



CENTRAL HAWKE'S BAY DISTRICT COUNCIL

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File: ADM1-1800

10 August 2015

To: NES – PF Consultation
Spatial, Forestry and Land Management
Ministry of Primary Industries
PO Box 2526
Wellington 6140

Subject: **Proposed NES for Plantation Forestry Submission**

Attention: Stuart Miller
Email: NES-PFConsultation@mpi.govt.nz

From: John Freeman
Chief Executive
Central Hawke's Bay District Council
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Thank you for the opportunity to make a submission on the 2015 Proposed National Environmental Standard for Plantation Forestry (NES). Central Hawkes Bay District Council (Council) appreciates the efforts being made through the consultation process by both the Ministry for the Environment and Ministry of Primary Industries to develop an NES which can operate effectively and with certainty in the regulatory environment.

As an introductory comment Council wishes to convey that it supports the intent and purpose of the NES to provide clear national direction, more certainty and better environmental outcomes for plantation forestry at a local authority level in New Zealand. Council is concerned however that as it is currently written the provisions of the draft NES will create a high level of confusion and uncertainty relating to afforestation activities including additional financial burdens for Council and the district rate payers.

The specific matters relating to the NES which Council wishes to comment on in this submission are as follows;

- (1) Matters omitted from the NES
- (2) Harvesting Activities
- (3) General Conditions
- (4) Complexity of the interpreting and implementing the NES Risk Assessment Tools
- (5) Uncertainty relating to Council role
- (6) Cost Recovery

(1). **Matters Omitted from the NES**

Council is concerned that the NES may not achieve the desired outcome of less variation and more certainty for plantation forestry if matters outside the scope of the NES continue to include critical parts of the afforestation process.

Table 1 on page 14 of the consultation document lists the eight core forestry activities that will replace existing provisions in district plans. Section 3.4 of the draft document includes details of the specific circumstances where council is able to apply more stringent rules than the NES.

One of these key areas identified by Council is the impact of harvesting operations on the road infrastructure. Neither the eight core areas of forestry activity covered by the NES or the circumstances where more stringent controls can be applied (as detailed in Table 4 of the consultation document) include impacts on the district roading infrastructure from the effects of plantation harvesting.

The exclusion in the NES of consideration of the wear and tear on district roads from harvesting operations is of concern to Council. The inability to consider impacts on the roading network from forestry harvesting operations may mean that the NES provisions may result in district rate payers having to meet the financial cost of adverse impacts on the district roading network.

Any potential impact on the road infrastructure is a significant issue to this Council which has responsibility for 855.7 km of sealed and 406.3 of unsealed roads in the district of Central Hawke's Bay. Plantation forestry is an established land use in Central Hawke's Bay and growth of this industry will inevitably impact the district roading infrastructure at the time of harvesting operations.

The relief sought is that the NES is amended to include impacts on the roading infrastructure as one of the matters that Council is able to reserve control over in the district plan. Inclusion of this matter as part of the NES would then enable Council's to reserve control over applying a development contribution levy to address the impacts of plantation forestry harvesting activities of the district road infrastructure.

(2) **Harvesting Activities**

The objective of the Harvesting activities in the NES is stated as "*To introduce a consistent set of harvesting controls that manage the risks identified below in a manner that is in line with good forest management practise.*" The NES identifies discharge of slash and contaminants to land and water associated with harvesting with the emphasis of the risks associated with harvesting as primarily relating to the impacts of slash transport entering waterbodies.

The risks and adverse effects of the transport of slash relate to water quality only and do not appear to extend to potential impacts on the road infrastructure. While this is understandable from the perspective that the maintenance and enhancement of the quality of water is a regional council function our Council is concerned that the NES assessment and provision for harvesting activities has omitted to include two significant matters which should be included as part of the assessment for permitted activity status for the harvesting activity.

As forests are harvested the industry leaves behind large amounts of waste (slash) where ever it happens to fall during the harvesting period. This slash has the potential to enter the waterways during storm periods and flow downstream which, when such waterways enter the road reserve, has the potential to cause extreme damage to infrastructure in the road

reserve including bridges, blocked culverts resulting in overflows, road closures and washouts.

Council experienced this situation as a result of a major storm event in the coastal area of the district in April 2011. A washout caused by the build-up of slash from forestry harvesting operations up stream of a bridge in the road reserve contributed to extensive damage to the bridge. As a consequence the bridge required costly repairs and the road was closed for several weeks while repairs were carried out on the bridge causing inconvenience to users of the road.

This level of damage or impact on the road infrastructure has the potential to create hazards to the travelling public such as large branches being deposited on the road.

The relief sought is that the following be added to the list of matters to be considered as permitted activities in the Harvesting activity;

“A buffer of 10 to 20 metres of undisturbed vegetation with established trees capable of retaining forest slash and debris be left on either side of a stream or watercourse”

Council also believes that Harvesting above Local Authority assets such as roads is a real concern as it has the potential to weaken slopes above the road causing land slips which close the roads and have a major safety impact on the motoring public leaving rocks and debris in the paths of oncoming vehicles.

Harvesting below the Local Authority roads is also a concern as this activity has the potential to weaken the downslope of the road which creates the potential to cause under-slips leaving sections of the road missing creating gaping holes which motorists can run into causing serious injury or death.

The relief sought is that the following be added to the matters to be addressed as a permitted activity in the harvesting activity;

“Prior to any harvesting on slopes above and below a Local Authority structure (road, etc.) that the forest owner must enter into discussion with the affected Local Authority to mitigate any risk caused to the infrastructure”

(3) **General Conditions**

Council is also concerned that the NES provides permission for forestry companies to clear indigenous vegetation as long as it is not listed as significant in the regional policy statement, regional plan or district plan. Council is currently reviewing its district plan and considering a new assessment and mapping of areas within Central Hawke's Bay District Council that could be identified as significant indigenous vegetation.

Council is also undertaking a cultural assessment of wahi tapu and sites of cultural significance as part of the District Plan review and

The relief sought is that unmapped Sites of unmapped wahi tapu, unmapped areas of significant indigenous flora and fauna should also be included in the matters where Council can apply more stringent rules in the district plan.

(4). Risk Assessment Tools

The NES introduces a number of relatively complex risk assessment tools including the Erosion Susceptibility Classification (ESC) and Wilding Spread Risk Calculator (WSRC) to enable local authorities to determine if the activity status of forestry activities complies with conditions of consent and is permitted or requires resource consent.

