

Rural eSpeaking

Allen, Needham & Co. Ltd.

BARRISTERS, SOLICITORS AND NOTARY PUBLIC

52 Canada Street, PO Box 12, Morrinsville 3300

T 07 889 5062 | F 07 889 5369

law@anco.co.nz | www.allen-needham.co.nz

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Welcome to the Winter 2023 edition of *Rural eSpeaking*.

We hope you find all the content in this e-newsletter to be both interesting and useful.

If you would like to talk further about any of the topics we have covered in this edition, or indeed on any other legal matter, please don't hesitate to contact us. Our details are at the top right.



Freshwater farm plans Roll out by regions starting 1 August

Freshwater farm plans are part of the Essential Freshwater package introduced by the government in 2020.

Its purpose is to stop further degradation of this country's freshwater resources and improve water quality, reverse past damage and to bring our freshwater resources, waterways and ecosystems to a healthy state within a generation.

We discuss what is required of farm plans that will be rolled out by region over the next two years.

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Emissions Trading Scheme

Two discussion papers invite submissions

The ETS is the primary regime used to achieve the government's long-term commitment to reduce New Zealand's greenhouse gas emissions.

The government has now acknowledged that the current framework is not perfect and the ETS must adapt.

In June, two discussion papers were released as part of the government's consultation process; we outline the proposed changes.

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Over the fence

Obligations of working dog owners

Owning working dogs brings legal obligations and responsibilities. We outline registration and microchipping requirements, penalties for owning a dangerous dog and obligations to care for your dogs.

MPI: Animal welfare checks

Since 1 July 2023, the Ministry for Primary Industries has been responsible for delivering inspectorate services for all animal species in New Zealand. We summarise the role of an animal inspector.

Firearms Registry opened 24 June 2023

After the Christchurch terrorist attacks, the government introduced laws strengthening the management of firearm use including establishing a Firearms Register.

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Freshwater farm plans

Roll out by regions starting 1 August

Freshwater farm plans are part of the Essential Freshwater package introduced in 2020. Its purpose is to:

- + Stop further degradation of New Zealand's freshwater resources and improve water quality
- + Reverse past damage, and
- + Bring New Zealand's freshwater resources, waterways and ecosystems to a healthy state within a generation.

To that end¹, freshwater farm plans are now beginning to be required by all farms that have:

- + 20 hectares or more in arable or pastoral use
- + Five hectares or more in horticultural use, or
- + 20 hectares or more in combined use.

Southland and Waikato roll out first

The order sets out² which of New Zealand's regions must have their plans underway. The first regions to prepare their plans from 1 August 2023 are Southland and Waikato. The remaining regions must start the process at various times up to 1 July 2025. Due to the effects of Cyclones Hale and Gabrielle earlier this year, the timing of the

implementation of these plans in Hawke's Bay and Tairāwhiti is yet to be decided.

Within 18 months of the order coming into effect for a particular region, plans must be 'certified' by a certifier who will be appointed by the local regional council. Plans must be audited within 12 months of the date of certification, with the timing of further audits dependent on the results of the initial audit. Auditors will be appointed by the local regional council. Plans must be recertified every five years.

The process

The freshwater farm process requires farm operators to identify on-farm risks to freshwater and to determine actions to manage those risks based on the:

- + Farm's landscape features and natural environment
- + Farming activities, and
- + Environmental health, and cultural and community values of the local catchment.

The intent of the legislation is to ensure that the on-farm actions are practical and effective in relation to a specific farm, rather than having a one-size-fits-all approach to the issue.

It is the responsibility of the 'farm operator' who is the person with 'ultimate responsibility for the operation of the farm' to prepare the freshwater plan.

Under Section 217E of the Act, the main duties of the farm operator are to:

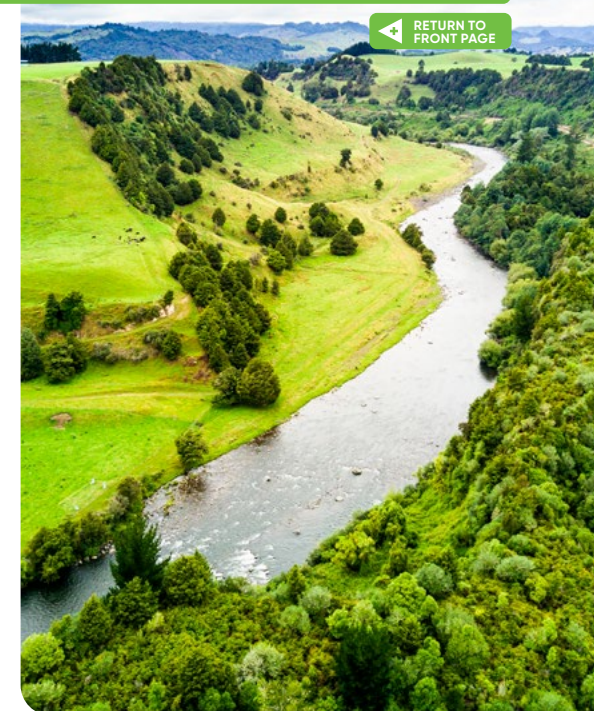
- + Prepare a freshwater farm plan in accordance with Part 9A of the Resource Management Act 1991 (RMA) and Regulations
- + Submit the plan to a certifier for certification
- + Ensure that the farm operates in compliance with the certified freshwater farm plan, and
- + Arrange for the farm to be audited in accordance with Part 9A of the RMA and any regulations for compliance with the certified freshwater farm plan.

