted average FMA carbon tables are used. However, depending on the forests characteristics these tables may underestimate the level of sequestration per ha when compared to standard carbon tables. This underestimation can subsequently lead to an underestimation in revenue earned per ha and, therefore, a disproportionately high impact of the proposed charges and fees. To better isolate the impact of the proposed charges and fees on larger indigenous forests, standard carbon tables are adopted for all forest sizes. The adjusted impact is shown in Table 9 below.

Table 9 Adjusted impact to NPV for indigenous forest land over a 50-year period under the Elective Impact Scenario

Cost Recovery Analysis – Indigenous Species Impact Including Elective Actions											
Indigenous		Permanent					Averaging Accounting				
Area (ha)		5	25	75	300	500	5	25	75	300	500
NPV $'000	Tranche one	33.7	168.9	506.8	2,022.9	3,374.5	24.5	127.4	387.2	1,554.0	2,592.8
	Tranche one with tranche two	29.7	155.0	471.4	1,889.2	3,128.5	21.9	116.2	354.8	1,424.6	2,356.0
Reduction in NPV from tranche two	$	(4.0)	(13.9)	(35.4)	(133.7)	(246.0)	(2.6)	(11.1)	(32.4)	(129.4)	(236.8)
	%	(11.9%)	(8.2%)	(7.0%)	(6.6%)	(7.3%)	(10.8%)	(8.8%)	(8.4%)	(8.3%)	(9.1%)

The NPV impact analysis has been conducted using Pinus Radiata and indigenous forest across a range of forest sizes to demonstrate a broad range of outcomes. However, we note some modelled outcomes will only be relevant to a small number of ETS participants (e.g., a small indigenous forest adopting averaging accounting). Furthermore, it is impractical to demonstrate the impacts across all participant types and there will be situations not considered in the analysis. A full list of modelling assumptions is contained in Appendix 5.

In response to feedback received from submitters on NZU pricing, supplementary analysis has been done at a lower NZU forecasted value of $45 escalating at 2% to show a more conservative outlook. The adjusted impact is shown below:

Table 10 Minimum Impact to NPV for planted pine and indigenous forest land over a 50-year period

Cost Recovery Analysis – Minimum Impact (Permanent Forest)											
Species		Pine					Indigenous				
Area (ha)		5	25	75	300	500	5	25	75	300	500
NPV $'000	Tranche one	94.6	473.2	1,419.7	7,607.1	12,681.7	25.3	126.7	380.2	1,123.3	1,875.3
	Tranche one with tranche two	91.7	460.7	1,386.4	7,480.4	12,471.0	22.4	114.2	346.9	996.6	1,664.7
Reduction in NPV from tranche two	$	(2.9)	(12.5)	(33.3)	(126.7)	(210.6)	(2.9)	(12.5)	(33.3)	(126.7)	(210.6)
	%	(3.1%)	(2.6%)	(2.3%)	(1.7%)	(1.7%)	(11.6%)	(9.9%)	(8.8%)	(11.3%)	(11.2%)

Cost Recovery Analysis – Minimum Impact (Standard Forest using Averaging Accounting)											
Species		Pine					Indigenous				
Area (ha)		5	25	75	300	500	5	25	75	300	500
NPV $'000	Tranche one	48.9	246.9	744.9	3,933.6	6,558.9	18.7	95.5	290.6	866.3	1,447.1
	Tranche one with tranche two	46.9	236.6	714.0	3,809.9	6,352.8	16.6	85.2	259.7	742.7	1,241.0
Reduction in NPV from tranche two	$	(2.1)	(10.3)	(30.9)	(123.7)	(206.1)	(2.1)	(10.3)	(30.9)	(123.7)	(206.1)
	%	(4.2%)	(4.2%)	(4.2%)	(3.1%)	(3.1%)	(11.0%)	(10.8%)	(10.6%)	(14.3%)	(14.2%)

Table 11 Impact to NPV for planted pine and indigenous forest land over a 50-year period under the Elective Impact Scenario

Cost Recovery Analysis – Impact Including Elective Actions (Permanent Forest)											
Species		Pine					Indigenous				
Area (ha)		5	25	75	300	500	5	25	75	300	500
NPV $'000	Tranche one	94.6	473.2	1,419.6	7,607.0	12,681.4	25.3	126.7	380.1	1,123.2	1,875.0
	Tranche one with tranche two	90.6	459.3	1,384.2	7,473.3	12,435.4	21.3	112.8	344.7	989.5	1,629.0
	$	(4.0)	(13.9)	(35.4)	(133.7)	(246.0)	(4.0)	(13.9)	(35.4)	(133.7)	(246.0)

Reduction in NPV from tranche two	**%**	(4.3%)	(2.9%)	(2.5%)	(1.8%)	(1.9%)	(15.9%)	(11.0%)	(9.3%)	(11.9%)	(13.1%)

Cost Recovery Analysis – Impact Including Elective Actions (Standard Forest using Averaging Accounting)											
Species		**Pine**					**Indigenous**				
Area (ha)		**5**	**25**	**75**	**300**	**500**	**5**	**25**	**75**	**300**	**500**
NPV $'000	**Tranche one**	48.4	246.3	744.0	3,932.1	6,556.2	18.0	94.8	289.6	864.6	1,443.9
	Tranche one with tranche two	45.8	235.3	711.8	3,803.6	6,324.3	15.4	83.7	257.2	735.2	1,207.0
Reduction in NPV from tranche two	**$**	(2.6)	(11.0)	(32.2)	(128.5)	(231.9)	(2.6)	(11.1)	(32.4)	(129.4)	(236.8)
	%	(5.3%)	(4.5%)	(4.3%)	(3.3%)	(3.5%)	(14.7%)	(11.8%)	(11.2%)	(15.0%)	(16.4%)

Using the adjusted NZU forecasted price, NPV remains positive for all forest sizes with and without the estimated impact of the tranche two in both the minimum impact and elective services cases. However, the impacts to NPV are larger than under the $60 spot price assumption due to lower revenue received.

6. Afforestation and sequestration analysis

This analysis estimates the reduced level of future afforestation due to the proposed increase in cost recovery, under different NZU price assumptions. It subsequently estimates the decrease in sequestration resulting from reduced afforestation.

Reduction in afforestation, and decrease in sequestration in response to prices

We have based the afforestation response to different market prices on the MPI Technical Paper 'Afforestation Economic Modelling' from November 2021 (the "Technical Paper")[8]. The Technical Paper established two models, one for exotic afforestation and one for indigenous afforestation, which we have used for our analysis. A full list of modelling assumptions is contained in Appendix 6.

Exotic afforestation model

The Technical Paper established an exotic afforestation model to forecast future afforestation based on log prices, carbon prices, and land market value, which impact the profitability of forestry. However, although the paper describes the model, it omits the values of key model coefficients such as the value of logs or land market value. Therefore, these were 'back solved' by using the estimated afforestation results within the paper, along with different NZU prices to simultaneously solve for the value of the missing coefficients.

Exotic afforestation methodology

[8] https://www.mpi.govt.nz/dmsdocument/50302-Afforestation-Economic-Modelling-Report

The methodology to estimate the exotic afforestation impact of tranche two fees is as follows:

1) A baseline level of exotic afforestation is estimated using one of the three NZU price paths (as described in 'Indigenous afforestation model' below) as inputs into the exotic afforestation model.
2) The adopted NZU price path is used to determine the baseline NPV profit for a forester, under a weighted average of permanent and averaging approaches.
3) A post tranche two fee implementation NPV is established using the same NZU price paths, but introducing the proposed tranche two fees.
4) An effective NZU price decrease is calculated, which would yield the same NPV as step three, but under the baseline (tranche one) costs.
5) The updated NZU price path determined in step four is then used within the exotic afforestation model to provide a new estimated level of afforestation.
6) The variance between the afforestation levels in steps one and five is therefore the estimated impact on exotic afforestation from the introduction of tranche two fees.

The logic behind the methodology is that tranche two fees increase the costs for foresters, which has an equivalent impact on profitability as a decline in NZU prices (assuming allocated NZUs are traded immediately). As the NZU price is an input into the exotic afforestation model, an impact to afforestation can be estimated.

Scenarios

As mentioned in the NPV impact analysis section, the services included in tranche two vary between non-elective services which are incurred by all participants (e.g., the annual charge, registration, and emissions returns), and elective (fee based) services where the usage is optional and will vary by participant (e.g., fee services such as the option of requesting a time extension for an emissions return, or requesting a temporary waiver from the FMA approach). The analysis below has focused on the impact of the introduction of non-elective services only. The analysis has also been conducted assuming a weighted average of permanent (50%) and standard (50%) exotic forestry.

Furthermore, the exotic afforestation methodology described above is sensitive to assumptions including the NZU price path and the assumed average size of an additional forest, given the percentage of value loss reduces with economies of scale (as shown by the analysis in Section 5). To illustrate the variability outcome under these assumptions, we have adopted three scenarios:

1) Scenario one:
   a) A real NZU price path of $40 held constant; and
   b) Assumes average marginal exotic afforestation plots of 25 ha.
2) Scenario two:
   a) A real NZU price path of $60 held constant; and
   b) Assumes average marginal exotic afforestation plots of 125 ha.
3) Scenario three:
   a) A real NZU price path of $80 held constant; and
   b) Assumes average marginal exotic afforestation plots of 500 ha.

Forecast NZU prices are particularly uncertain. Selected figures reflect the high and low prices over last 3 years, with $60 being mid-point. The above NZU price profiles are not intended to be predictions, rather to show the impact of NZU price movements (away from recent spot prices) on afforestation.

Exotic afforestation results

Using the methodology described above, the estimated reduction in exotic afforestation from the introduction of tranche two fees (under each NZU price scenario) is detailed within the table below:

Table 12 Modelled variance in exotic afforestation

Exotic Afforestation (ha)						
Years	1 - 10	11 – 20	21 - 30	31 - 40	41 - 50	Total
Scenario one						
Pre-implementation	356,087	356,087	356,087	356,087	356,087	1,780,433
Post-implementation	342,748	342,748	342,748	342,748	342,748	1,713,740
Variance (ha)	**(13,339)**	**(13,339)**	**(13,339)**	**(13,339)**	**(13,339)**	**(66,693)**
Variance (%)	**(3.7%)**	**(3.7%)**	**(3.7%)**	**(3.7%)**	**(3.7%)**	**(3.7%)**
Scenario two						
Pre-implementation	551,582	551,582	551,582	551,582	551,582	2,757,912
Post-implementation	540,273	540,273	540,273	540,273	540,273	2,701,367
Variance (ha)	**(11,309)**	**(11,309)**	**(11,309)**	**(11,309)**	**(11,309)**	**(56,546)**
Variance (%)	**(2.1%)**	**(2.1%)**	**(2.1%)**	**(2.1%)**	**(2.1%)**	**(2.1%)**
Scenario three						
Pre-implementation	753,551	753,551	753,551	753,551	753,551	3,767,756
Post-implementation	743,298	743,298	743,298	743,298	743,298	3,716,490
Variance (ha)	**(10,253)**	**(10,253)**	**(10,253)**	**(10,253)**	**(10,253)**	**(51,265)**
Variance (%)	**(1.4%)**	**(1.4%)**	**(1.4%)**	**(1.4%)**	**(1.4%)**	**(1.4%)**

The analysis shows afforestation reductions ranging from of 51,000 ha to 67,000 ha (1.4% - 3.7% change) over a 50-year period. The reduction is largest for scenario one, which assumes the lowest carbon price and the smallest average marginal afforestation plot.

The subsequent impact on sequestration is detailed within the table below.

Table 13 Modelled variance in exotic sequestration

Sequestration (tonne CO_2-e)						
Years	1 - 10	11 - 20	21 - 30	31 - 40	41 - 50	Total
Scenario one						
Pre-implementation	29,751,035	128,119,958	199,764,582	246,162,665	285,955,343	889,753,583
Post-implementation	28,636,595	123,376,553	192,761,360	237,800,268	276,427,268	859,002,043
Variance (tonne CO_2-e)	**(1,114,440)**	**(4,743,405)**	**(7,003,222)**	**(8,362,397)**	**(9,528,075)**	**(30,751,540)**
Variance (%)	**(3.7%)**	**(3.7%)**	**(3.5%)**	**(3.4%)**	**(3.3%)**	**(3.5%)**
Scenario two						
Pre-implementation	60,166,609	263,620,537	399,387,030	511,325,163	604,247,493	1,838,746,831
Post-implementation	58,933,012	258,287,660	391,882,930	502,195,246	593,767,950	1,805,066,797
Variance (tonne CO_2-e)	**(1,233,597)**	**(5,332,877)**	**(7,504,100)**	**(9,129,917)**	**(10,479,543)**	**(33,680,033)**
Variance (%)	**(2.1%)**	**(2.0%)**	**(1.9%)**	**(1.8%)**	**(1.7%)**	**(1.8%)**
Scenario three						
Pre-implementation	82,197,355	360,148,449	545,627,518	698,553,180	825,500,168	2,512,026,670
Post-implementation	81,078,954	355,317,610	538,862,520	690,351,683	816,106,201	2,481,716,968
Variance (tonne CO_2-e)	**(1,118,401)**	**(4,830,839)**	**(6,764,999)**	**(8,201,497)**	**(9,393,966)**	**(30,309,702)**
Variance (%)	**(1.4%)**	**(1.3%)**	**(1.2%)**	**(1.2%)**	**(1.1%)**	**(1.2%)**

The analysis shows sequestration impacts ranging from 30.3 million tonnes to 33.7 million tonnes of CO_2-e (1.2% - 3.5%) over a 50-year period. Scenario one has the largest forecast reduction to afforestation and sequestration in percentage terms.