The improvements made by the Ministry to refine the ESC to ensure increased accuracy as a tool to determine permitted activity status are recognised by Council. However Council is uncomfortable with the application and use of ESC in its current form at a district level to determine if afforestation is a permitted activity or requires resource consent.

The ESC mapping is considered too coarse to apply with accuracy to individual cadastral boundaries and it is also questioned how accurate the application of this system can be when it was designed for pastoral production and not plantation forestry.

Where the requirements of the NES call for an evaluation or assessment to determine activity status it is inevitable that accurate and concise decision making may not be consistent and may not result in the environmental outcomes to protect highly erodible land as sought by the NES.

The use of complicated technical assessments as well as vague language used to determine activity status is of concern. In some parts of the NES the language used to describe assessment of activities does not provide the certainty required to ensure transparent and accurate decision making. As a consequence application of the NES in its current form may lead to uncertain and inconsistent decision making regarding environmental outcomes which seems contradictory to the general purpose of consistency sought by the NES.

Council understands the introduction of the Wilding Spread Risk Calculator (WSRC) as a tool to prevent the spread of wilding conifers in the rural environment. However, the use of an essentially subjective tool to determine the spread of wildings and through the WSRC score to determine the activity status of this activity has the potential to become very inconsistent. The WSRC also places a high level of reliance on individual assessment and discretion to determine if an activity is permitted, controlled or discretionary. The assessments involved in determining the score through the WSRC is considered a highly subjective tool which may not provide the accuracy or certainty required to achieve environmental outcomes sought by the NES.

It is also noted that the NES makes provision for territorial authorities to administer the WSRC when this type of biosecurity issue is not a true function of territorial authorities but falls within the responsibilities of regional councils. It is questionable if territorial authorities will hold the in house expertise and experience to competently administer the WSRC and if assistance is required to undertake this function questions arise as to how costs incurred through this process would be met.

With regard to the Central Hawkes Bay District Plan it is noted that the NES permits afforestation if located within the Green, Yellow and Orange Zone for soil erosion and if the afforestation has a score of 11 or less on the wilding spread risk calculator. The general contour of the Ruataniwha Plains is relatively flat and not located within proximity to any red zoned soil erosion area and unlikely to attract a score higher than 11 on the WSRC indicator. As a result it is probable that plantation forestry would become a permitted activity on the Ruataniwha Plains under the NES – PF.

While the Council is currently undertaking a review of the District Plan and no final decisions have been made on the status of afforestation on the versatile soils of the Ruataniwha Plains

it is considered that some comment should be made in response to the consultation on the NES –PF.

The soils on the Ruataniwha Plains essentially comprise LUC Classes 1 – 1V and comprise some of the most potentially productive land in the district. A significant portion of the Ruataniwha Plains overly the areas identified in the RWSS (Zones A – D) and comprise the properties which will have direct access to water from the Ruataniwha Dam.

Assuming the dam proceeds the future supply of water to the Ruataniwha Plains has the ability to increase the potential productivity of this land making it particularly suitable for arable, dairying and general cropping use. While the impacts on dairying from plantation forestry may not be significant it is questioned if the use of the high value land on the Ruataniwha Plains for afforestation is the most sustainable land use.

It is suggested that this issue should be addressed through the NES either through modification of the application of the ESC and WSRC or alternatively recognising the ability of the local authorities to adopt zoning provisions, in circumstances similar to the Ruataniwha Plains, which are more stringent than the matters included within Table Four of the Consultation Document as being matters where the NES would give councils the ability to apply more stringent rules than those proposed in the NES.

The relief sought is for the WSRC to be used as a guide only to control the risk of wilding spread and that the NES allow Councils to use more stringent techniques to control wildings where required.

(5) Uncertainties in the NES

The provision made by the NES for the industry to submit management plans to Council has the potential to become a positive opportunity for district councils and the forestry industry to work more closely together. However, Council has serious concerns regarding expectations of the NES for Councils to either certify or comment on the submitted plans. Are Councils expected to amend or certify these plans? There is confusion and vagueness in the NES provisions regarding Council's role in receiving the plans and clarification of this matter is sought.

The relief sought is to amend the NES so that Councils are able to certify and approve management plans as a controlled activity to ensure the best environmental outcomes are reached.

(6) Cost associated with monitoring and compliance.

Councils concern with regard to monitoring and compliance costs is that as many of the requirements relate to monitoring and compliance of permitted activities and there appears to be no mechanism under the RMA for Council to recover costs from the forestry industry for many of the activities outlined in the NES. It is unclear if the intent of the NES is for the forestry industry to be subsidised in this regard by ratepayers?

The potential financial burden on district councils (including the costs around understanding risk assessments and monitoring and compliance of permitted activities), as well as the capacity of staff in district councils to manage this process is a major concern to Council.

The NES appears to be moving costs associated with compliance and enforcement for permitted activities for the forestry industry to local authorities. It is unclear how the recovery or costs incurred in the assessment and implementation of the process provided through the NES is to be achieved. Is it the expectation of the NES that the costs will be covered by ratepayers?

The relief sought is to consider amending the status of the activities that are currently categorised in the NES as permitted to controlled so that reimbursement and recovery against the applicant forestry companies is possible.

Thank you for the opportunity to comment on the current iteration of the NES, I trust that the comments made in this submission have been constructive and useful and I look forward to participating on the next stage of developing the NES.

Yours faithfully



John Freeman
Chief Executive



Proposed National Environmental Standard for Plantation Forestry Template for Submitters

We would like to hear your views on the proposed NES-PF.

Please feel free to use this template to prepare your submission. Once complete please email to NES-PFConsultation@mpi.govt.nz.

As stated in section 8.2 of the consultation document, your submission must include at least the following information:

- your name, postal address, phone number and, if you have one, email address
- the title of the proposed standard you are making the submission about
- whether you support or oppose the standard
- your submission, with reasons for your views
- any changes you would like made to the standard
- the decision you wish the Ministers to make.

When commenting on specific draft rules, please be as clear as possible which rule you are referring to and provide a reference e.g. to the relevant page number, heading or text.

For more information about how to make a submission, please refer to section 8 of the consultation document.