Keep the plan current

The farm operator must also keep the certified freshwater farm plan fit for purpose by amending the plan as necessary to reflect the Act and Regulations.

Section 217F sets out what the freshwater farm plan must contain. Basically, it must:

- + Identify any adverse effects of activities carried out on the farm on freshwater and freshwater ecosystems
- + Specify requirements that are:
 - Appropriate for the purpose of avoiding, remedying, or mitigating the adverse effects of those activities on freshwater and freshwater ecosystems, and
 - Be clear and measurable



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- + Demonstrate how any outcomes prescribed in any Regulations are to be achieved
- + Comply with any other requirements in the Regulations, and
- + Comply with section 217L.³

There are a variety of templates and guidance tools made available by MPI [here](#) and other resources are available to farmers to help them complete their freshwater farm plans.

If you need some help in navigating the freshwater farm plan regime, please don't hesitate to be in touch. We are here to help. +

1 Under part 9A of the Resource Management Act 1991 and the Resource Management (Application of Part 9A – Freshwater Farm Plans) Registrations 2023.

2 Resource Management (Application of Part 9A – Freshwater Farm Plans) Order 2023.

3 Section 217L states that a freshwater farm plan may contain a requirement that relates to an activity on the farm that is subject to a 'specified instrument' (a resource consent, conservation order or similar requirement). This section is intended to ensure that compliance with the freshwater plan does not supersede any obligation to comply with any such specified instruments.

Emissions Trading Scheme

Two discussion papers invite submissions

The Emissions Trading Scheme (ETS) is the primary regime used by the government to achieve its long-term commitment to reduce New Zealand's greenhouse gas emissions so that our international obligations are met.

Through the ETS, a price is set on emissions by charging certain sectors for the greenhouse gases they emit. Emitters must acquire and surrender New Zealand Units (NZUs) to account for their direct emissions or emissions associated with their products. Emission units (often called 'carbon credits') are traded between participants in the scheme. One emission unit can either represent one metric tonne of carbon dioxide, or the equivalent of any other greenhouse gas.

The government has acknowledged that the current framework is not perfect and the ETS must adapt.

In June, the government released two discussion papers as part of its consultation process on proposed changes.

Document 1: Encouraging greater gross emissions reductions

The first document provides four options to encourage greater gross emissions reduction in the ETS while, at the same time, continuing to support forestry removals. It highlights the role that forests have in New Zealand's response to climate change as well as the associated challenges with widespread exotic forest.

The four options proposed are:

1. Using existing ETS levers to strengthen incentives for net emissions reductions.

The government could reduce the supply of NZUs and therefore reduce net emissions through existing levers such as auction volumes, price controls or industrial allocation. In short, if fewer NZUs are available then fewer emissions would be offset resulting in reduced emissions being produced.

2. Creating increased demand for removal activities to increase net emissions reductions.

Additional entities (such as the government or offshore buyers) could purchase NZUs. This would help to attain the Nationally Determined Contribution (NDC); offshore buyers might purchase them to meet voluntary emissions targets or support voluntary market claims. As the discussion paper notes, there is no evidence of significant demand from offshore buyers and the effectiveness of this options is expected to be limited.

3. Strengthening incentives for gross emissions reductions by changing incentives for removals.

This option would create two prices: one for emissions reduction activities and another for removal activities. A lower price would apply to removal activities, making them less financially attractive. The prices for reduction and removals would still be linked, because an increase to the price for units sold at auction would likely increase the price paid for removal activities.


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4. Creating separate incentives for gross emissions reductions and emissions removals.

The fourth option would create two markets with two separate prices: one for gross emissions reduction activities and another for removal activities. Emitters would only be permitted to use units sold at auction, or allocated for emissions-intensive and trade-exposed activities, to meet their surrender obligations, while removal activities would be incentivised through a separate market.

Document 2: Redesign of permanent forest category

The second discussion paper outlines the government's proposal to take a cautious approach to the redesign of the permanent forest category in the ETS. It acknowledges both the potential environmental and economic risks associated with large-scale transition of land to permanent forestry. The paper notes that the current ETS settings incentivise increasing levels of permanent exotic afforestation, in particular *Pinus radiata*, as it provides a much higher return

on investment relative to other competing land uses including indigenous forests and some pastoral systems.

Three design choices are presented in the paper and, within these design choices, options are presented.