Indigenous afforestation model

The Technical Paper established a high-level model for estimating indigenous afforestation based on NZU prices. However, the paper notes that there is limited timeseries data available for indigenous afforestation, and as such, estimates need to be considered indicative only.

Noting this limitation, we have undertaken an impact assessment as the NPV analysis in Section 5 demonstrates that the proposed tranche two fees and charges are estimated to have the largest percentage reduction to NPVs for small indigenous foresters.

Indigenous afforestation methodology

The difference in methodology between indigenous and exotic afforestation arises due to the lack of comprehensive indigenous afforestation timeseries data; and the existence of the One Billion Trees ("1BT") programme which was specifically designed to increase indigenous afforestation, and which early in the programme offered direct grants to foresters to incentivise afforestation.

The resulting indigenous methodology is similar to the exotic methodology, however, undertakes a "marginal" analysis. The methodology is as follows:

1) A baseline level of annual indigenous afforestation is assumed to occur without financial support from 1BT grants or ETS revenues.
2) An additional / marginal level of annual afforestation is assumed to have occurred because of 1BT direct grants and ETS revenues.
3) This marginal level of annual afforestation is expressed as a ha per $NZU by estimating an NZU price that would make the NPV profit for the average forester equal to the upfront 1BT grant.
4) A pre-implementation level of marginal annual afforestation is estimated by multiplying the ha per $NZU amount by one of the NZU price paths as described in the three adopted scenarios mentioned below.
5) The adopted NZU price path is used to determine the baseline NPV profit for a forester, assuming a permanent indigenous forest.
6) A post tranche two fee implementation NPV is established using the same NZU price paths, but introducing the proposed tranche two fees for permanent forestry.
7) Like the exotic model, an effective NZU price path is determined, which would yield the same NPV as step six, but under the baseline (tranche one) costs.
8) This effective NZU price path is multiplied by the ha per $NZU ratio to determine a post-implementation level of marginal annual afforestation.
9) The variance between the afforestation levels in steps four and eight is therefore the estimated impact on indigenous afforestation from the introduction of tranche two fees.

Effectively the approach develops a relationship between the area of afforestation under different NZU prices on a straight-line basis between the base level of afforestation (NZU price of $0) and the base level of afforestation plus the additional / marginal afforestation that has occurred due to 1BT grants but expressed as an equivalent increase in NZU price.

In line with the methodology adopted for exotic afforestation, the analysis below focused on the impact of introducing non-elective services only. However, for indigenous afforestation, our analysis has been conducted assuming permanent indigenous forestry only, due to the prevalence of this type of forestry as opposed to standard indigenous forestry.

Similar to the exotic afforestation methodology, our indigenous afforestation analysis is sensitive to a number of assumptions including the NZU price path and the assumed average size of an additional forest. To illustrate the impact of variability in these assumptions, we have adopted three indigenous afforestation scenarios:

1) Scenario one:
   a) A real NZU price path of $40 held constant; and
   b) Assumes average marginal indigenous afforestation plots of 10 ha.

2) Scenario two:
   a) A real NZU price path of $60 held constant; and
   b) Assumes average marginal indigenous afforestation plots of 20 ha.
3) Scenario three:
   a) A real NZU price path of $80 held constant; and
   b) Assumes average marginal indigenous afforestation plots of 30 ha.

As mentioned above, forecast NZU prices are particularly uncertain. The above NZU price profiles are not intended to be predictions, rather to show the impact of NZU price movements (away from recent spot prices) on afforestation.

Indigenous afforestation results

Using the methodology described above, the estimated reduction in indigenous afforestation, from the introduction of tranche two fees (under each scenario) is detailed within the table below. The Technical Paper notes that given the assumptions in the indigenous afforestation model are skewed towards greater afforestation, the forecasts are likely to systematically over-estimate the afforestation response to NZU prices. Furthermore, given the limited comprehensive data and assumptions required for the model, these estimates need to be considered indicative only.

Table 14 Modelled variance in native afforestation

Indigenous Afforestation (ha)						
Years	1 - 10	11 - 20	21 - 30	31 - 40	41 - 50	Total
Scenario one						
Pre-implementation	75,600	75,600	75,600	75,600	75,600	378,000
Post-implementation	72,005	72,005	72,005	72,005	72,005	360,025
Variance (ha)	**(3,595)**	**(3,595)**	**(3,595)**	**(3,595)**	**(3,595)**	**(17,975)**
Variance (%)	**(4.8%)**	**(4.8%)**	**(4.8%)**	**(4.8%)**	**(4.8%)**	**(4.8%)**
Scenario two						
Pre-implementation	88,400	88,400	88,400	88,400	88,400	442,000
Post-implementation	85,431	85,431	85,431	85,431	85,431	427,157
Variance (ha)	**(2,969)**	**(2,969)**	**(2,969)**	**(2,969)**	**(2,969)**	**(14,843)**
Variance (%)	**(3.4%)**	**(3.4%)**	**(3.4%)**	**(3.4%)**	**(3.4%)**	**(3.4%)**
Scenario three						
Pre-implementation	101,200	101,200	101,200	101,200	101,200	506,000
Post-implementation	98,440	98,440	98,440	98,440	98,440	492,201
Variance (ha)	**(2,760)**	**(2,760)**	**(2,760)**	**(2,760)**	**(2,760)**	**(13,799)**

Variance (%)	**(2.7%)**	**(2.7%)**	**(2.7%)**	**(2.7%)**	**(2.7%)**	**(2.7%)**

The analysis shows afforestation reductions ranging from of 13,800 ha to 18,000 ha (2.7% - 4.8%) over a 50-year period. The reduction is largest for scenario one, which assumes the lowest carbon price and the smallest average marginal afforestation plot.

The subsequent impact on sequestration is detailed within the table below.

Table 14 Modelled variance in native sequestration

Sequestration (tonne CO_2-e)						
Years	1 - 10	11 - 20	21 - 30	31 - 40	41 - 50	Total
Scenario one						
Pre-implementation	1,074,276	7,770,924	16,444,512	21,704,760	23,940,252	70,934,724
Post-implementation	1,023,191	7,401,397	15,662,534	20,672,644	22,801,832	67,561,598
Variance (tonne CO_2-e)	**(51,085)**	**(369,527)**	**(781,978)**	**(1,032,116)**	**(1,138,420)**	**(3,373,126)**
Variance (%)	**(4.8%)**	**(4.8%)**	**(4.8%)**	**(4.8%)**	**(4.8%)**	**(4.8%)**
Scenario two						
Pre-implementation	1,256,164	9,086,636	19,228,768	25,379,640	27,993,628	82,944,836
Post-implementation	1,213,981	8,781,499	18,583,050	24,527,371	27,053,579	80,159,481
Variance (tonne CO_2-e)	**(42,183)**	**(305,137)**	**(645,718)**	**(852,269)**	**(940,049)**	**(2,785,355)**
Variance (%)	**(3.4%)**	**(3.4%)**	**(3.4%)**	**(3.4%)**	**(3.4%)**	**(3.4%)**
Scenario three						
Pre-implementation	1,438,052	10,402,348	22,013,024	29,054,520	32,047,004	94,954,948
Post-implementation	1,398,836	10,118,675	21,412,727	28,262,200	31,173,079	92,365,517
Variance (tonne CO_2-e)	**(39,216)**	**(283,673)**	**(600,297)**	**(792,320)**	**(873,925)**	**(2,589,431)**
Variance (%)	**(2.7%)**	**(2.7%)**	**(2.7%)**	**(2.7%)**	**(2.7%)**	**(2.7%)**

The analysis shows sequestration impacts ranging from 2.6 million tonnes to 3.4 million tonnes of CO_2-e (2.7% - 4.8%) over a 50-year period.

Modelling over a 50-year period shows that afforestation within the ETS will remain above 96% of forecasted rates, even with low carbon prices. Afforestation outside of the ETS will not be impacted.

MPI has a wide range of other work to incentivise afforestation, particularly indigenous species, including:

- Native Afforestation Programme which aims to establish native forests at scale to develop long-term carbon sinks and improve biodiversity. The 5 key workstreams that make up the Programme are the native supply chain strategy; nursery & sector support; research programme; native afforestation strategy and action plan; and programme engagement. The native afforestation strategy and action plan aims to develop a national strategy and action plan including a comprehensive approach to incentives to significantly drive up afforestation rates.
- There are a range of barriers to native afforestation that make it less economic when compared to exotic forestry. These include the high establishment costs and ongoing maintenance costs, including pest management, which make the cost of native planting significantly higher than most other rural land uses. While the Programme is seeking to address some of the barriers, in particular the cost of seedlings and planting, further barriers remain largely unaddressed.

7. Conclusions and recommendations

In MPI's assessment, all four of the cost recovery principles have been met – Transparency, Justifiability, Efficiency, and Equity.

MPI recommends implementing the proposed annual and service fees to ensure that cost recovery settings are matched to the contemporary costs of administering the forestry ETS, and to represent the wide range of services provided by Te Uru Rākau – New Zealand Forestry Service, which has grown over recent years.

8. Implementation plan

The proposed cost recovery settings will be implemented through amendments to the Climate Change (Forestry Sector) Regulations 2022 and publicly notified in the New Zealand Gazette. It is intended that the changes will come into effect in mid-October 2023. MPI will notify forest owners with land registered in the ETS of the new rates and update existing forms and other material to include the appropriate rates. If there are changes to the legislation/regulations in the future, existing cost recovery setting will be reviewed and updated as necessary to ensure they remain in line with the legislation/regulations

The annual charge, when imposed, will be prorated for the rest of 2023. Participants will be invoiced for the charge shortly after the regulations came into force. Thereafter, it will be annualised and charged at the beginning of each financial year (July).

Risk mitigation

As with any implementation, there are risks involved with the new cost recovery settings. MPI will ensure due diligence is managed and implement mitigations where reasonably able to. MPI has identified the following risks for each, an appropriate mitigation:

Risk	Mitigation
Risk that participants will not pay when they are required to.	Mitigated by using standard MPI debt recovery processes. In addition, all fixed fees are required to be paid as part of the application lodgement process.
Risk that the required technology to enforce the annual charge and service fee payments will not be in place for the intended enforcement date of mid-October 2023.	Mitigated by manually invoicing participants or charging participants later than the enforcement date.
Risk that the annual charge and service fees over or under recover against the intended amounts.	Mitigated by reviewing fees once every three years and updating where appropriate

Ongoing operational risks will be managed through existing governance processes.

Compliance cost minimisation

During the implementation MPI will undertake three activities to minimise costs involved with compliance.

1 MPI will actively and effectively communicate with the sector to ensure all participants are aware of the new fees. This will involve sending out sector wide communications and updating forums with relevant information.

2 MPI will ensure there is ongoing data collection and reporting on the systems performance to manage oversight and ensure the change is implemented smoothly.

3 MPI will also monitor the cost recovery process and take actions to implement associated updates where necessary.

Regulatory impacts

This implementation will require updates to the Climate Change (Forestry Sector) Regulations 2022 as the fees and annual charge will be drafted into these regulations. If regulations or the Act were to change in future, cost recovery measures would be reviewed and amended to remain in line with the regulations or the act.

Enforcement strategy

To ensure the updates are implemented and enforced in support of achieving the policy objectives, MPI will manage the recovery of any outstanding debt in line with the existing debt management policy.

9. Monitoring and evaluation

Te Uru Rākau – New Zealand Forest Service recognises that monitoring and evaluating the impact this tranche of cost recovery is a critical component in providing transparency to industry and other interested parties, as well as ensuring ongoing system efficiency. This is explicitly acknowledged in the policies and guidance of our principles.

MPI will monitor the financial performance of this implementation on an ongoing basis. This will include:

- Monthly reporting of high-level financials to identify any deviations against forecast.
- Memorandum account balances will be reviewed monthly and reported to management. This provides a view of how revenue and expenditure are tracking against the budget. This will then enable management to determine if the pricing and costing is realistic and put in place plans to ensure that account balances are kept stable.
- Additions or changes to the provision of service trigger further reviews as revenue and expenses are reviewed to ensure they continue to reflect the cost incurred from service provision.
- Annual review of fees based on expenditure against revenue to identify whether appropriate scale of cost recovery is occurring.
- In the event of a regulatory change, a review of fees would be triggered and informed based on the data captured by existing monitoring and evaluation processes.

Key performance metrics

MPI has identified FTE allocation and application volumes as a key metric to be used when measuring and managing the implemented cost recovery settings as it was crucial in the development of the proposed fees and annual charge. Therefore, ongoing monitoring and evaluation of FTE allocation and application volume throughput will be routinely undertaken to ensure efficiency and appropriate allocation of resource.

MPI recognises that timely reporting on this is a critical component of providing transparency to ETS users and other interested parties and will continue to work closely with industry to ensure that the performance information reporting is meaningful.

10. Review

MPI use memorandum accounts to track the revenue and expenditure relating to cost recovered services. The memorandum accounts are monitored to ensure that significant deficits or surpluses do not occur (over or under-recovery of revenue in relation to expenditure).