Contact details

Name:

Kelvin McMillan, Senior Policy Planner

Postal address:

Christchurch City Council
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Phone number:

[Redacted]

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[Redacted]

Are you submitting on behalf of an organisation? No

If yes, which organisation are you submitting on behalf of?

Christchurch City Council planning staff submission

If you are a forest owner/manager, what size of forest do you own/manage (in hectares):



N/A

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Please indicate below if you wish your personal details to be withheld:

Please withhold my personal details where submissions are made public

Please withhold my personal details in response to a request under the Official Information Act 1982

Questions for submitters

The questions for submitters that are included throughout the consultation document are provided below. We encourage you to provide comments to support your answers to the questions below.

1. Do you think section 2.1 and 2.2 of the consultation document accurately describe the problem facing plantation forestry? **N/A**
2. Do you consider that the conditions for permitted activities will manage the adverse environmental effects of plantation forestry? **No.**

Please provide comments to support your views.

Lack of attention in the NES to landscape and indigenous biodiversity protection.

There are insufficient controls on the adverse effects of forestry on landscape values outside outstanding natural landscapes and indigenous vegetation outside SNAs. The proposed Christchurch District Plan has constraints on forestry over the balance of Banks Peninsula outside the mapped RMA section 6(b) outstanding natural landscape areas. The balance area has been scheduled as a significant landscape in the district plan. Managing the effects of plantation forestry on significant landscapes, including any adverse effects on adjoining outstanding natural features and landscapes and areas



of natural character in the coastal environment is a district plan objective. These provisions will be overridden by the NES. This is undesirable for visual, social, ecological, heritage and cultural reasons.

3. Are the conditions for permitted activities clear and enforceable (see appendix 3 of the consultation document)? Can you suggest ways of making the rules clearer and more enforceable? **Oppose in part**

Please provide comments to support your views.

Clarity of NES 'rules' drafting. Some proposals in the NES are not rules as they lack certainty while with others it is not clear how they are intended to be implemented into a district plan. For example the wording of the shading rules are sufficiently imprecise so as to make application difficult in a district plan consent context.

4. Are the matters where local authorities can retain local decision-making appropriate (summarised in Table 2 and Table 4 and provided in detail in Appendix 3 of the consultation document)? **Oppose in part.**

Please provide comments to support your views.

Coastal Marine Area Setbacks (Appendix 3 p96 online NES) - There appears to be terminology confusion between the Coastal Marine Area (CMA) and the Coastal Environment. In RMA section 6(a) the CMA (which covers the area from mean high water springs to 12 nautical miles seaward) is a subset of the coastal environment. We are unsure why the NES refers to the Coastal Marine Area and not the coastal environment in relation to coastal forestry. There is also lack of clarity around the scope for Councils to create setbacks from the Coastal Marine Area, and the relationship of the NES to the New Zealand Coastal Policy Statement (NZCPS) and RMA s6(a). The coastal terminology used in the "Matters where councils can apply more stringent rules" is unclear and will lead to implementation difficulty.

Reference to setbacks from the CMA alone is an inadequate basis for Council to address landscape effects of forestry in the wider coastal environment. The New Zealand Coastal Policy Statement (NZCPS) directs identification and management of natural character in the coastal environment, especially Policy 13 - Preservation of Natural Character. Chapter 8 of the Canterbury Regional Policy Statement includes recognition of the importance of natural character in the coastal environment. Objective 8.2.4 in the proposed Christchurch District Plan Review - "Preservation, protection and enhancement of the coastal environment", and Policy 8.3.4 - "Preservation of the natural character of the coastal environment" underpin coastal 'Areas of Outstanding Natural Character' mapped in the proposed Christchurch District Plan. The District Plan Review makes forestry non-complying in these areas. Protection of the coastal environment is of specific interest to district councils and the public and lacks clarity and support in the NES.

Recommendation: The NES needs to specifically refer to preservation of the natural character of the coastal environment, wetlands and lakes and rivers and their margins



pursuant to RMA section 6(a) as a matter where Councils can apply more stringent rules.

Unmapped potentially Significant Natural Areas (SNA) (p99 online document). Councils are permitted to apply more stringent forestry controls to designated mapped SNAs (p99). However there are a large number of sites on Banks Peninsula that will most likely be assessed as SNAs but have not been surveyed and mapped yet. This process takes considerable time, is expensive and requires a district plan change, therefore it will be some time before more SNAs are listed in the district plan. There needs to be specific provision for councils to assess areas of indigenous vegetation for significance and apply assessment findings to forestry proposals (as occurs with most other significant developments). Where sites meet SNA assessment criteria but are not yet formally listed and mapped in the District Plan district councils need the ability to control or limit forestry activity. The proposed Christchurch District Plan has threshold rules for indigenous vegetation clearance that must be assessed when development applications arise. See; <https://proposeddistrictplan.ccc.govt.nz/Pages/Plan/Book.aspx?exhibit=ProposedDistrictPlan&hid=36201>

Recommendation: It is important that District Councils have the ability to retain vegetation clearance rules for specified types of vegetation and apply them to forestry proposals, even though they are currently unmapped.

5. Will the environmental risk assessment tools (the Erosion Susceptibility Classification, the Wildling Spread Risk Calculator, and the Fish Spawning Indicator) appropriately manage environmental effects as intended (see section 3.5 of the consultation document)? **Oppose in part**

Please provide comments to support your views.

Wildling Spread Assessment p62. A relatively minor area of concern within district council control is wildling conifer spread. The calculator used to determine risk does not adequately account for coastal or wetland environments. However the NES indicates that the assessment will be updated in the future.

Recommendation: Update the wildling conifer calculator to account for species capable of invading wetlands (e.g. Douglas fir) and coastal environments (e.g. macrocarpa).

6. Do you have any comments about any particular activity or draft rule (see appendix 3 of the consultation document)? **See below**

Please include reference to the rule you are referring to.

Visibility of Forestry Quarrying rules (Appendix 3 p77 online NES). A permitted 5000m³ forestry quarry limit (for example 5000m³ could = 25m x 25m by 8m depth or 50m x 50m x 2m or any other spatial variation on 5000m³) of excavated material per five year period where visible from an existing dwelling, an adjoining property under



different ownership or a formed public road. Even though the NES restricts quarrying to no closer than 500m to an existing dwelling under different ownership for visual reasons, on Banks Peninsula there would be few places where a 5000m³ excavation would not be visible assuming quarrying were needed for forestry infrastructure reasons.