1. Which forests should be allowed in the permanent forest category?
 - a. Only transition forests and indigenous forests can enter the permanent forest category, or
 - b. Exotic forests allowed to enter under limited circumstances. This could, for example, include long-lived species, Māori-owned land or small-scale exotic forests planted on farms.
2. How should transition forests be managed to ensure they transition from exotic to indigenous forest and reduce the financial risks to participants?
 - a. Retain the status quo – no new specific carbon accounting method for transition forests or

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Over the fence



Obligations of working dog owners

There are a range of legal obligations and responsibilities associated with owning working dogs. 'Working dogs' are specifically defined under the Dog Control Act 1996 and include dogs used solely or principally for the purpose of herding or driving stock.

Registration and microchipping: Working dogs do not have to be microchipped unless they are kept on the farm as a family pet or used for recreational hunting. While working dogs may not need microchipping, they must be registered and wear a collar with a council-provided disc or label. When registering a working dog, you must specify that they are a working dog. If you don't register or micro-chip (where required) working dogs, you can be fined up to \$3,000.

Dangerous dogs: If your working dog attacks a person, another animal or protected wildlife, you may be fined up to

\$3,000 and your dog may be destroyed. If your dog causes serious injury (or death) to a person, animal or to protected wildlife you may be imprisoned for up to three years and/or fined up to \$20,000.

If your dog attacks a person or animal and no destruction order is made, your local council can still classify your dog as dangerous, meaning it must be kept within a fenced area, neutered, muzzled and kept on a leash in public places. You will also be liable for higher registration fees and cannot dispose of the dog to another person without the written consent of your local council.

Protection of working dogs: You must ensure your dogs receive proper care and attention, including sufficient food, water and adequate exercise. Failing to care for your dogs is considered an offence and you could be imprisoned for up to three months or fined up to \$5,000.

Local councils also have the power to impose certain obligations regarding dog controls. Therefore, it is crucial to check your local council's policies regarding working dogs to ensure you are compliant.

MPI: Animal welfare checks

The Ministry for Primary Industries (MPI) regulates animal welfare and ensures the safe treatment of animals in New Zealand. Since 1 July 2023, MPI is responsible for delivering inspectorate services for all animal species in New Zealand.

The Animal Welfare Act 1999 provides the legislative framework for the care, treatment and obligations relating to animals, including when using animals for the purposes of research, testing and teaching. MPI inspectors have wide-reaching authority under the Act. This allows them to enforce the rules under the legislation and to ensure that animals are being treated and cared for properly.

In particular, section 127 of the Act authorises an inspector to enter onto private land, premises, vehicles, aircraft or ships (without a warrant) to carry out a routine inspection on an animal. The power of entry does not require an inspector to hold a belief that any offence has been committed. However, inspectors may only enter onto private land at a reasonable time and evidence must be provided to the animal's owner of the inspector's identity. No force must be used; entry into private dwellings or a marae can only be undertaken with a search warrant.

If nobody is present at the time of entry, the inspector must leave in a prominent place a written statement of the time and date of entry, the purpose of entry, the condition of the animals inspected, the animals removed (if any), and the address of the police station or other office to which enquiries can be made.

If an inspector has reasonable grounds to believe an animal has been mistreated, they can move that animal to a place chosen by them. Inspectors may also remove an animal if they believe it requires veterinary care or the owner is disqualified from owning animals. The animal will be kept at the chosen location until a judge orders the animal be returned to the owner, or the owner is charged and the animal is forfeited to the Crown.

Firearms Registry opened 24 June 2023

After the Christchurch terrorist attacks, the government introduced laws strengthening the management of firearm use, including establishing a Firearms Register. The Register opened on 24 June 2023.

All New Zealand firearms licence holders must now register all non-prohibited firearms, restricted weapons, pistols, major parts, prohibited firearms/magazines and pistol carbine conversion kits. Do note that firearms that do not work must still be registered.

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Emissions Trading Scheme

- b. New mandatory specific carbon accounting methods for transition forests in the permanent forest category.
3. How should permanent forests be managed?
 - a. Retain the status quo – no additional forest management requirements introduced for forests in the permanent forest category
 - b. New minimum forest management requirements, specific to the permanent forest category, are introduced for all registered permanent forests (exotic, indigenous and transition forests), or
 - c. New forest management requirements are needed for transition forests.

The consultation for both discussion papers ends on Friday, 11 August 2023. A summary will be published once submissions close. Individual submissions on the discussion papers may also be made publicly available online. It is noted that late submissions may be accepted however they may not be considered in time to inform the next steps for the ETS review.

If you would like to make a submission on the ETS before Friday, 11 August, click [here](#).

The ETS is complex and the two discussion papers contain considerable jargon that can be difficult to interpret. If you are interested in how these proposed changes may impact you, please don't hesitate to discuss this with us. We are here to help. +

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Over the fence

Licence holders have until 24 June 2028 to register the items listed on the previous page. However, there are a number of activating circumstances that will require someone to register the items sooner. Examples of the activating circumstances are where a firearm is being purchased or sold, where a firearm has been lost or stolen, or where a person is applying for a new (or renewing an existing) firearms licence/endorsement.

Individual firearms licence holders do not need to register antique firearms or airguns (excluding specifically dangerous airguns). Individuals are also not required to register ammunition in their possession, nor to record sales or purchases of ammunition to or from other firearms licence holders.

To find out more about the Firearms Registry, click [here](#). +