Our standard review period for fees and charges is once every three years, however they may be amended more frequently if required. The review will consider both cost recovery policy settings (who should pay for services, and how) and the amount of fees/annual charges made to ensure they sufficiently cover the costs of service provision. Where efficiencies have been made and the memorandum account is not in deficit it is likely the fees or annual charges will be reduced. Where additional costs are being incurred to provide the services, these will be identified and rates increased as appropriate. The industry will be consulted on any proposed changes to fees and annual charges.

Fees and annual charges can be updated outside of the standard review cycle if a material surplus or deficit accumulates in a memorandum account or if structural changes are being proposed (changes to the structure of fees or annual charges, the type of fee or charge, additions or deletions).

MPI aims to set fees and annual charges at levels that ensure memorandum accounts trend towards zero over a three-year period.

Appendix 1: MPI's approach to cost recovery

Overall approach to cost recovery

Transparency

Costs should be identified and allocated as closely as practicable in relation to tangible service provision for the recovery period in which the service is provided.

Transparency means providing adequate information to people such that they can understand charges and have an opportunity to input into their calculation and setting. 'Allocated' does not mean charged – how costs are charged is a result of consideration of all the principles.

Justifiability

Justifiability means costs are reasonable, that is, are only those costs necessary to deliver the service at the demanded quantity and quality.

Efficiency

Efficiency is made up of several elements:

- Costs should be the lowest necessary to provide the service.[9]
- Costs should be charged to those who benefit from the service and/or those whose behaviour generates the need for the service:
    - Those who benefit from the service – If the customer pays, they have the incentive to demand only those services that provide them benefit compared to other things they might purchase. If parties other than the beneficiary pays, then the beneficiary will demand more services than otherwise.

      Those whose behaviour can reduce the need and cost of the service – Typically both the supplier (MPI) and the participant/applicant will be able to do things to reduce the need and cost of the service. For example, fixed charges with MPI bearing some financial risk can encourage MPI to deliver services more time efficiently, while businesses can reduce cost by providing accurate information in applications (requiring less follow-up by MPI).

      If MPI has transparently justified its costs, it will not normally be appropriate for MPI to contribute to the costs.

- Charges should account for administrative costs – for instance, sometimes it will be administratively prohibitive to charge those that benefit or those that can reduce costs, so a simplified approach is warranted.
- Charges should be competitively neutral – MPI should not use any dominant market

[9] A re-emphasis of the Justifiability principle. The concept appears twice to help ensure MPI keeps cost efficiency top of mind.

position to charge inflated prices and make more than a fair economic return.

Efficiency and the type of costs

All relevant costs are potentially recoverable, including:

- direct costs associated with services, such as staff time, travel costs, systems and equipment used in delivering the specific service; and
- support costs associated with delivery of the service, such as training and development costs for staff, administrative support costs, management costs, project costs and capital costs; and
- a proportion of wider business support or common costs, for example costs associated with corporate functions like finance, human resources management, information technology, and costs of property and utilities.

It is administratively impractical to precisely allocate wider business support or common costs to the wide range of MPI services. Instead, staff hours are used as a proxy on the assumption that the more staff hours are part of a service, the more property, human resources and other wider support and common costs the service will use.

Efficiency and type of services

If costs are to be recovered from beneficiaries, the appropriate type of charge to use depends on whether the service is a private good or club good.[10]

Fees are used for private goods – services that are of direct benefit to individual businesses. This includes services like registering as a participant. The benefit of registering as a participant is the potential to receive NZUs. The benefits of NZUs are received by the individual participant rather than participants as a group or the wider public.

Annual charges or levies pay for club goods – services that benefit sectors or groups of businesses as a whole. Monitoring and compliance activity, for example, helps ensure that the forestry ETS is robust and protects value for all participants.

Equity

The Government will usually deem it fair that beneficiaries pay.

On other occasions, the Government will determine that other fairness considerations mean that another party contributes to the costs. For example, sometimes industry will be happy to support parts of its industry. Other times, Governments will want to provide additional support.

Relationship between the cost recovery principles

The principles build on each other with Transparency and Justifiability providing a foundation to the consideration of Efficiency and Equity.

Transparency and Justifiability come before considering Efficiency and Equity

MPI cannot be confident that the efficient way of cost recovering has been identified if costs have not been sufficiently justified or affected parties have not had a reasonable opportunity to test the costs. For this reason, Transparency and Justifiability come before Efficiency and Equity. MPI can only consider how best to meet the Efficiency and Equity principles after sufficiently meeting the Transparency and Justifiability principles.

[10] There is also a category of merit goods – services which the community as a whole desires more of than would be provided if charged for at full cost.

There will sometimes be trade-offs between Efficiency and Equity

The Equity principle says beneficiaries will generally pay. This is consistent with the Efficiency principle.

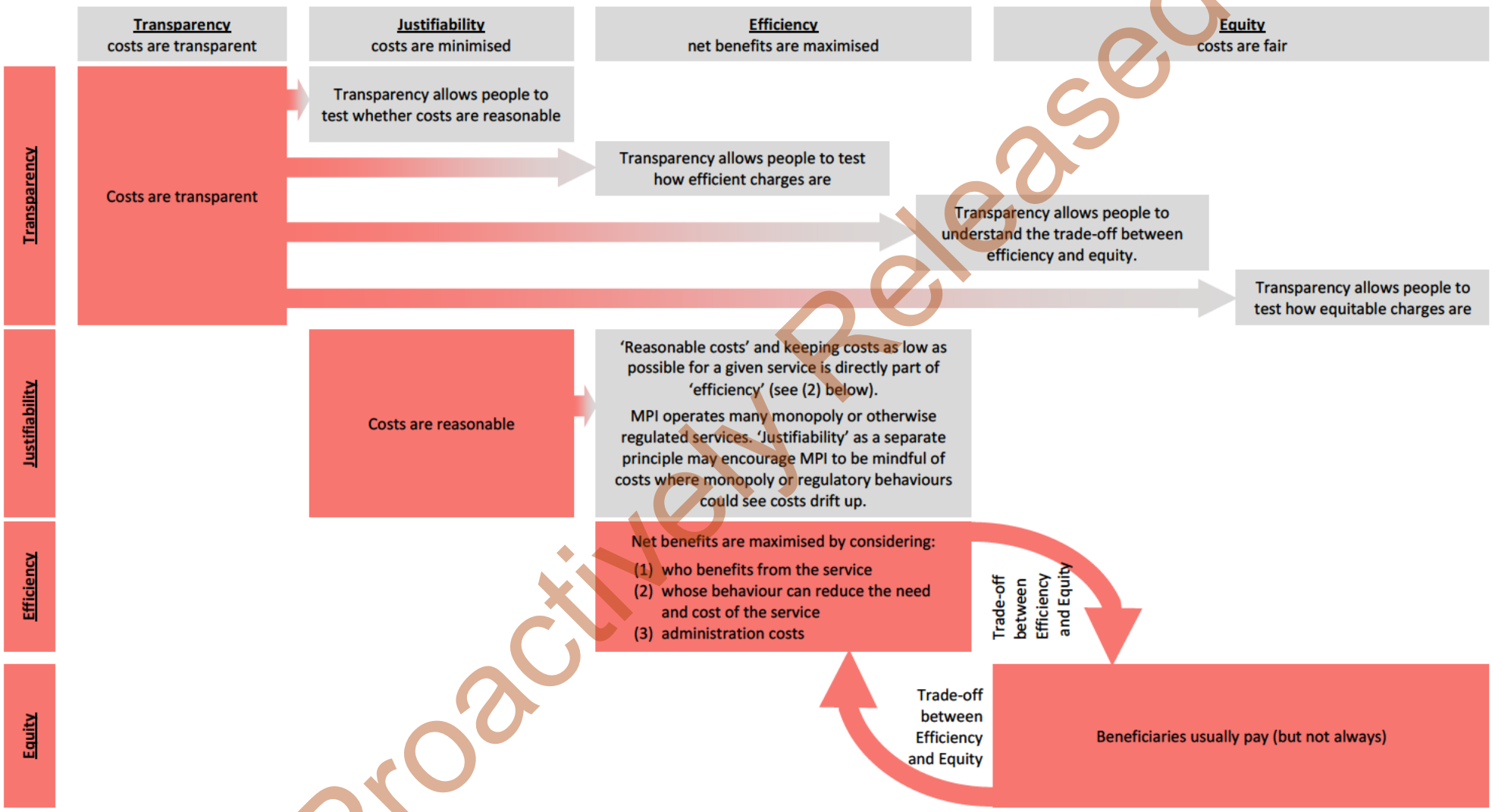
Sometimes the Government will decide, for fairness reasons, to charge someone other than the beneficiary (e.g. general taxpayers). In this situation, there is a trade-off between Efficiency and Equity – the Government prefers a certain outcome which it deems more equitable and is willing to lose some efficiency to achieve it.

Figure 1 below summarises the relationship between the principles.

Memorandum accounts

MPI generally uses memorandum accounts to track revenue and expenditure associated with cost recovered services. Memorandum accounts record the accumulated balance of surpluses or deficits incurred in providing cost recovered services. In general, MPI aims to set charges at levels that ensure memorandum accounts trend towards zero over a three-year period.

Figure 1: Relationship between the cost recovery principles



Appendix 2: Legislative authority

The Climate Change Response Act 2002 is the authorising legislation which provides broad regulatory powers to create regulations to:

a) specify the persons or classes of persons by whom any fees and charges prescribed or fixed are payable; and

b) provide for partial cost recovery from one class of persons and full cost recovery from another (if this is desirable to further the purposes of this Act); and

c) prescribe the matters for which direct and indirect costs may be recovered; and

d) prescribe a scale of fees and charges, or a rate based on the time involved in carrying out the function or duty or in exercising the power; and

e) prescribe a scale of fees and charges, or a fee or charge for a prescribed function, power, or duty; and

f) prescribe a formula for fixing fees and charges; and

g) prescribe an annual fee or charge, or classes of fees or charges, payable by participants or classes of participants; and

h) prescribe the time of payment of fees and charges, the means of collection of fees and charges, and the person who is responsible for paying a fee or charge; and

i) authorise the EPA to recover the full costs of services from third parties (other than services in respect of which a fee or charge is prescribed) in circumstances prescribed in the regulations; and

j) authorise the EPA to grant, in whole or in part, an exemption, waiver, or refund in relation to any fee or charge.[11]

The Act provides examples of the kinds of costs which can be recovered, such as the cost of processing applications and returns, and the costs of providing, operating, and maintaining systems, databases, and other processes in connection with the making of emissions rulings and input returns.[12]

[11] Section 167(4).

[12] Section 167(3).

Appendix 3: Detailed service breakdown

Core Service Fees

Core service fees are defined as services forestry ETS participants are required or likely to use while a part of the scheme. Core service fees were grouped based on high volumes of historic and predicted frequency of use. Forecasts are based on current land, historical data, and likelihood of use. Note the volume estimates may be influenced by the mix of ha held by various participants, and volumes were rounded to the nearest whole unit. This creates some instances where revenue and volumes correlate disproportionately. Also, tiered fee revenue can appear inconsistent. This is because participants are charged differently based on their registered land area.

Service number	1		
Name of service	Request waiver from collecting Field Measurement Approach (FMA) forest info - Temporary		
Expanded service description	FMA participants are those with over 100 ha of post-1989 forest land registered in the ETS. They may request a FMA waiver when there is insufficient time before the end of the mandatory emissions return period to establish the sample plots and/or to collect and submit FMA information for those plots. A temporary waiver may also be sought when there are circumstances beyond an FMA participant's control that prevent the collection and/or submission of FMA information to Te Uru Rākau – New Zealand Forest Service for sample plots already established.		
Why fee or service?	Charged as a fee because it is a one-off action taken by a forestry ETS participant which only benefits the requesting participant and the time to process a waiver from collecting FMA information averages 2.5 hours.		
Per use charge	$412.50 (2.5 hours x $165)		
How was the fee determined?	This fee was determined by taking the average amount of time to complete the service and multiplying it by the $165 hourly rate.		
Forecast volumes	23/24: 6	24/25: 8	25/26: 8
Forecast revenue	23/24: $2,475	24/25: $3,465	25/26: $3,465

Service number	2
Name of service	Request waiver from collecting FMA forest info - Permanent
Expanded service description	FMA participants may use this service to request dispensation from the requirement to establish an allocated sample plot, and/ or to submit FMA information for an allocated sample plot. If an FMA participant finds

	that establishing a sample plot in the location specified by Te Uru Rākau – New Zealand Forest Service or collecting FMA information from a plot that has already been established is dangerous or impractical, they may apply for a permanent waiver from meeting FMA requirements for that plot.		
Why fee or service?	Charged as a fee because it is a one-off action taken by a forestry ETS participant which only benefits the requesting participant. The time to process a waiver from collecting FMA information averages 2.5 hours.		
Per use charge	$412.50 (2.5 hours x $165)		
How was the fee determined?	This fee was determined by taking the average amount of time a team member requires to complete the service and multiplying it by the $165 hourly rate.		
Forecast volumes	23/24: 16	24/25: 21	25/26: 21
Forecast revenue	23/24: $6,497	24/25: $8,663	25/26: $8,663