We consider that the 5000m³ threshold is too high in the context of Christchurch District. Excavations of this size are likely to have significant landscape implications especially if there is no visual mitigation required. The operative Christchurch District Plan (relevant to Banks Peninsula) has a threshold of 100m³ for earthworks and quarrying is discretionary. An objective of the proposed district plan review is to avoid quarrying activities on outstanding natural features and landscapes, significant features and landscapes and areas of natural character in the coastal environment and manage adverse effects of quarrying on the outstanding natural landscape of the Waimakariri and significant landscape of Banks Peninsula.

Recommendation: Revise the 5000m³ down to 100³ and allow district councils the ability to require mitigation of earthworks / quarrying for landscape reasons. It may be desirable to include landscape assessment and mitigation of forestry earthworks / quarrying in regional council consent procedures to reduce dual consenting.

7. Is the NES–PF the best option to meet the assessment criteria (in Box 13 of the consultation document)?

Please provide comments to support your views.

N/A

8. Have the expected costs and benefits of the NES-PF been adequately identified (see section 4.3 of the consultation document)?

Please provide comments to support your views.

N/A

9. Are there any issues that may affect the successful implementation of the NES-PF (such as decision-makers applying the permitted baseline test more frequently)?

Please provide comments to support your views.

N/A

10. Please describe any risks or opportunities that you consider have not been identified or addressed in the proposal.



N/A

11. Will the proposed NES-PF support regional councils to implement the NPS-FM (see section 6.1 of the consultation document)?

Please provide comments to support your views.

N/A

12. What resources or other implementation activities would help you to prepare for and comply with the proposed NES-PF (see section 7 of the consultation document)? How should these activities be delivered (for example, training, online modules, guidance material)?

N/A

13. Are there any other issues that you would like to raise?

N/A

s 9(2)(a)

From: McMillan, Kelvin
Sent: Tuesday, 11 August 2015 1:14 p.m.
To: NES PF Consultation
Subject: NES Plantation Forestry and Natural Hazards

Hi Steph,

I received a late comment on the National Environmental Standard for Plantation Forestry concerning quarrying / earthworks and natural hazards. Would it be possible to also take the following comments and policy examples into consideration re your assessment of submissions?

Though not a uniquely Christchurch situation the Christchurch City Council is acutely aware of the implications of any activity that undermines slope stability, increases life risk or reduces earthquake or other hazard resilience and has provided a number of policies and rules in the District Plan review to manage any such activities. In some situations forestry land preparation (including effects on waterways), Quarrying, earthworks and or harvesting could create or contribute to increased hazard. In other situations plantations can contribute to hazard mitigation. This needs to be evaluated on a case by case basis, at District Plan level.

Natural Hazards Chapter, Christchurch District Plan Review 2015 Below are policy excerpts from the Christchurch District Plan Review natural hazards chapter that are relevant to the NES for plantation forestry. The hearing panel decision (in part) on the District Plan natural hazards chapter was released on 17 July 2015. See link below.

http://resources.ccc.govt.nz/files/policiesreportsstrategies/ihp_decisions_naturalhazards_part.pdf

District Plan Hearing Panel Decision Page 141. 5.2.1.5 Policy - Natural features providing hazard resilience Protect natural features which assist in avoiding or reducing the risk of natural hazards, such as natural ponding areas, coastal dunes, wetlands, waterway margins and riparian vegetation from inappropriate subdivision, use and development and where appropriate restore, maintain or enhance the functioning of these features.

Comment Policy 5.2.1.5 Protection of natural features (potentially including areas of indigenous vegetation) in hazard mapped areas that could assist with hazard mitigation. This clause introduces a hazard objective supporting retention of natural features which assist in avoiding or reducing the risk of natural hazards. Protection of natural features in this context goes beyond RMA section 6 protection matters and would be desirable to include in the 'Matters where Councils can apply more stringent rules' section of the NES.

District Plan Hearing Panel Decision Page 143 - 144. 5.2.4.1 Policy - Slope instability a. Map areas of slope instability risk at an area-wide scale using the following fixed inputs into calculations³ that establish the Annual Individual Fatality Risk (AIFR) for a typical residential site⁴...

c. In slope instability hazard management areas in the Port Hills and across Banks Peninsula:

i. Avoid subdivision, use and development where the activity will result in an unacceptable risk to life safety (AIFR $\geq 10^{-4}$ using the GNS Science method and parameters for establishing life safety risk), taking into account all relevant site-specific information and any hazard mitigation works proposed; and ii. Otherwise, manage subdivision, use and development so that risk of damage to property and infrastructure is mitigated to an acceptable extent.

Comment Policy 5.2.4.1 - Council's need the ability to control developments that may contribute to increased life risk or damage to property and infrastructure.

District Plan Hearing Panel Decision Pages 144 -145 - 5.2.4.3 Policy - Slope instability for all of the Port Hills and Banks Peninsula a. In areas not already identified in Policy 5.2.4.1a as being subject to cliff collapse, rockfall or mass movement, but where the land may be subject to slope instability:

- i. to the extent appropriate require proposals for subdivision, use and development to be assessed by a geotechnical specialist to evaluate the presence of hazards and level of risk to people and property (including infrastructure) from slope instability hazards; and ii. only allow subdivision, use and development where risk can be reduced to an acceptable level.
- b. Avoid hazard mitigation works in areas of the Port Hills and across Banks Peninsula where cliff collapse or mass movement is likely to destroy or significantly damage such works, or where construction or maintenance of hazard mitigation works creates a safety hazard, unless reasonably required to protect critical infrastructure.
- c. Control hazard mitigation works and hazard removal works for slope instability across all other areas of the Port Hills and Banks Peninsula, to ensure that works:
 - i. are effective; and
 - ii. do not worsen any existing natural hazard; and iii. do not transfer or increase the risk to other people, property, including critical infrastructure or the natural environment.

Comment Policy 5.2.4.3 requires geotechnical review of potential hazards where land may be subject to slope instability, and appropriate management of developments that may contribute to those hazards.

Table 5.5.1.1a (p162) outlines permitted, non complying, prohibited and discretionary activities in mapped hazard management zones. The majority of these are currently on the Port Hills adjoining or including residential areas so are highly unlikely to ever be used for forestry. However the hearing panel's decision on the balance area of the Port Hills and Banks Peninsula will not be released until the hearings process is completed. This area includes the wider rural part of Christchurch District. The proposed District plan relies on earthworks controls to manage adverse effects arising from developments.

I hope that the above will further assist with the drafting of the NES.

Thanks for the opportunity to comment.
Kelvin McMillan

Senior Policy Planner
Strategic Support

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Web: www.ccc.govt.nz<<http://www.ccc.govt.nz/>>

Christchurch City Council

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Ministry for Primary Industries
Consultation Document – National Environmental Standard for
Plantation Forestry
Clutha District Council Submission

1. Do you think section 2.1 and 2.2 accurately describe the problem facing plantation forestry?

Yes

2. Do you consider that the conditions for permitted activities will manage the adverse environmental effects of plantation forestry?

Generally, yes. The Council notes that the NES is not going to be consistent with many district plans and will require potentially greater consenting requirements on forestry owners/operators. The table below summarises the main differences/similarities in relation to our District Plan:

| Forestry activity | NES | District Plan | Consent triggered first by |
|-------------------------------|---|--|----------------------------|
| Afforestation | 40m setback from dwelling and 30m setback from zone Shading setback | 50m setback from dwelling and zone 10m shading setback | NES Possibly both |
| Earthworks | Permitted in green and yellow zones Slope >25 degrees in orange zone 20-60 days notice | Slope >30 degrees No notice requirement | DP NES NES |
| Harvesting | 20-60 days notice | 18 months notice | DP |
| Mechanical land preparation | Permitted in green and yellow zones Slope >25 degrees in orange zone | Slope >30 degrees | DP NES |
| Pruning and thinning to waste | Permitted | Permitted | Neither |
| Forestry quarrying | 20-60 days notice 5000m ³ over 5 years Property setbacks 20m waterway setback | No notice requirement 5000m ³ in total No property setbacks 50m waterway setback | NES DP NES DP |
| Replanting | Permitted | Permitted | Neither |
| General conditions | Noise 6am-10pm limits Bird nesting times | 7am-10pm limits No bird nesting times | DP NES |

As can be seen above, the NES and District Plan may be more onerous depending on the type of activity and thresholds set.

3. Are the conditions for permitted activities clear and enforceable (see appendix 3)? Can you suggest ways of making the rules clearer and more enforceable?

Not all are clear, as elaborated on below:

- Notice of commencement (pgs 71 & 85) – This will be difficult to enforce given the often remote nature of activities and trying to ascertain when activities commenced. We are also unsure as to what purpose it serves a District Council if no consent is triggered.

- Harvesting (pg 70) also appears to include low intensity harvesting as a condition that must be met, however it is not clear if this is the intention or not.
- Replanting (pg 81) is permitted, however it does not take into account whether there is any reclassification of the land or any wilding tree issues. It also appears to try and extend the existing use rights provisions by a further four years.
- Vegetation clearance (pg 84) – the bullet point conditions are open to interpretation and will be difficult to enforce in many instances.

4. *Are the matters where local authorities can retain local decision-making appropriate (summarised in Table 2 and Table 4 and provided in detail in Appendix 3)?*

Yes, particularly around impacts on the roading network from harvesting operations. The proposed notice of commencement is a very short timeframe when Council is trying to programme works on roads.

5. *Will the environmental risk assessment tools (the Erosion Susceptibility Classification, the Wilding Spread Risk Calculator, and the Fish Spawning Indicator) appropriately manage environmental effects as intended (see section 3.5)?*

Yes, these tools will go some way towards addressing the main impacts of plantation forestry, particularly in more sensitive environments.

6. *Do you have any comments about any particular activity or draft rule (see appendix 3)? Please include reference to the rule you are referring to.*

Yes, see the table above where the NES is more onerous than the District Plan.

7. *Is the NES–PF the best option to meet the assessment criteria (in Box 13)?*

A NES does ensure consistency if it is applied consistently across the country. If however, consents are required in districts where they were not required previously, then the NES may be less efficient for some forestry operators, particularly those that are only local to that district. This is often the case with Council owned forests.

Likewise, compliance monitoring could be difficult for many of the rules that have timeframes attached to them, particularly for more remote plantation forests. Monitoring the impact of the policy will potentially require a greater level of investment in gathering scientific evidence about erosion, effects on aquatic life and wilding tree spread.

8. *Have the expected costs and benefits of the NES-PF been adequately identified (see section 4.3)?*

We have not looked at these in detail.

9. *Are there any issues that may affect the successful implementation of the NES-PF (such as decision-makers applying the permitted baseline test more frequently)?*

Consistency of application of the NES will be the major challenge with its implementation.

10. *Please describe any risks or opportunities that you consider have not been identified or addressed in the proposal.*

We have not assessed these, other than as noted above.

11. *Will the proposed NES-PF support regional councils to implement the NPS-FM (see section 6.1)?*

No comment as we are a District Council.

12. What resources or other implementation activities would help you to prepare for and comply with the proposed NES-PF (see section 7)?

Very little impact as we will amend the District Plan accordingly.

How should these activities be delivered (for example, training, online modules, guidance material)?

All of the examples mentioned.

13. Are there any other issues that you would like to raise?

No.



11 August 2015

Stuart Miller
Spatial, Forestry and Land Management
Ministry for Primary Industries
PO Box 2526
Wellington 6140
NES-PFConsultation@mpi.govt.nz