Service number	3		
Name of service	Request time extension		
Expanded service description	Legislation dictates a range of activities forestry ETS participants must complete within specific timeframes. Time extensions can be requested by forestry ETS participants when they are unable to meet these timeframes for a range of processes including emissions returns, applying for plots, and collecting and inputting forest measurements for FMA forests. This service relates to post-1989 forest land only.		
Why fee or service?	Charged as a fee because it is a one-off action taken by a forestry ETS participant which only benefits the requesting participant. The time to process a request for time extension averages 1 hour.		
Per use charge	$165.00 (1 hour x $165)		
How was the fee determined?	This fee was determined by taking the average amount of time a team member requires to complete the service and multiplying it by the $165 hourly rate.		
Forecast volumes	23/24: 79	24/25: 105	25/26: 368
Forecast revenue	23/24: $12,994	24/25: $17,325	25/26: $60,638

Service number	4		
Name of service	Classify FMA forest - Assign Class		
Expanded service description	When a participant has 100 ha or more of post-1989 forest land in the ETS, they may assign areas of the forest land a class based on whether the forest is made up of exotic or indigenous species. Forest class affects the number of plots required to meet FMA reporting requirements. An area classed as indigenous requires fewer plots, which allows the participant to save time and money in collecting data.		
Why fee or service?	Charged as a fee because it is a one-off action taken by a forestry ETS participant upon joining the ETS. The time to assign a forest class averages 1 hour.		
Per use charge	$165.00 (1 hour x $165)		
How was the fee determined?	This fee was determined by taking the average amount of time a team member requires to complete the service and multiplying it by the $165 hourly rate.		
Forecast volumes	23/24: 39	24/25: 53	25/26: 105
Forecast revenue	23/24: $6,497	24/25: $8,663	25/26: $17,325

Service number	5
Name of service	Classify FMA forest - Change Class
Expanded service description	If an FMA participant has classified their forest land as exotic and/or indigenous and the class of the forest changes, they must notify Te Uru Rākau – New Zealand Forest Service of the change. This occurs when most trees in the forest are of a different type than originally classified (exotic, indigenous, or undefined). This service ensures they are using the correct sampling method and intensity required to meet FMA reporting requirements.
Why fee or service?	Charged as a fee because it is an action taken by a forestry ETS participant requiring a large time commitment, and only benefitting the requesting participant. The time to process a forest class change averages 16.5 hours.
Per use charge	$2722.50 (16.5 hours x $165)
How was the fee determined?	This fee was determined by taking the average amount of time a team member requires to complete the service and multiplying it by the $165 hourly rate.

Forecast volumes	23/24: 19 24/25:25 25/26: 26		
Forecast revenue	23/24:$51,047	24/25: $68,063	25/26: $71,466

Service number	6		
Name of service	Request FMA sample plot locations for collecting FMA information		
Expanded service description	This service enables FMA participants to request Te Uru Rākau – New Zealand Forest Service allocate sample plot locations in their forest. These plots are used to take forest measurements allowing for the development of participant-specific forest carbon stock tables. These tables are required to complete emissions returns.		
Why fee or service?	Charged as a fee because it is an action taken by a forestry ETS participant requiring a time commitment, and only benefitting the requesting participant. The time to produce FMA sample plot locations averages 2.5 hours.		
Per use charge	$412.50 (2.5 hours x $165)		
How was the fee determined?	This fee was determined by taking the average amount of time a team member requires to complete the service and multiplying it by the $165 hourly rate.		
Forecast volumes	23/24: 40 24/25: 45 25/26: 50		
Forecast revenue	23/24: $12,994	24/25: $19,491	25/26: $21,656

Service number	7
Name of service	Request updated sample plot locations for collecting FMA information
Expanded service description	This service enables FMA participants to request Te Uru Rākau – New Zealand Forest Service allocate updated sample plot locations in their forest. These plots are used to take forest measurements allowing for the development of participant-specific forest carbon stock tables. These tables are required for to complete emissions returns. An updated plot set may be required if the registered post-1989 landholding has changed and existing plots are rendered invalid, or the current plot set no longer meets the minimum number of plots.
Why fee or service?	Charged as a fee because it is an action taken by a forestry ETS participant requiring a time commitment, and only benefitting the requesting participant. The time to produce updated FMA sample plot locations averages 2.5 hours.

Per use charge	$412.50 (2.5 hours x $165)		
How was the fee determined?	This fee was determined by taking the average amount of time a team member requires to complete the service and multiplying it by the $165 hourly rate.		
Forecast volumes	23/24: 32	24/25: 47	25/26: 53
Forecast revenue	23/24: $12,994	24/25: $19,491	25/26: $21,656

Service number	8		
Name of service	Apply to reconfigure forest area(s)		
Expanded service description	This service provides a process for forestry ETS participants to adjust the carbon accounting areas and configuration of their registered post-1989 forest land. This can be done to increase the average carbon stocks of one carbon accounting area, while decreasing the average stock of another, which can affect the process and result of reporting emissions.		
Why fee or service?	Charged as a fee because it is an optional action taken by a forestry ETS participant requiring a large time commitment, and only benefitting the requesting participant. The time to process applications to reconfigure forest area(s) averages 40 hours.		
Per use charge	$6600.00 (40 hours x $165)		
How was the fee determined?	The fee was determined by taking the average amount of time a team member requires to complete the service and multiplying it by the $165 hourly rate. This process is undertaken by larger foresters, leading to long processing times, which contributes to the charge.		
Forecast volumes	23/24: 61	24/25: 85	25/26: 85
Forecast revenue	23/24: $401,945	24/25: $562,630	25/26: $562,630

Service number	9
Name of service	Apply to change registered activity
Expanded service description	This service provides the process participants may use to apply to change the registered activity attributed to their registered post-1989 forest land, such as changing from standard to permanent forestry.
Why fee or service?	Charged as a fee because it is an action taken by a forestry ETS participant requiring a time commitment, and only benefitting the

	requesting participant. The time to process an application to change a registered activity averages 4.5 hours.		
Per use charge	$742.50 (4.5 hours x $165)		
How was the fee determined?	This fee was determined by taking the average amount of time a team member requires to complete the service and multiplying it by the $165 hourly rate.		
Forecast volumes	23/24: 118 24/25: 26 25/26: 26		
Forecast revenue	23/24: $87,708	24/25: $19,491	25/26: $19,491

Service number	10		
Name of service	Register standard or permanent post-1989 Land Status Notice		
Expanded service description	The registration of a land status notice occurs when post-1989 forest land interacts with the ETS, such as when a forest is registered in the ETS as standard or permanent forestry. This informs landowners and potential buyers of possible ETS obligations associated with blocks of land.		
Why fee or service?	Charged as a fee because it is a one-off action taken by a forestry ETS participant requiring a time commitment, and only benefitting the requesting participant. The time to register land status notices averages 2 hours.		
Per use charge	$330.00 (2 hours x $165)		
How was the fee determined?	This fee was determined by taking the average amount of time a team member requires to complete the service and multiplying it by the $165 hourly rate.		
Forecast volumes	23/24: 79 24/25: 105 25/26: 105		
Forecast revenue	23/24: $25,988	24/25: $34,650	25/26: $34,650

Service number	11
Name of service	Apply to deregister as the owner of forest Post-1989
Expanded service description	Participants may apply to deregister all of their post-1989 forest registered in the ETS. This service supports those wishing to leave the ETS.

Why fee or service?	Charged as a fee because it is a one-off action taken by a forestry ETS participant requiring a time commitment, and only benefitting the requesting participant. The time to process a forest owner deregistration takes on average 3.5 hours.		
Per use charge	$577.50 (3.5 hours x $165)		
How was the fee determined?	This fee was determined by taking the average amount of time a team member requires to complete the service and multiplying it by the $165 hourly rate.		
Forecast volumes	23/24: 51	24/25: 68	25/26: 84
Forecast revenue	23/24: $29,561	24/25: $39,414	25/26: $48,510

Service number	12
Name of service	Submitting an emissions return for the activity of permanent post-1989 forestry
Expanded service description	Emissions returns are used to report on changes in the carbon stock for post-1989 forest land, including: (a) provisional emissions returns under section 183 of Act (in any year); or (b) emissions returns at the end of a mandatory emissions return period; or (c) emissions returns under section 186B of Act (ceasing participation for part carbon accounting areas); or (d) emissions returns under section 187 of Act (transferring participation for post-1989 forest land)".
Why fee or service?	Charged as a fee to align with existing charges, just ensuring the legislation covers these circumstances as well. The time to process emissions returns averages 1 hour. This matches the existing fixed fee for the processing of other emissions returns as the processes are very similar.
Per use charge	$165.00 (1 hour x $165)

How was the fee determined?	This fee was determined by taking the average amount of time a team member requires to complete the service and multiplying it by the $165 hourly rate.		
Forecast volumes	23/24: 158	24/25: 368	25/26: 394
Forecast revenue	23/24: $25,988	24/25: $60,638	25/26: $64,969

Service number	13		
Name of service	Preparation or completion of a failed notice		
Expanded service description	A failed notice is when a participant is required to submit a notice but fails to do so, and Te Uru Rākau – New Zealand Forest Service, as the regulator, must complete the action on their behalf. The preparation or completion of a failed notice can occur under the following sections of the Climate Change Response Act (2002): s187B and s128A, P90 release criteria notice (offsetting), P89 release criteria notice (offsetting), Notice of re-establishment (Temporary Adverse Event).		
Why fee or service?	Charged as a fee because it is a one-off action taken impacting one participant. The time to process a failed notice averages 10 hours.		
Per use charge	$1650.00 (10 hours x $165)		
How was the fee determined?	This fee was determined by taking the average amount of time a team member requires to complete the service and multiplying it by the $165 hourly rate.		
Forecast volumes	23/24: 24	24/25: 32	25/26: 32
Forecast revenue	23/24: $38,981	24/25: $51,975	25/26: $51,975

Service number	14
Name of service	Notification of a transfer of participation relating to post-1989 forest land as permanent forestry
Expanded service description	Registered participants in the ETS with post-1989 forest land as permanent forestry must tell Te Uru Rākau – New Zealand Forest Service of changes that affect their participation in the scheme, such as sale of their land. This service supports the transfer of ETS participation.

Why fee or service?	Charged as a fee because it is a one-off action taken impacting one participant. The time to process transmissions of interest averages 6 hours.		
Per use charge	$990.00 (6 hours x $165)		
How was the fee determined?	This fee was determined by taking the average amount of time a team member requires to complete the service and multiplying it by the $165 hourly rate.		
Forecast volumes	23/24: 91	24/25: 91	25/26: 91
Forecast revenue	23/24: $90,112	23/24: $90,112	23/24: $90,112

Service number	15		
Name of service	Application to register post-1989 forest land as permanent forestry		
Expanded service description	Processing application to register as a participant in the ETS with post-1989 forest land as permanent forestry.		
Why fee or service?	Charged as a fee to align with existing charges, ensuring the legislation covers these circumstances. Tranche one of the ETS forestry cost recovery implemented an updated fee for applying to register post-1989 forest land as standard forestry, which varied by forest size – reflecting costs of providing the service which varied by size. The processing of an application to register post-1989 forest land as permanent forestry is equivalent applying to register post-1989 forest land as standard forestry and as such the fees should be equivalent.		
Per use charge	0-9ha: $488.89 10-49ha: $1815.00 50-99ha: $1980.00 100-499.9ha: $2640.00 500+ha: $4125.00		
How was the fee determined?	This fee was determined by taking the average amount of time a team member requires to complete the service and multiplying it by the $165 hourly rate.		
Forecast volumes	23/24: 53	24/25: 53	25/26: 53
Forecast revenue	23/24: $36,045	24/25: $96,119	25/26: $144,179

Service number	16		
Name of service	Adding one or more carbon accounting areas for post-1989 forest land in permanent forestry		
Expanded service description	An application to add one or more additional carbon accounting areas (CAAs) for post-1989 forest land in permanent forestry to an existing registered forest. This provides value as adding CAAs will increase the value a participant receives through NZUs.		
Why fee or service?	Charged as a fee to align with existing charges, ensuring the legislation covers these circumstances as well. Tranche one of the ETS forestry cost recovery changes implemented an updated fee for adding one or more carbon accounting areas for a standard post-1989 forest, which varied by forest size – reflecting costs of providing the service which varied by size. The processing of an adding one or more Carbon accounting areas for a permanent post-1989 forest is equivalent to adding one or more carbon accounting areas for a standard post-1989 forest land and as such the fees should be equivalent.		
Per use charge	0-9ha: $488.89 10-49ha: $1815.00 50-99ha: $1980.00 100-499.9ha: $2640.00 500+ha: $4125.00		
How was the fee determined?	Phase 1 of the ETS forestry cost recovery changes implemented an updated fee for adding one or more carbon accounting areas for post-1989 forest land in standard forestry, which varied by land area – reflecting costs of providing the service which varied by size. The processing of an application to add one or more carbon accounting areas for permanent forestry is equivalent to an application to add one or more carbon accounting areas to standard forestry and as such the fees should be equivalent. Charged as a fee to align with existing charges, ensuring the legislation covers these circumstances as well.		
Forecast volumes	23/24: 21	24/25: 42	25/26: 63
Forecast revenue	23/24: $3,898	24/25: $10,395	25/26: $10,395

Non-Core service fees

Non-core services are those forestry ETS participants are unlikely to interact with and will only be required under specific circumstances. Fees defined as non-core were grouped based on low volumes of historic and predicted future use. Forecasts are based on current land, historical data, and likelihood of use. Note the volume estimates may be influenced by the mix of ha held by various participants, and volumes were rounded to the nearest whole unit. This creates some instances where revenue and volumes correlate disproportionately.

Service number	17		
Name of service	Apply to offset deforestation – Pre-1990 Land		
Expanded service description	When an individual intends to deforest pre-1990 forest land, they may apply to establish an equivalent forest elsewhere to offset emissions liabilities, meaning there is no need to notify deforestation or submit an emissions return. This enables landowners to change their land use if a forest of equivalent size & carbon stock is planted elsewhere.		
Why fee or service?	Charged as a fee because it is an action taken by a forestry ETS participant requiring a time commitment, and only benefitting the requesting participant. The time to process an application to offset deforestation on pre 1990 land averages 35 hours.		
Per use charge	$5775.00 (35 hours x $165)		
How was the fee determined?	This fee was determined by taking the average amount of time a team member requires to complete the service and multiplying it by the $165 hourly rate.		
Forecast volumes	23/24: 6	24/25: 7	25/26: 7
Forecast revenue	23/24: $31,835	24/25: $42,446	25/26: $42,446

Service number	18
Name of service	Apply to offset deforestation – Post-1989 Land
Expanded service description	When a forestry ETS participant wants to remove post-1989 forest land from the ETS, they may apply to establish an equivalent forest elsewhere to offset the liabilities from removing the land, meaning they don't have to surrender New Zealand Units for removing it. This enables participants to remove land from the ETS if a forest of equivalent size & carbon stock is planted elsewhere.
Why fee or service?	Charged as a fee because it is an action taken by a forestry ETS participant requiring a time commitment, and only benefitting the

	requesting participant. The time to process an application to offset deforestation on post 1989 land averages 45 hours.		
Per use charge	$7425.00 (45 hours x $165)		
How was the fee determined?	This fee was determined by taking the average amount of time a team member requires to complete the service and multiplying it by the $165 hourly rate.		
Forecast volumes	23/24: <5 24/25: <5 25/26: <5		
Forecast revenue	23/24: $5,569	24/25: $7,796	25/26: $7,796

Service number	19		
Name of service	Apply for exemption from deforestation obligations - Under 50 ha pre-1990		
Expanded service description	Landowners owning less than 50 ha of pre-1990 forest land on 1 January 2007 may use this service to apply for an exemption from ETS responsibilities. This includes applications for exemptions for some Māori land, or land with 10 or more owners.		
Why fee or service?	Charged as a fee because it is an action taken by applicants requiring a time commitment, and only benefitting the applicants. Time to process application for exemption from deforestation obligations (for pre-1990 forest land under 50 ha) averages 10 hours.		
Per use charge	$1650.00 (10 hours x $165)		
How was the fee determined?	This fee was determined by taking the average amount of time a team member requires to complete the service and multiplying it by the $165 hourly rate.		
Forecast volumes	23/24: <5 24/25: <5 25/26: <5		
Forecast revenue	23/24: $3,898	24/25: $5,198	25/26: $5,198

Service number	20
Name of service	Apply to suspend accounting on land cleared by a temporary adverse event
Expanded service description	If all or part of a participant's registered post-1989 forest land is cleared by a natural or accidental event such as a fire, they may apply to pause carbon accounting liabilities. This means they do not have to surrender New Zealand Units for the emissions from the damage.

	They will not earn New Zealand Units until the forest is re-established and reaches the carbon stock it had before the event.		
Why fee or service?	Charged as a fee because it is an action taken by a forestry ETS participant requiring a time commitment, and only benefitting the requesting participant. Time to process application to suspend carbon accounting on land cleared by a temporary adverse event averages 25.5 hours.		
Per use charge	$4207.50 (25.5 hours x $165)		
How was the fee determined?	This fee was determined by taking the average amount of time a team member requires to complete the service and multiplying it by the $165 hourly rate.		
Forecast volumes	23/24: <5 24/25: <5 25/26: 5		
Forecast revenue	23/24: $9,940	24/25: $13,254	25/26: $22,089

Service number	21		
Name of service	Notify offset deforestation complete for pre-1990 forest (release criteria notice)		
Expanded service description	A forestry ETS participant owning pre-1990 forest submits a release criteria notice to Te Uru Rākau – New Zealand Forest Service. This notice informs Te Uru Rākau – New Zealand Forest Service of the area of land that has been successfully offset. This supports compliance and the completion of the offsetting process.		
Why fee or service?	Charged as a fee because it is an action taken by a forestry ETS participant requiring a time commitment, and only benefits the requesting participant. The time to process a release criteria notice averages 1.5 hours.		
Per use charge	$247.50 (1.5 hours x $165)		
How was the fee determined?	This fee was determined by taking the average amount of time a team member requires to complete the service and multiplying it by the $165 hourly rate.		
Forecast volumes	23/24: 12 24/25: 11 25/26: 5		
Forecast revenue	23/24: $2,924	24/25: $2,599	25/26: $1,299

Service number	22		
Name of service	Apply to add more land to an offset deforestation application for pre-1990 forest		
Expanded service description	Forestry ETS participants who are actively offsetting the deforestation of pre-1990 forest land may use this service to make amendments to their existing offsetting application. This allows participants to ensure their offsetting process reaches carbon equivalence in the case where something occurred that means their initial offsetting application will be unsuccessful without needing to completely restart the process, protecting them from further liabilities.		
Why fee or service?	Charged as a fee because it is an action taken by a forestry ETS participant requiring a time commitment, and only benefits the requesting participant. The time to process additional land in an offsetting application averages 35 hours.		
Per use charge	$5775.00 (35 hours x $165)		
How was the fee determined?	This fee was determined by taking the average amount of time a team member requires to complete the service and multiplying it by the $165 hourly rate.		
Forecast volumes	23/24: 6	24/25: 5	25/26: <5
Forecast revenue	23/24: $31,835	24/25: $30,319	25/26: $12,128

Annual Charge Components

This section sets out the proposed annual charge broken down by the six components Te Uru Rākau – New Zealand Forest Service provides to administer the forestry ETS. Annual charges pay for club goods – activities that benefit all sectors or groups of businesses as a whole. The monitoring and compliance activity, for example, helps ensure that the forestry ETS is robust and protects value for all participants. The IT systems which underpin the operation of the forestry ETS, likewise, benefit all forestry ETS participants. Annual charge component services were apportioned based on the forecast costs required to complete each activity over the number of ha.

Service number	23
Name of service	Removal of Land Status Notice
Expanded service description	The removal of a land status notice occurs when the land no longer contains forest land that's registered in the ETS.

Why fee or service?	The removal of land status notices when a forest is removed in full or part from the ETS is a necessary (though minor) element of administering the forestry ETS and benefits all participants by ensuring that land status notices of all registered forests are accurate.		
Per use charge	0.8% of proposed annual charge ($0.24 per ha)		
How was the fee determined?	This charge was determined by calculating the proportion of total support time Forestry ETS staff spend on the processing of land status notice removals.		
Forecast revenue	23/24: $104,131	24/25: $146,555	25/26: $154,268

Service number	24		
Name of service	Request Review of a Decision		
Expanded service description	Formal mechanism for a participant impacted by a decision Te Uru Rākau – New Zealand Forest Service made, to challenge and request it be reviewed. This service relates to reviews of decisions requested by applicants and participants for post-1989 forest land.		
Why annual charge?	Providing reviews of decisions upon participant request is an important part of administering the ETS. It ensures quality and accuracy in decision making. Annual charge is the best fit as it avoids financial disincentives and natural justice issues, while minimising administration costs, and targets one of the main factors relevant to demand for reviews - the size of land area in the ETS. See more discussion on this in section 5.2.7 – Alternatives. This service is a part of the annual charge to not disincentivise participants reviewing decisions.		
Per use charge	15.6% of proposed annual charge ($4.71 per ha)		
How was the fee determined?	This charge was determined by calculating the proportion of total support time Forestry ETS staff spend on decision reviews and the responses to these requests.		
Forecast revenue	23/24: $1,915,537	24/25: $2,695,941	25/26: $2,837,832

Service number	25
Name of service	Inter-agency reporting –post-1989 forest land only

Expanded service description	Te Uru Rākau – New Zealand Forest Service is obligated to report on the forestry component of the ETS to inter-agency partners including the Ministry for the Environment and the Environmental Protection Authority. This charge funds the reporting and post-1989 forest land only.		
Why annual charge?	Inter-agency reporting on post 1989 forest land is a core function of administering the ETS. It enables collaboration between relevant government departments to meet their obligations. Outcomes of this reporting such as improved interagency support for the Forestry ETS can be deemed beneficial for all forestry ETS participants, thus it should be a part of the annual charge.		
Per use charge	7.3% of proposed annual charge ($2.21 per ha)		
How was the fee determined?	This charge was determined by calculating the proportion of total support time Forestry ETS staff spend on developing and sharing interagency reports.		
Forecast revenue	23/24: $883,317	24/25: $1,243,186	25/26: $1,308,617

Service number	26		
Name of service	Compliance management		
Expanded service description	This covers compliance costs from various situations including formal deregistration of forest owners for continuous non-compliance with ETS rules and regulations, formal removal of forest land or participant's information if errors were made during application, compliance investigations on a range of matters to maintain the integrity of the forestry ETS. All participants are beneficiaries of a fair and equitable ETS.		
Why annual charge?	Compliance management helps ensure the integrity of the ETS and the value of NZUs. The benefit of this is received by all participants in proportion to the value of their NZUs. As such, the costs of compliance management should be shared among participants.		
Per use charge	18.8% of Proposed annual charge ($5.7 per ha)		
How was the fee determined?	This charge was determined by calculating the proportion of total support time Forestry ETS staff spend on managing compliance incidents or queries.		
Forecast revenue	23/24: $2,304,226	24/25: $3,242,984	25/26: $3,413,668

Service number	27		
Name of service	Administration and Management of Enquiries		
Expanded service description	Staff costs involved in processing refund requests from forestry ETS participants for charges associated with ETS participation, temporary waivers from charges associated with ETS participation, and enquiries on a wide range of issues relating to post-1989 forest land, which Te Uru Rākau – New Zealand Forest Service considers and provides responses to. Includes processing responses to requests for carbon accounting records.		
Why annual charge?	Participants making enquiries benefit from the private information they receive, however charging a fee each time an administrative request or enquiry is made will disincentivise interaction with the ETS. This could also lead to information with the potential to benefit all participants not being circulated as sometimes enquiries generate information on issues not previously considered, thus providing benefit for all forestry ETS participants. Enquiry management deemed to be beneficial for all forestry ETS participants, thus it should be part of the annual charge.		
Per use charge	12.5% of Proposed annual charge ($3.78 per ha)		
How was the fee determined?	This charge was determined by calculating the proportion of total support time Forestry ETS staff spend on managing enquiries received from participants.		
Forecast revenue	23/24: $1,533,469	24/25: $2,158,215	25/26: $2,271,805

Service number	28
Name of service	IT System
Expanded service description	The new ETS IT system, Tupu-ake, provides underpinning support for the administration of the ETS and now makes up the bulk of the costs incurred by the ETS. It enables ETS forestry participants to comply with their obligations through improved tools such as providing the ability to calculate your emissions return, based on the information in the system. The system also drives operational efficiencies providing greater value for all participants through enhanced satellite imagery use options, enables the digitisation of administrative services, and simplicity for participants. It enhances the functionality of the ETS benefitting all participants. The costs associated with the IT system include maintenance, operating costs (including software licensing), ongoing system enhancement costs, staff costs, capital charge, depreciation, and overheads.

Why annual charge?	The new IT system provides support for all forestry ETS participants and improves the efficiency and overall experience of interacting with the ETS. As all participants will benefit from this new system, it is deemed to be a part of the annual charge.		
Per use charge	45% of Proposed Annual Charge ($13.61 per ha)		
How was the fee determined?	This fee was apportioned differently to other annual charge items as it is not based solely on a proportion of total administration staff processing time. This charge also factors in maintenance, operating costs (including software licensing), ongoing system enhancement costs, capital charge, depreciation, and overheads. As the use of the IT system matures, MPI will review the costs associated with its operation.		
Forecast revenue	23/24: $5,507,464	24/25: $7,751,246	25/26: $8,159,206

Appendix 4: Te Tiriti Analysis

Executive Summary

This paper identifies the Treaty of Waitangi impacts on Māori in regard to the cost recovery proposal. At the outset, we have identified the following:

- Māori interests in forestry are significant and very wide-ranging.
- A high proportion of Māori land is unsuitable for economic development. Whenua Māori tends to be in lower capability land use classes therefore, it has low versatility of use.
- Approximately 74% of forested Māori freehold land is indigenous forest established before 1990, and is not subject to the ETS (pre-1990 and post-1989 forests are discussed further below).
- The complexity of Māori ownership structures, combined with the difficulty and cost associated with obtaining quality information on Māori land and the technical nature of land use information, mean that Māori are more likely to require assistance through elective services provided by Te Uru Rākau.
- Post-1989 Māori-owned forests are more likely to be disproportionately impacted by costs associated with advisory services. Māori with pre-1990 forest land will also face additional costs to deforestation in addition to the existing liabilities (surrendering of NZUs), which are already strong disincentives to deforest.
- The six week consultation timeframe, which applied to all submitters, resulted in low uptake from Māori in the consultation process with no additional opportunities to participate through the legislative process. The impacts of recent cyclones have also hampered efforts in this regard.