Dear Mr Miller

**PROPOSED NATIONAL ENVIRONMENTAL STANDARD FOR PLANTATION FORESTRY
(NES-PF) 2015**

1. Thank you for the opportunity to make a submission. The Dunedin City Council previously submitted in 2010 during the initial development and consultation period for the NES-PF and supported the decision to defer further work until the 2013 resource management and water reforms were clarified. The Dunedin City Council retains two interests in this proposed NES-PF, mainly from the perspective of carrying out our planning functions under the Resource Management Act (RMA) 1991, though also from a reserves perspective, as several of our reserves contain plantation forestry.
2. While the Dunedin City Council supports the intent of the NES-PF in terms of increased clarity of forestry management and certainty of resource management practices, the Dunedin City Council has reservations as to the extent that the NES-PF will deliver these outcomes better than current practices. The Dunedin City Council believes that plantation forestry and its effects can and is being sustainably managed at a local level ensuring better environmental outcomes through the context of specific provisions and rules of the Dunedin City District Plan. The Dunedin City Council also has concerns about the reliance on Permitted activity monitoring, which can be difficult to undertake and places additional costs on local authorities. Instead of managing effects after the fact, the prior assessment of potential effects and placement of conditions on a resource consent basis, using the district plan as the main tool for managing forestry, is a more desirable solution for the Dunedin City Council.
3. In Dunedin, forestry is considered an on-going activity with a life-cycle of planting, management and harvesting. Under the current district plan, forestry activities are provided for as of right throughout our rural-zoned areas, with the exception of some landscape areas, areas of significant conservation value, and urban landscape conservation areas. Limitations are made on the types of tree to avoid wilding trees establishing in inappropriate areas, and the location of forests to protect riparian areas and prevent shading of adjoining residential activities or roads. Earthworks associated with forestry are permitted provided they are carried out in accordance with the NZ Environmental Code of Practice for Plantation Forestry 2007.

4. The current District Plan provisions for forestry largely work satisfactorily to manage the effects of plantation forestry. The Dunedin City Council is currently in the process of developing a Second Generation District Plan, which seeks to further improve and refine these provisions. Depending on the landscape overlay and significance of the natural landscape or feature, the Second Generation District Plan seeks to incorporate activity statuses ranging from Restricted Discretionary through to Non-complying to control the effects of plantation forestry.
5. The Dunedin City Council acknowledges that the proposed NES-PF allows local authorities to set more stringent rules in plans and conditions on resource consents above that of the NES-PF, though is concerned at the limited circumstances where a council may be more stringent in managing forestry. The Dunedin City Council believes these circumstances represent a significant variation to the extent to which Dunedin City, and many other councils, can sustainably manage the effects of forestry activities. Furthermore, the Dunedin City Council has concerns that the NES-PF could result in undesirable impacts on the permitted baseline, a confusing interaction of the NES-PF and District Plan rules and the inability to consider cumulative effects and catchment based plan making.

Decisions and changes the Dunedin City Council wishes to be made:

Afforestation - Wilding tree risk

6. The proposed approach requires upfront assessment of wilding tree risk. This assessment and the methodological tool of the wilding tree calculator are supported. However, conditions on permitted activities place a higher level of responsibility on the forester or landowner to complete the risk calculation in a robust and impartial manner. This presents a risk that an assessment is potentially overlooked, or may not be completed to an acceptable standard. Consequently, a heavy reliance is then placed on councils to undertake permitted activity monitoring and identify any breaches of wilding tree conditions. It may be some years before any area of afforestation and subsequent wilding risk is identified, placing a high level of cost and complexity on councils in terms of enforcement action and landowners/forestry managers in terms of tree removal and potential replacement.
7. The Dunedin City Council prefers an approach whereby certain species of known wilding risk trigger a resource consent requirement and accompanying wilding risk calculation. This is believed to be a more efficient and effective approach to managing the risk of wilding trees.
8. Change requested: Enable councils to manage afforestation of specified high risk wilding species through a resource consent process.

Afforestation - Setbacks

9. The proposed conditions provide exemption clauses where approval of an adjoining landowner(s) is obtained. The mechanism to be used for these approvals and who holds the approval is unclear. For instance, whether approval is to be lodged against the properties involved and held by the council. The Dunedin City Council preference would be for the proposed setbacks to stand on their own merits and allow any waiver to be considered through the resource consent process. Additionally, the exemptions to the road setbacks do not specify whether one or all of the three clauses must be met.

10. With regard to afforestation or setback from adjoining existing dwellings under different ownership, it is unclear whether in (ii) 'the shading between 10am and 2pm' refers to a continuous period of shading, or any shading of the adjoining dwelling within the time interval. The same query relates to the road setbacks.
11. With regard to forested areas adjacent to those owned or managed by Territorial Authorities (TAs) such as reserve land, setbacks should be increased to ensure amenity, ecological and recreational values are not negatively impacted by shading. For example, shaded parts of sports field may become unusable in winter.
12. In addition to effects on dwellings, plantation forestry may have other shading or safety effects on adjoining properties. Examples include the impact of shading on pastoral or horticultural land or risks to safety from tree-fall. The Dunedin City Council queries how the 10m setback from adjoining properties under different ownership was derived and whether this setback should be increased. For example setbacks could be greater on the southern boundaries of the site to be afforested, unless the site is bounded by a road (when the shading condition would apply).
13. Change requested: Remove the approval exemption clauses to these setback provisions or clarify the expected process for implementation.
14. Decision requested: Clarify whether one or all three clauses to the road setback condition must be met to provide an exemption.
15. Change requested: Clarify the meaning of shading of a dwelling between 10am and 2pm.
16. Decision required: Increase setbacks for plantation forestry adjacent to TA owned and managed land so it is consistent with the table below:

| Table 1 | |
|--|---|
| Setback from | Minimum horizontal distance (m) |
| Adjoining Reserve land owned or managed by TA | 30m unless approval of TA obtained |
| Adjoining property under different ownership (other than TA) | 10m unless approval of other adjoining owner(s) has been obtained |

17. Change requested: Consider changes to the setback from adjoining property under different ownership condition to account for shading effects or safety issues relating to the use of the land on adjacent properties.
- Earthworks and harvesting**
18. The approach taken by the Dunedin City Council has been to require forestry earthworks to be carried out in accordance with the NZ Environmental Code of Practice for Plantation Forestry 2007. Furthermore, TAs are notified of the intention to undertake earthworks.
 19. Decision requested: Clarify whether the provisions for earthworks under the proposed NES-PF have considered the rules and guidelines from the NZ Environmental Code of Practice for Plantation Forestry 2007.
 20. Decision requested: TAs are to be notified by owners/operator 20 working days in advance of earthworks, harvesting and quarrying to be undertaken.

Replanting

21. The replanting activity does not include consideration of wilding tree risk in its conditions. Furthermore, the definition of replanting does not specify that it should involve replanting of the same tree species. This needs to be rectified, either through amending the definition of replanting, or applying wilding tree risk as a condition to replanting in the same way as it applies to afforestation. If the latter approach is chosen, the Dunedin City Council would prefer the resource consent approach to wilding risk calculation, as specified in our comments in relation to afforestation.
22. When replanting an area, there is the risk that 'creep' could occur if the new planting setback is closer than that which was previously permitted.
23. Decision requested: Clarify the approach to replanting activity and wilding tree risk.
24. Change requested: Ensure, especially in areas of significant natural landscapes, replanting cannot encroach further than the furthest former stump line.