Recommendations to mitigate impacts on Māori:

1. Exempt the elective services for all pre-1990 forests. The liabilities for deforestation (surrendering of NZUs), already disincentivise deforestation, and for Māori the land use options are already notably limited.
2. Note that some Māori submitters highlighted the need for opportunities to co-design future changes to the ETS in the future.

(1) Legislative Background

(a) Background

The Emissions Reduction Plan (ERP) outlines the Government's intent to work with Māori to embed partnership and representation, support Māori-led strategy and alignment, and activate kaupapa Māori and tangata Māori solutions.[13]

Of most relevance to this analysis is the Government's intent to uphold Te Tiriti o Waitangi/Treaty of Waitangi principles[14], through the resourcing and designing of processes and mechanisms alongside Māori to help tangata whenua actively participate in the climate response.

(b) Other Considerations

For the purposes of this analysis, we have briefly covered the rich and complex history that contributes to the contemporary Māori context, with a primary focus on the likely direct impacts of cost recovery. We acknowledge that there are policies through the 1980s, such as the Forestry Encouragement Grants Scheme and removal of agricultural subsidies, and through court precedent (1989 Crown Forest Agreement) that have contributed to significant historic afforestation, including conversions, on Māori freehold land.

(c) The Emissions Trading Scheme

As set by the Kyoto Protocol, post-1989 forests are forests that were first established after 31 December 1989[15]. This is the only type of forest land eligible to enter the Emissions Trading Scheme ("ETS") and earn carbon credits. Pre-1990 forest land is land that was deemed forest land by 31 December 1989. This type of forest land is subject to ETS rules but ineligible to earn carbon credits. This means that the owner of a pre-1990 forest land cannot register in the ETS but is likely to pay carbon credits if deforestation occurs and the area is not replanted in forest.[16]

In partial compensation for the impact on land values because of the ETS pre-1990 forestry rules, pre-1990 forest landowners a received a one-off allocation of NZUs. Some owners of pre-1990 exotic forest land could and still can also apply to be exempt from the ETS rules.

Tangata whenua, in particular, are heavily represented in the group of landowners that were unable to avoid deforestation liabilities. While they are large owners of forest land, they are

[13] Aotearoa Emissions Reduction Plan.

[14] Aotearoa Emissions Reduction Plan.

not large owners of the forests themselves.[17] The Government signalled its intention to introduce deforestation controls for six years before the ETS policy came into effect in 2008. MPI understands that a number of iwi groups did not have the opportunity to deforest before 2008 as their land had been covered by long term agreements (such as forestry rights).[18]

Moreover, some are also of the view that they were actively encouraged to plant trees on their land by previous governments.[19] They have expressed concern about the limits on future use of their land as a result of essentially being 'locked into' a land use that may be less profitable than alternative options.[20]

(2) The rights and interests Māori have under the Treaty of Waitangi

(a) The Articles of the Treaty of Waitangi

Cabinet Office circular notes that article one of the Treaty requires an adequate standard of 'good government', which means that the government needs to properly conduct itself with due regard to the range of obligations it has to the people it governs, and particularly in regard to Treaty obligations. In essence, it needs to be shown that work towards the cost recovery scheme appropriately acknowledges the right of government to make laws balanced with the right of Māori to retain authority over certain things[21].

Article two of the Treaty outlines that Māori are guaranteed tino rangatiratanga, which has been translated to mean the unqualified exercise of chieftainship.[22] Article 2 outlines that this unqualified exercise of Māori chieftainship is over their kāinga, whenua me o rātou taonga katoa - their lands, properties and all their treasures.[23] In the context of the ETS, taonga may be considered as including Māori land, forests, and general economic and cultural interests.

Article three of the Treaty raises an important question for the Government of whether the proposal is equitable and provides assurance that rights would be enjoyed equally by Māori with all New Zealanders of whatever origin. In the context of the proposed changes to the ETS, reasonable consideration must be given to how Māori and the Crown define and

measure equitable outcomes, whether views regarding these equitable outcomes are aligned, and whether these views will be materialised with the proposed changes[24].

(b) The Principles of the Treaty of Waitangi

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[21] CO 19 (5) Treaty of Waitangi Guidance for Agencies.pdf (dpmc.govt.nz) at [24] – [45].

[22] CO 19 (5) Treaty of Waitangi Guidance for Agencies.pdf (dpmc.govt.nz)] at [46].

[23] CO 19 (5) Treaty of Waitangi Guidance for Agencies.pdf (dpmc.govt.nz) at [61].

[24] CO 19 (5) Treaty of Waitangi Guidance for Agencies.pdf (dpmc.govt.nz) at [67] – [76].

The principle of "partnership" is well-established in Treaty jurisprudence and imposes on both Māori and the Crown an obligation to act reasonably, honourably, and in good faith.[25] Furthermore, at the heart of the Treaty relationship is a partnership between kāwanatanga (government) and tino rangatiratanga (self-determination) which speaks to the Crown's right to govern whilst at the same time working to protect Māori rights to self-determination.[26] The principle of "active protection" is a central Treaty principle which encompasses the Crown's obligation to take positive steps and actively ensure that Māori interests are protected.[27] Finally, the Court of Appeal and Waitangi Tribunal accept that the principle of "redress" imposes an obligation on the Crown to remedy past breaches of the Treaty.[28] However, the focus should not solely be on remedying past breaches, but also ensuring compliance with the Treaty moving forward as per the Crown's role in supporting its relationship with Māori.[29]

(3) The likelihood that tangata whenua will be impacted by the cost recovery proposal

The Ministry for the Environment and the Ministry for Primary Industries have jointly acknowledged in their paper, the "National direction for plantation and exotic carbon afforestation" that Māori interests in forestry are very wide-ranging. In 2018, Māori were estimated to own $4.3 billion of forestry assets. Approximately 30% of New Zealand's 1.7 million ha of plantation forestry is estimated to be on Māori land, and this is expected to grow to 40% as Treaty settlements are completed. A significant proportion of New Zealand's privately owned indigenous forest is on Māori-owned land.

Approximately 71,000 ha of Māori freehold land comprises remote and less versatile land, making it well suited to carbon or long rotation plantation forestry. This implies that any regulatory changes could have a disproportionate effect on Māori, given that Māori freehold land and land that has been returned in Treaty settlements includes significant areas of existing forests.[30]

Māori owners of forest land are highly likely to interact with the ETS because of the following three characteristics:

(a) Barriers to Māori land and forestry interests

(a.i) Māori freehold land has high forest coverage at approximately 47%[31] but is disproportionately pre-1990 with indigenous forest at approximately 74%[32] compared to general title. This renders most Māori freehold land ineligible for earning NZUs but liable for the payment of ETS units if deforestation occurs. Note that land that was native forest on 31

[25] The principles of the Treaty of Waitangi as expressed by the Courts and the Waitangi Tribunal, p77 – p78.

[26] Waitangi Tribunal, Ngāpuhi Mandate Inquiry Report, p 23; Waitangi Tribunal, Te Arawa Mandate Report: Te Wahanga Tuarua, p 71.

[27] The principles of the Treaty of Waitangi as expressed by the Courts and the Waitangi Tribunal at p93 – p94.

[28] The principles of the Treaty of Waitangi as expressed by the Courts and the Waitangi Tribunal, p100 – p106.

[29] Section 14, Public Service Act 2020.

[30] National direction for plantation and exotic carbon afforestation - Discussion paper (mpi.govt.nz), page 19.

[31] Unlocking the Potential of Maori Land

[32] Māori economy emissions profile page 22

December 1989 and remained native forest on 31 December 2007 is not pre-1990 forest land. It is not covered by the ETS.

The likelihood that Māori landowners may be more vulnerable to emissions policy is high because of the limited range of alternative future land use options available for Māori[33], although this is not attributed to cost recovery itself.

(a.ii.) The range of barriers for Māori landowners are interlinked. Māori land is typically held within complex ownership structures, and statutory limits are imposed on Māori freehold land aimed at preventing alienation as well as inhibiting economic development over said lands. Therefore, it is very difficult to access finance for development[34]. Additionally, up to 30% of Māori land is landlocked[35], further perpetuating limited options available to optimise land use.

Land use information is also often highly technical (e.g. land use analysis, soil reports)[36], When combined with the difficulties and costs associated with obtaining quality information on Māori land, as well as the complexity of Māori ownership structures, Māori may be more likely to seek assistance through consultancy services or Te Uru Rākau elective services to comply with ETS rules. The bulk of advisory services (following up on applications and seeking clarification) would be charged as part of the annual fee, but there are still a few that would be charged.

(a.iii) An impact of cost recovery is the reduction in net present value for post-1989 ETS participants. Owners of post-1989 forests will incur additional costs than they would have otherwise prior to cost recovery. The reduction in net present value is consistently larger (between 5.3%-7.0% for permanent forest, or between 6.4%-8.5% for standard forest using averaging accounting) for owners of indigenous forest (compared to between 1.0%-1.9%, or 1.9%-2.5% for standard forest using average accounting, for Pine), which most Māori-owned forests are[37].

Conversely, pre-1990 forest owners, who receive no ongoing benefit from the ETS, would receive higher costs for deforestation. Of the 16 elective services with charges introduced, only four apply to pre-1990 foresters; all of which would only be incurred if they wish to deforest.[38] Overall, both post-1989 and pre-1990 foresters will be charged for a greater range of services than they are currently required to pay for. However, pre-1990 foresters are not proposed to pay the annual fee, and therefore will not need to pay to access some of Te Uru Rākau advisory services – which are charged under the annual fee.

(b) Barriers for whenua Māori (Māori land under Te Ture Whenua Māori Act 1993)

A high proportion of whenua Māori is unsuitable for economic development. Whenua Māori tends to be in lower capability land use classes (78% is in LUC 6,7, and 8) meaning it has

[33] Māori economy emissions profile page 20

[34] Structures under Te Ture Whenua Māori Land Act 1993

[35] Unlocking the Potential of Maori Land

[36] Unlocking the Potential of Maori Land

[37] Managing Permanent Exotic Afforestation Incentives: Regulatory Impact Statement page 15

[38] Forestry in the ETS: Proposed updates to cost recovery tranche two page 8, services 17, 19, 21, and 22.

low versatility of use[39]. As such, a disadvantage already exists for Māori in being able to unlock potential of their land.

Once again, it is likely that Māori landowners are more vulnerable to emissions policy due to the low economic viability of Māori land[40], despite this not being a function of cost recovery itself.

An exemption for deforestation on Māori land without incurring liabilities exists and can be applied for if the land is owned by 10 or more people, became owned by trustees of a trust, and is less than 50 ha.[41] If the owner received carbon credits under the pre-1990 Forest Land Allocation Plan, however, they are not eligible for this exemption. For Māori-owned land with less than 10 owners they have the option to apply for an exemption if they held less than 50 ha of pre-1990 forest land. These exemptions therefore ease the restrictions on smaller sized Māori land with many owners, particularly as much Māori land comes under this category. For Māori-owned land larger than 50 ha there are options to mitigate impacts of the ETS through provisions to offset deforestation under the ETS.

(c) Complexities associated with Māori land (within the meaning of Te Ture Whenua Māori Act 1993)

The difficulties and barriers outlined above that exist for Māori landowners in the use and enjoyment of their Māori land are elements of prejudice to Māori that stem from historical Treaty breaches. We acknowledge that the work of previous governments, the effects of earlier pieces of policy and law have created the present-day forestry landscape.

(d) Treaty settlement obligations

The cost recovery proposal may have an impact on the Crown's existing Treaty settlement obligations. Where obligations are outlined in the Deed of Settlement, we take this to mean that the obligations have been fulfilled (they have been given legislative effect).

The Treaty settlement obligations of most relevance to Māori forestry and/or the ETS are:

Ngāti Porou Claims Settlement Act 2012

As part of the settlement, the Crown transferred to the Ngāti Porou Post-Settlement Governance Entities (PSGE) the NZUs associated with the Crown Forest Licensed Land purchased by the Ngāti Porou PSGE.[42]

The governance entity outlined in this Settlement is entitled to apply for the allocation of units under the Pre-1990 Forest Land Allocation Plan, to the extent that the land in question is pre-1990 land.

Rongowhakaata Claims Settlement Act 2012

39 Unlocking the Potential of Maori Land

40 Māori economy emissions profile page 25

41 When deforestation obligations do not apply

42 Ngati Porou Claims Settlement Act 2012 (as at 12 April 2022) Section 3, Clause 3.18

Rongowhakaata, Ngāi Tāmanuhiri and Te Aitanga-a-Māhaki are part of a Central Leadership Group with the Crown. The Crown has an obligation to participate in this forum and address all matters relevant to Rongowhakaata and its lands, resources and taonga.[43] *This obligation is ongoing.*

Ngāi Tāmanuhiri Claims Settlement Act 2012

Ngāi Tāmanuhiri received (through a company of which they have 50% shareholding with the Crown holding the remaining 50%) Wharerata Forest as part of their commercial redress.[44] *Subsequent to its settlement with the Crown, the Trustee for Wharerata Forest was allocated NZUs in partial compensation for the loss in value of the forest as a result of the introduction of the ETS.*[45]

Wharerata Forest land is pre-1990 forest Land

Tapuika Claims Settlement Act 2014

Te Matai Forest (North) was transferred, and Te Matai Forest (South) was transferred in undivided half-shares, to the trustees of the Tāhuhu o Tawakeheimoa Trust as part of their Deed of Settlement[46]*.*

Pūwhenua forest was transferred to Tapuika Iwi Authority Trust as part of their Deed of Settlement[47]*. Kaharoa Forest is also one of four additional properties as commercial redress.*

Pūwhenua is a pre-1990 forest.

Central North Island Forests Land Collective Settlement Act 2008

As part of this Settlement the Crown transferred Crown-owned forest land as well as an allocation of New Zealand Units (carbon credits) on the basis that the Central North Island Forest land is pre-1990 forest land. Clauses 9.11 - 9.19 in the Deed of Settlement outline the vesting of NZU's to the CNI Forests Iwi Collective's NZU Entity at a future date once the ETS was created[48]*.*

The forest land in this settlement is pre-1990.

Likely impacts:

It is noted, that the NZU price has increased in value from $2NZD to $75NZD over the previous 10 years. Pre-1990 lands transferred as part of settlements cannot earn credits from the ETS on an ongoing basis like post-1989 foresters, they can only capitalise on their

43 Rongowhakaata Claims Settlement Act 2012, Section 6, Clauses 6.31 & 6.32

44 Ngāi Tāmanuhiri Claims Settlement Act 2012, Section 6.1

45 Wharerata Forests Ltd, Annual General Meeting 2018

46 Tapuika Claims Settlement Act 2014, Sections 135 & 136

47 Tapuika Claims Settlement Act 2014

48 Central North Island Forests Land Collective Settlement Act 2008 (as at 28 October 2021), Section 9, Clauses 9.11-9.19

one allocation of units. The net impact on the settlements is that if they wish to deforest the land, then they will pay higher costs to do so. Otherwise, as they are highly unlikely to access and pay for most of the services under cost recovery, they are also unlikely to be significantly impacted by the cost recovery proposal.

We understand that no PSGEs provided input on the likely impacts on their settlement, the impacts identified above have been summarised from our internal review. We note, Ngāti Porou Forests did provide a submission and are the manager of the Ngāti Porou treaty settlement forestry amongst other forestry. However, we note that the PSGE is Te Rūnanga o Ngāti Porou.

As we were unable to determine if Te Matai Forests North & South are pre-1990 or post-1989, we cannot conclude what the specific impacts are likely to be on these forests (outside of those already outlined more generally).

As at 2018, there was no intention to deforest the Wharerata forest. As such, the Ngāi Tāmanuhiri Claims Settlement Act 2012 is unlikely to be impacted by the new set of fees under cost recovery.

The Central Leadership Group forum was not used to discuss the cost recovery proposal. However, the PSGEs in this group were prioritised for consultation by Te Uru Rākau.

(e) Māori proportionality in the ETS

In this section Māori land in the ETS is defined as land within the jurisdiction of the Māori Land Court. This analysis distinguishes the difference in impacts on post-1989 forests and pre-1990 forests through the two fee categories of cost recovery: the annual charge and the elective service fees. The key difference is that the annual charge is for post-1989 forest land that is registered in the ETS.

Figure 1. The Māori proportions of forests under ETS rules as of January 2023 are outlined below:

Number of	Pre-1990 Māori	Post-1989 Māori participnst registered in the ETS (2023)*	Post-1989 Māori proportion of total ETS participants	Total hectares registered ETS**
Foresters	Unknown.	108	2.78%	**3,888**[49]

Please note these figures do not count the ha of land in applications that are currently being processed, nor the number of potential new participants currently in the processing stage. Due to data constraints, we were unable to source 2023 data for the number of pre-1990 Māori owned forests.

**These figures are based on land within the ETS that is under the jurisdiction of the Māori Land Court. We note that some Māori-owned land within the ETS may instead be classified as general land (and therefore not under the jurisdiction of the Māori Land Court). As such, the figures of total Māori-owned land are likely to be higher than outlined here.*

***Pre-1990 Māori forests are not registered in the ETS, and therefore do not have their data recorded in the total ETS dataset. Because of this, the total ETS registered ETS figures do not include the pre-1990 Māori figures.*

As illustrated above, Māori ETS participants with post-1989 forest land account for 6% of the total ha of land in the ETS. They account for even less (3%) of the proportion of ETS participants.

To demonstrate what these impacts may look like at an individual level for the range of Māori foresters and landowners (both within and outside of the ETS), case studies have been used below.

[49] Forestry in the ETS: Proposed updates to cost recovery tranche two, page 15, Figure 5

It is important to note that each case study is fictional but based on typical Māori forest examples. The attributes of each case study are solely intended to illustrate the impacts likely to occur to Māori foresters who also have some or all of these attributes to their forest. The cost recovery impacts are derived from the scenarios and cost settings outlined in the Discussion Paper.

Figure 2. The likely impacts on various registered Māori in the ETS are outlined below:

	Case Study #1	Case Study #2	Case Study #3	Considerations and likely impacts of cost recovery
Owner				Structures under Te Ture Whenua Māori Land Act 1993 tend to be subject to the following disadvantages[50]: • Lack commerciality • Difficulties obtaining finance • Restrictions on alienation that can obstruct land development • Cumbersome processes due to high level of beneficiary participation • Intervention from the Māori Land Court, which can be time consuming and costly.
	Māori Trust	**Māori Trust**	**Māori Trust**	

[50] Structures under Te Ture Whenua Māori Land Act 1993

	Case Study #1	Case Study #2	Case Study #3	Considerations and likely impacts of cost recovery
				Such challenges can hinder progress for Māori at every stage of their decision-making process.[51] • Māori typically have limited access to resources and expertise, which can further impede the decision-making process.[52]
Forest type	Post-1989	Pre-1990	Post-1989	• Pre-1990s will only receive higher costs from cost recovery. As outlined in section 2, most Māori land is pre-1990. • Post-1989s will receive a reduction in ongoing benefit (NZUs earned) and will need to pay the annual charge. • While both types of foresters will pay for a greater range of services accessed, all registered in the ETS are expected to receive a higher quality of service from Te Uru Rākau.

[51] Challenges and opportunities with native forestry on Māori land page 31

[52] Challenges and opportunities with native forestry on Māori land page 31

	Case Study #1	Case Study #2	Case Study #3	Considerations and likely impacts of cost recovery
Forest Size (ha)	300 (Indigenous)	25 (Pine)	500 (Pine)	• The larger the forest, the bigger the reduction in benefit (compared to smaller forests). Inversely, the smaller the forest, the smaller the benefit received. • Foresters in the indigenous category are subject to a higher reduction in benefit than foresters in the Pine category. • Afforestation is one of few viable options for Māori land, due to its physical characteristics and difficulty accessing capital for other uses.[53] Māori also have significant and wide-ranging interests in forestry, with a significant proportion of privately-owned forests in Aotearoa New Zealand being on Māori-owned land.[54]
Region	Northland	Gisborne	Central North Island	• Whilst this is not a function of cost recovery, the challenges inherent to the land characteristics of some regions may mean foresters in

[53] Te Taumata Transition Forest Analysis Report 2023 page 13

[54] National direction for plantation and exotic carbon afforestation - Discussion paper page 19

	Case Study #1	Case Study #2	Case Study #3	Considerations and likely impacts of cost recovery
				those regions are more likely to require Te Uru Rākau services and assistance and may have fewer land use options.[55]
NZUs earned / Allocated to date	54000	1500	273000	• NZUs are expected to continue increasing in value, but not necessarily because of cost recovery. • Pre-1990 foresters receive a one-off allocation of units. Foresters who have sold all their units will not receive further financial or economic benefit from the ETS. If they still have units in their possession, their value is subject to changes in the market price. • Post-1989 foresters will earn more in carbon credits than they will pay in cost recovery fees. • Some Māori land received as settlements (see 2(3)) were given a one-off allocation of units to

[55] Challenges and opportunities with native forestry on Māori land page 2

	Case Study #1	Case Study #2	Case Study #3	Considerations and likely impacts of cost recovery
				compensate for the loss in value of their pre-1990 land.
Minimum impact of cost recovery	• Case study #1 will likely experience a larger percentage reduction in Net Present Value than Case study #3, due to the fact that it is an indigenous forest, which incur the same fees and charges as exotic forest but receive a lower NZU allocation due to lower sequestration (as evidenced by the NPV impact analysis).	• If Case study #2 has already sold all their units, the net impact of cost recovery is that they will only receive higher costs for using Te Uru Rākau elective services. • #2 will be subject to the same fees as its larger counterparts for four of the elective services (only four apply to pre-1990 forests).56	• Case study #3 will likely experience a smaller percentage reduction to its Net Present Value than Case study #1, owing to the size of the forest and its planted species (Pine), which sequesters more carbon and therefore receives a higher NZU allocation than Indigenous forest.	The negative impacts for all case studies are compounded when combined with the barriers tied to the characteristics of Māori land and Māori ownership (as outlined in 2(1) and in row 1. For case study #1 and #3, the reduction in ongoing benefit is likely to be more potent for them than non-Māori. This is because they are Māori entities and are therefore subject to the barriers outlined in row 1**.** Based solely on the cost recovery settings, case study #2 is likely to bear the most negative impact. This is largely due to receiving no benefit and only further restricted land use options, as well as being the smallest forest in this set of case studies. These challenges are magnified when combined with the barriers inherent to

[56] Forestry in the ETS: Proposed updates to cost recovery tranche two – Page 8, services 17, 19, 21, and 22

	Case Study #1	Case Study #2	Case Study #3	Considerations and likely impacts of cost recovery
				Māori land characteristics and ownership. Thus, pre-1990 Māori foresters are likely to be the most negatively impacted (due to receiving no benefit), and these impacts are only enhanced when the forest is smaller.

(4) Consultation

For tranche 2, MPI undertook targeted engagement during the public consultation period to receive feedback specifically from tangata whenua.

- PSGEs whose settlements could be impacted were prioritised for consultation, followed by iwi as The Crown's treaty partners, and Māori Forestry Collectives. MPI attempted to call and email key representatives of these stakeholder groups, and invite them to a one-on-one hui for feedback. The purpose of this engagement approach was to inform them of the change and discuss the potential impact on Treaty settlements and any remedies or mitigations if required. As a number of these have been impacted by the cyclones, this engagement was limited.

- Most of the PSGEs with whom the Crown has specific forestry-related settlement obligations to were identified as critical to engage first, as there is potential for their settlements to be highly impacted by the proposal. This group is largely comprised of Tairawhiti iwi, who have been impacted by Cyclones Gabrielle and Hale and thereby have very limited capacity to engage with MPI.

- Representatives of Ngā Pou a Tane, Federation of Māori Authorities, and Crown Forestry Rental Trust were emailed by MPI for feedback on the proposed cost recovery. Ngā Pou a Tane sent a joint request for an extension of the consultation timeframe. The consultation period was extended by two weeks, but this was not the full extension requested.

- Te Puni Kōkiri, Te Arawhiti, and Te Tumu Paeroa were emailed at different phases of the cost recovery development to inform them of the proposal and seek feedback. Two of these organisations provided feedback (Te Arawhiti after tranches 1 & 2, and Te Tumu Paeroa made a submission during the tranche 2 consultation period).

- Te Arawhiti provided advice after tranche 1 and reinforced that there is a higher expectation on Crown ministries/agencies/entities to conduct targeted engagement with Māori because they are not just interested members of the public – they are The Crown's Treaty Partner. As such, it is noted that engagement with Māori should not be limited to opportunities to participate on the public consultation process. It advised that the treaty analysis must be informed by engagement with Māori interest groups, which should have taken place before the consultation period of tranche 2. While planning for a more targeted engagement with Māori was undertaken, due to the timing and impacts around the cyclones and the short timeframe for the proposal, the response rate from Māori and iwi we contacted was low.

- We recognise that tangata whenua are fundamental to determining the cost recovery impacts to Māori and thus understand that the low number of responses received from tangata whenua limits the fullness of this impact analysis. We intend to use our Māori Engagement Strategy to better reflect true partnership and undertake more meaningful engagement with tangata whenua in the future.

- Due to the difficulty associated with identifying Māori in the Forestry ETS system, all participants registered in the Forestry ETS were emailed and invited to a dedicated Māori consultation hui. Due to the low response rate and limited availability of tangata whenua,

both of which were directly linked to the impacts of the cyclones, face-to-face hui could not be delivered.

- We also aimed to consult with Māori with existing forestry interests, Māori land trustees with land with future forestry potential, and Treaty claimant groups who may receive land with forestry potential as part of their redress. As these stakeholders would be extremely difficult to identify, emails were sent to the subscribers of the Forestry ETS Alert and the Māori Foresters Group.

- Most Māori submissions received were from Māori Trusts, forestry collectives or companies, and Māori incorporations.

(a) Māori engagement in this process

We provided a six-week consultation period from 22 March to 3 May 2023 for public submissions to the proposal.

We did not undertake targeted consultation with tangata whenua for tranche 1, but did receive a submission from a Māori submitter during tranche 1's public consultation period. We recognise that tangata whenua should have been consulted earlier and have therefore tried to remedy this during tranche 2.

For various reasons, many of which were due to dealing with the impacts of the flooding and Cyclone Gabrielle, most tangata whenua did not have the time or capacity to engage with MPI for consultation. This is reflected in the low number of responses from tangata whenua received during the consultation period.