General condition - Vegetation clearance and disturbance

25. Clarification is sought over the meaning and anticipated extent of 'incidental damage' to riparian and indigenous vegetation adjacent to plantation forest. It is assumed that this does not extend across property boundaries.
26. Decision requested: Clarify meaning and extent of 'incidental damage'.

General conditions - Noise

27. We note the proposed noise provisions seem to treat noise at the notional boundary of rural properties, but not at the boundary of residential or other urban zones.
28. Decision requested: Clarify proposed noise conditions in relation to residential and other urban zones.

Land Use Zoning

29. The NES-PF appears to apply across all types of land use environment, relying on setback standards to control effects on more sensitive activities such as residential. The Dunedin City Council discourages forestry in certain zones, such as residential, commercial and industrial zones. This approach is undertaken to both manage compatibility and reverse sensitivity effects and enable land to be retained and managed in a manner that best provides for environmental, social, cultural and economic wellbeing. It should be noted that this is a very common approach to controlling many land use activities, not just forestry. Limiting a council's ability to specify which land use environments are more or less suitable for forestry would not be consistent with sustainable management of natural and physical resources.
30. Change requested: Extend a council's ability to be more stringent to include non-rural land use zones.

Coastal marine areas

Coastal marine areas

31. The proposed NES-PF specifies a setback of 30m from the coastal marine area (CMA) as a regional permitted activity condition, with ability to be more stringent. Under the New Zealand Coastal Policy Statement (NZCPS), councils have a duty to manage activities in relation to the coastal environment, which is a wider concept than the coastal marine area. Part of this requirement is to assess and preserve natural character of the coastal environment. Forestry is an activity that can have effects on the natural character of the coast, in excess of the cross-CMA issues identified in the proposed NES-PF.
32. Change requested: Extend a council's ability to be more stringent to include the coastal environment as identified and mapped according to Policy 1 of the NZCPS.

Significant natural areas

33. The ability to be more stringent in relation to mapped areas of significant indigenous vegetation or habitats of indigenous vegetation is supported. As above, clarification is sought over the meaning and anticipated extent of 'incidental damage' to riparian and indigenous vegetation adjacent to plantation forest.
34. The rationale in the significant natural areas now also refers to the ability to determine and set, at a local level, rules for the clearance and conversion of indigenous vegetation not classified as 'significant' for forestry activities. It is assumed that this relates in particular to land clearance prior to afforestation, and the ability for councils to manage this activity separate from the proposed NES-PF.
35. Decision requested: Clarify intention in relation to scope of councils to manage 'non-classified' areas of indigenous vegetation in relation to forestry activities.

Landscape

36. A council's ability to be more stringent should extend beyond the RMA Section 6 outstanding natural features and landscapes to include amenity landscapes, identified under Section 7 of the RMA. These are commonly referred to as visual amenity landscapes or significant natural landscapes and are a feature of district plans. Dunedin City Council requires new forestry to follow a consent process to manage the effects on values of these landscapes.
37. Change requested: Extend a council's ability to be more stringent to include any significant natural landscapes identified in a district plan.

Water Quality

38. The NES-PF should ensure that water quality in supply catchments is met and not adversely affected by plantation forestry.
39. The NES-PF only makes reference to the NES for Freshwater Management (NES-FM) in Section 6 of the discussion document. It claims that the NES-PF is expected to contribute to improved water quality outcomes and there will be allowance for regional councils to make more stringent rules where necessary for the NES-FM to be met.
40. Decision requested: That the NES-PF recognises the NES for drinking water standards.

41. Change requested: The NES for Sources of Human Drinking Water should also be recognised, and provided for accordingly (i.e. no permitted activity may allow an activity that will cause a drinking water supply to breach guideline limits).

Renewable energy generation

The NES-PF should allow a council to manage conflicts between renewable energy generation and forestry under the District Plan. Afforestation on land adjacent to wind energy generation has the potential to disrupt the wind resource. Similarly, forestry shading may impact on any adjacent solar generation activity.

42. Change requested: The NES-PF should require setbacks of plantation forestry from renewable energy generation, in particular wind generation and solar generation activity.

Online web mapping

43. The Dunedin City Council appreciates the ease of use and ease of information access using the online web map for soil erosion and fish habitat. A number of other layers could be added for enhanced usability.

44. Decision requested: A classification layer for Reserve land is added to the online map.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Dave Cull', written in a cursive style.

Dave Cull
Mayor of Dunedin

17 August 2015

Stuart Miller
Spatial, Forestry and Land Management
Ministry for Primary Industries
PO Box 2526
Wellington 6140
New Zealand



Te Kaunihera o Tai Tokerau Ki Te Raki

*The top place where talent
wants to live, work and invest*

Dear Mr Stuart Miller

RE: Proposed National Environmental Standard for Plantation Forestry (NES-PF)

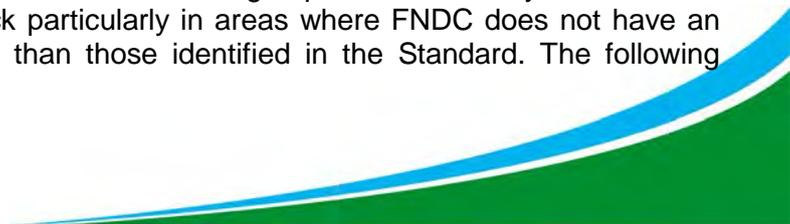
Thank you for this opportunity to provide feedback on the proposed NES-PF. The Far North District Council (FNDC) supports the overall objectives of the NES-PF that are identified in the executive summary and in section 2.3 of the discussion document. They are:

- Remove unwarranted variation between councils' planning controls for plantation forestry;
- Improve certainty of Resource Management Act 1991 (RMA) processes and outcomes for plantation forestry stakeholders, while maintaining consistency with the purpose of the RMA;
- Improve certainty about environmental outcomes from plantation forestry activities for forestry stakeholders, including communities, nationally; and
- Contribute to the cost-effectiveness of the resource management system by providing appropriate and fit-for-purpose planning rules to manage the effects of plantation forestry.