(b) Method of engagement undertaken

During the consultation period, we actively sought to engage with tangata whenua on the proposal in alignment with Te Arawhiti engagement guidelines.[57] The Te Arawhiti engagement spectrum is outlined from "inform" to "empower":

Figure 3. Te Arawhiti Engagement Spectrum[58]

Forms of engagement	Description
Inform	The Crown will keep Māori informed about what is happening. Māori will be provided with balanced and objective information to assist them to understand the problem, alternatives, opportunities and/or solutions.
Consult	The Crown will seek Māori feedback on drafts and proposals. The Crown will ultimately decide. The Crown will keep Māori informed, listen and

[57] Te Arawhiti Engagement Guidelines

[58] Te Arawhiti Engagement Guidelines

	acknowledge concerns and aspirations, and provide feedback on how their input influenced the decision.
Collaborate	The Crown and Māori will work together to determine the issues/problems and develop solutions together that are reflected in proposals. The Crown will involve Māori in the decision-making process but the Crown will ultimately decide.
Partner / Co-Design	The Crown and Māori will partner to determine the issue/problem, to design the process and develop solutions. The Crown and Māori will make joint decisions.
Empower	Māori will decide. The Crown will implement the decision made by Māori.

We have actively sought to keep tangata whenua informed about what is happening. We sent balanced and objective information to assist them to understand the problem, alternatives, opportunities and/or solutions.

Feedback was also sought from tangata whenua to understand the impacts of the cost recovery proposal and determine if tangata whenua would be disproportionately impacted by it. We will consider the concerns and aspirations reflected in the responses received from Māori. We will also individually report back to Māori on the proposal outcome and share how their input has been considered.

(5) Existing and Proposed Legislative Safeguards for Māori Interests

(a) Climate Change Response Act 2002

The Climate Change Response Act 2002 has limited provisions outlining pre-existing safeguards for Māori interests, but it does require decision makers to consult representatives of iwi and Māori before making specified decisions as per section 3A[59]. Additionally, Māori may apply for an exemption for deforestation on Māori land without incurring liabilities which may be granted if the prescribed conditions are satisfied.[60] There are other sections that exist under the Climate Change Response Act which may have the effect of safeguarding Māori interests, however, these sections are not specifically designed to protect Māori interests but rather to offer safeguards to all ETS participants.

(6) Māori responses to the proposal:

Public consultation was open from 22 March to 3 May 2023. Having taken place shortly after both the flooding and Cyclone Gabrielle, a total of nine responses were received from tangata whenua.

[59] Section 3A, Climate Change Response Act 2002

[60] When deforestation obligations do not apply

Five (7%) of 73 submissions on the cost recovery proposal are from Māori submitters, all of whom submitted their responses on behalf of Māori organisations, trusts, iwi, or iwi forestry companies. Thus, all submitters are collectively representative of hundreds of Māori landowners and foresters. Four responses from tangata whenua were also received verbally over-the-phone or through formal hui facilitated by us.

Overall, two Māori submitters stated they did not support the cost recovery proposal. Three submissions were solely requests for more time to respond. These requests were met in part by way of a two-week extension (from 19 April to 3 May); however, we recognise that this was not the full extension asked for. Four of the submissions could understand the rationale for cost recovery or agreed with some of the proposed changes. Conversely, three submissions challenged the cost recovery rationale by arguing that the Government also receives a public benefit from the ETS.

The key points from these responses have been consolidated and summarised below:

Inequitable impact on small foresters

A notable theme across most responses was concern for the perceived disproportionate impact on small forest owners. One respondent noted that smaller block clusters from their greater iwi would likely be unduly affected by any increase, and others noted the low capital and legacy issues inherent to Māori land blocks that would make the impact of cost recovery particularly potent for small Māori landowners and foresters.

There was also mention of how compliance tasks and current regulations are already difficult to navigate and so consultant assistance would likely be required, further driving up the costs for small foresters.

Exemptions for certain conditions

Another key theme across submissions from is the ETS' track record with Māori.

Two respondents criticised other elements of the ETS that make the impacts of cost recovery likely to be disproportionate for Māori. One element is that the proposal will reduce landowner options and therefore negatively impact Māori, who have been left with marginal land and thus few options for sustainable land use.

One submitter suggested that pre-1990 forest owners should be provided an exemption, given that they had their land compulsorily included into the ETS and are subject to severe deforestation liabilities. Another argued that a Treaty partner discount would be an appropriate remedy for the likely disproportionate impact of cost recovery on Māori, as a result of the additional struggles peculiar to Māori land due to colonisation and legacy issues. An argument was also provided for the disproportionate impact on owners of indigenous forest due to the inherent difficulties and higher costs associated with maintaining these.

The ETS' track record with Māori

Some Māori submissions also reinforced their expectations of MPI as their Treaty Partner and their desire to have more input, specifically through co-design and partnership, in the settings of the proposal. A key finding outlined in submissions included a strong desire for

both central and local government to work in partnership with Māori to co-design climate policies that work for both Māori, and for broader New Zealand.

Submissions have expressed that the proposal would likely have a negative impact for Māori participants within the ETS. Two organisations highlighted how pre-1990 Māori foresters have received little compensation and continue to receive little benefit from having their forests compulsorily included in the ETS. One submitter highlighted a problematic history of receiving NZUs and the perceived continued attempt by the ETS to ignore the issues from that. As a solution to the negative impacts being expressed in submissions, Māori have indicated that co-designing current and future climate policies would be beneficial and a reflection of good faith.

Not the right time to consult

Submissions received from the public included requests for an extension on the originally provided consultation period. These submissions highlighted that the forestry industry was being given less than a month to assess and consider the implications of the proposed cost recovery fees and charges. It was also noted that a vast number of other government consultations were occurring during the same time period. Consequently, in light of requests from the public, the effects of Cyclone Gabrielle and other competing consultation periods, the consultation period for the proposed cost recovery fees and charges was extended until the 3rd of May. This was not the full extension period requested by some.

However, after receiving requests for an extended consultation period, some submitters did not return with any follow-up submission. A key finding outlined in submissions included a strong desire for both central and local government to work in partnership with Māori to co-design climate policies that work for both Māori, and for broader New Zealand. Submissions have expressed that the proposal would likely have a negative impact for Māori participants within the ETS. Therefore, as a solution to the negative impacts being expressed in submissions, Māori have indicated that co-designing current and future climate policies would be beneficial and a reflection of good faith.

Mixed views on the rationale for cost recovery

Two responses outlined a desire that the proposed cost recovery would enable Te Uru Rākau – New Zealand Forest Service to provide ETS participants with a better standard of service than that in which they currently receive. These responses highlighted numerous issues in their previous and current interactions with Te Uru Rākau – New Zealand Forest Service including long servicing times and inconsistent service quality. Additionally, responses also shared a general frustration towards their interactions with the ETS and hoped that these frustrations would be resolved. Overall, these responders understood the reason for the proposed cost recovery, but they would like to see improved ETS services considering that participants would be bearing more of the costs.

Three written submissions challenged the rationale for cost recovery, with two making the argument that since the ETS serves as a public good for all of Aotearoa New Zealand, it should be funded by the taxpayer. One of these submitters also further challenged the cost recovery rationale which argues that ‘due to the direct financial benefits gained, participants should pay for the resources required to run the ETS.’ This submitter highlighted that pre-

1990 forest owners receive no net benefit from the ETS, and had their land included in the ETS for the express purpose of providing a public good for Aotearoa New Zealand.

Summary

As reflected through both feedback received from tangata whenua and the impact on Māori identified in Section 2 of this analysis, the principles of Te Tiriti o Waitangi may have been impinged by this cost recovery proposal.

Due to the difficulties and barriers inherent to Māori land ownership (as outlined in further detail in Section 2 and in the Case Studies), the cost recovery proposal may further reinforce the barriers for Māori in being able to meet their aspirations for future land use and development. It may also limit the ability of post-1989 Māori foresters to actively **participate** in the scheme.

This is because there are challenges at every stage of the decision-making process for Māori. The complexity of Māori ownership structures, combined with the difficulty and cost associated with obtaining quality information on Māori land and the technical nature of land use information, mean that Māori are more likely to require Te Uru Rākau assistance.

Pre-1990 foresters, whom most Māori foresters are, derive no net benefit from the ETS and only receive further restrictions on future land use options. This means, it is likely there will be a high proportion of Māori foresters unable to reap benefits from the ETS scheme and provides another barrier to achieving their aspirations. In addition to the impact of the annual charge on post-1989 Māori foresters, the ETS becomes a scheme that restricts Māori participation, especially when Māori are forced to deregister because the costs outweigh the benefits. This reflects that the principle of **active protection**, through the Crown's responsibility to protect the interests of Māori and thereby achieve equitable outcomes for Māori, has been impinged.

The short timeframe provided to Māori to participate in the consultation process, with no additional opportunities to participate through the legislative process, could be perceived as failing to meet the Crown's obligation to **partner** with Māori. Based on feedback from tangata whenua and our obligations under Te Tiriti o Waitangi, we intend to regularly review our Māori Engagement Strategy to undertake earlier and meaningful engagement with tangata whenua in the future.

Figure 4. Tangata whenua reached out to by MPI for input on the cost recovery proposal

PSGEs
Te Rūnanga o Ngāti Porou
Rongowhakaata
Ngāi Tāmanuhiri
Te Aitanga-a-Mahaki
Tapuika
Central North Island Iwi Collective
Ngāti Hine
Te Rūnanga o Te Rarawa
Iwi Leaders Group
Te Rūnanga o Ngāi Tahu
Te Rūnanga o Ngā Wairiki Ngāti Apa
Māori Forestry Collectives
Ngā Pou a Tane
Federation of Māori Authorities
Crown Forestry Rental Trust
Iwi forestry leaders
Ngāti Kahungunu
Ngāti Porou Forests Limited
Te Tai Tokerau Māori Forestry Collective Incorporated
Lake Taupō Forest Trust
Ngā Tapuwae Incorporation
Ngāti Hine Forestry Trust
Other
Māori ETS participants

Māori with existing forestry interests
Māori land trustees with land with future forestry potential
Claimant groups who may receive land with forestry potential as part of their redress

Figure 5. Māori Crown Agencies reached out to by MPI for input on the cost recovery proposal

Māori Crown Agencies
Te Puni Kōkiri - Ministry of Māori Development
Te Arawhiti – The Office for Māori Crown Relations
Te Tumu Paeroa – The Māori Trustee

Appendix 5: NPV Modelling Assumptions

Key Modelling Assumptions		
Assumption	**Value**	**Description**
Discount rate for investment	• 7.10% (nominal)	Current real treasury discount rate of 5.0% multiplied by the midpoint of the RBNZ target inflation band (1.0% - 3.0%)
NZU Forecast Value	• For the main analysis the carbon price path has been determined using a spot price of $60 escalating at 2.0% per annum • For the supplementary analysis the carbon price path has been determined using a spot price of $45 escalating at 2.0% per annum	NZUs are assumed to be sold the day they are allocated from filing returns. The carbon price path determines the assumed revenue from the sale of NZUs
Carbon stock tables	• Default tables • FMA area weighted average tables	For forests smaller than 100 ha, default carbon tables have been used in the analysis. For forests larger than 100 ha, FMA area weighted average tables have been used in the analysis.
Forester costs/revenue	• N/a	The analysis focusses on the costs and revenue associated with membership in the ETS. There is no allowance for costs for forest establishment and/or maintenance
Rounding	• N/a	Units of area displayed are whole numbers. Emission units for returns are un-rounded
Return filing	• Returns are filed at the minimum frequency i.e., following the end of a MERP. No provisional returns are filed	N/a
Forest homogeneity	• N/a	Forests are assumed to be homogeneous
Only ETS forests	• N/a	For simplicity, only forests that stay in the ETS are modelled, i.e., no deregistration fees are modelled
Charges and Fees	• See Appendix 3	The modelling incorporates the fees and charges outlined in Appendix 3. These fees and charges are not indexed and are assumed to be held constant throughout the forecast period.

Appendix 6: Impact analysis modelling assumptions

Key Modelling Assumptions		
Assumption	**Value**	**Description**
Discount rate for investment	• 5.0% (real)	Current real treasury discount rate of 5.0%. The analysis was based off a MPI technical paper with constant parameters which therefore required the use of a real discount for consistency.
NZU price forecast	• Scenario one: $40 held constant; • Scenario two: $60 held constant; and • Scenario three: $80 held constant.	NZUs are assumed to be sold the day they are allocated from filing returns. The carbon price path determines the assumed revenue from the sale of NZUs
Carbon stock tables	• Default tables • FMA area weighted average tables	For forests smaller than 100 ha, default carbon tables have been used in the analysis. For forests larger than 100 ha, FMA area weighted average tables have been used in the analysis.
Forester costs/revenue	• N/a	The analysis focusses on the costs and revenue associated with membership in the ETS. There is no allowance for costs for forest establishment and/or maintenance
Rounding	• N/a	Units of area displayed are whole numbers. Emission units for returns are un-rounded
Return filing	• Returns are filed at the minimum frequency i.e., following the end of a MERP. No provisional returns are filed	N/a
Forest homogeneity	• N/a	Forests are assumed to be homogeneous
Only ETS forests	• N/a	For simplicity, only forests that stay in the ETS are modelled,

		i.e., no deregistration fees are modelled
Charges and Fees	• See tables 1, 2 and 3.	The modelling incorporates the fees and charges outlined in tables 1, 2 and 3. These fees and charges are assumed to be held constant throughout the forecast period.