FNDC also supports the rights retained by local authorities to apply more stringent controls on areas in the coastal marine area, places of known cultural or heritage value, significant natural areas, outstanding natural features and landscapes, shallow aquifers and where required to meet the objectives of the National Policy Statement for Freshwater Management.

More broadly for a NES to be justified as a response to a problem or perceived problem, the issues to be addressed should arise on a national scale, be significant, be best addressed through an NES (as opposed to another instrument) and should promote sustainable management. On the documentation provided the case for this NES has not been made.

In light of the NES-PF overriding the general rules relating to plantation forestry in our District Plan, the right balance must be struck particularly in areas where FNDC does not have an ability to set more stringent controls than those identified in the Standard. The following matters need further attention.



Genetically Modified (GM) tree stock

Of concern to FNDC is the very recent addition of a permitted activity status for the afforestation and replanting of GM tree stock, where that tree stock has gained the appropriate approval for deployment from the Environmental Protection Authority (EPA). This late inclusion is not consistent with two of the four principles underpinning the draft rules in the NES-PF, which are identified in the executive summary and in section 3.1 of the discussion document. Specifically:

- The level of control associated with each activity should be directly associated with the level of risk of adverse effects on the environment at the location the activity takes place. As the level of risk of adverse effects increases, a requirement for consent is introduced; and
- Understanding the risk of adverse effects on the environment around the country should be informed by up-to-date science.

The issue, with respect to GM tree stock, is the lack of understanding from a scientific and technical perspective as to the short and long term effects. It is not possible to understand the level of risk of adverse effects on the environment, because they are not entirely known. FNDC therefore finds it difficult to understand how a permitted activity regime can be applied to plantation forestry for GM tree stock across the country when the effects of doing so are not well understood or comprehensively tested.

FNDC understands that the use of GM organisms is controlled at the national level by the Hazardous Substances and New Organisms Act 1996 (HSNO Act) and that it establishes the legal framework for assessments by the national regulator, the EPA. The EPA is responsible for regulating all research, development, importation, field testing and release of GMO organisms. FNDC are concerned that while Section 7 of the HSNO Act identifies a precautionary approach it does not mandate that the EPA be precautionary. Instead, it requires that persons exercising functions under the HNSO Act “take into account” the need for caution in managing adverse effects where there is scientific and technical uncertainty about those effects¹.

There is also an issue of liability with respect to the use of GM tree stock. As it stands, there is the potential for FNDC and their communities to incur financial and economic costs as a consequence of GM activities that have been approved by the EPA, should there be adverse effects resulting from such activities. Under the HSNO Act, a commercial body using GM tree stock is not financially liable to cover costs resulting from that activity, as long as it abides by the conditions of an EPA approval.

A recent Environment Court decision² upheld the right for the Bay of Plenty Regional Council, in its Regional Policy Statement, to enable a precautionary approach to be taken on growing genetically modified crops in its region, where it is deemed to be of regional significance by the community. The Northland Regional Policy Statement (NRPS) in Policy 6.1.2 addresses genetically modified plant organisms and requires the adoption of a precautionary approach where there is scientific uncertainty or where effects are unknown or not well understood. Method 6.1.5 goes on to suggest that district councils should apply Policy 6.1.2 when reviewing the plan. The use of genetic engineering and the release of GM organisms to the environment are also identified as an issue of significance to tangata whenua in section 2.6 of the NRPS.

¹ HSNO Section 7: “All persons exercising functions, powers, and duties under this Act, including but not limited to, functions, powers, and duties under sections 28A, 29, 32, 38, 45, and 48, shall take into account the need for caution in managing adverse effects where there is scientific and technical uncertainty about those effects”

² ENV-2012-AKL-000146 NZ Forest Research Institute Limited v The Bay of Plenty Regional Council

The Far North District Plan is required to give effect to the NRPS under section 75(3) of the RMA. FNDC is currently undertaking a public plan change addressing all GM organisms – PC18. PC18 introduces a new policy framework to the District Plan and also introduces a number of rules pertaining to all GM organisms. PC18 promotes a regime whereby the outdoor release of GM organisms is a prohibited activity in the district plan. PC18 does provide for indoor use, research and field trials in limited circumstances.

The approach in PC18 is one of a precautionary nature and is a response to the concerns held by an Inter-Council Working Party (the Working Party) made up of the councils in Auckland and Northland, which was established in 2003 in response to on-going community concerns about GM organisms. After a thorough consultation process, the Working Party determined that GM organisms are a significant resource management issue in the northern region and that a precautionary approach to the outdoor use of GM organisms is desired by the community. This approach is supported by the aforementioned Environment Court decision.

If an exception is made for plantation forestry in PC18 then it undermines both the policy framework of the District Plan and that in the NRPS where the precautionary approach is applied. There is a fundamental inconsistency between the NES-PF and councils PC18 where it is concerned with GM tree stock. All decision making has been taken away from the community and councils, with the exception of those areas identified where Council has the ability to apply more stringent controls.

Natural Character

Method 4.5.4 of the NRPS requires the FNDC to incorporate the Regional Policy Statement Maps, including those which map areas of high and outstanding natural character into the district plan. To give effect to the mapping and Policy 13 of the New Zealand Coastal Policy Statement³, the district plan will also need to implement a number of rules to support the policy framework.

The NES-PF is currently ambiguous in terms of enabling district councils to set more stringent rules with respect to areas of natural character in the coastal environment. In “Table 4: Summary of matter where councils may apply more stringent rules”, natural character is not mentioned despite reference under ‘Coastal marine area’ to align “...with the New Zealand Coastal Policy Statement”.

Section 6.3 (New Zealand Coastal Policy Statement) of the NES-PF states:

“...The proposed NES-PF provides for local authorities to be more stringent in relation to setbacks from the Coastal Marine Area. This will ensure that communities have the flexibility to continue to manage the effects of forestry activities on the coastal environment such as effects on natural character and landscape values...”

It is apparent from this section of the NES-PF that there is an intention to include natural character in “Table 4: Summary of matters where councils may apply more stringent rules”.

Permitted Baseline

³ (1) To preserve the natural character of the coastal environment and to protect it from inappropriate subdivision, use, and development:

- (a) avoid adverse effects of activities on natural character in areas of the coastal environment with outstanding natural character; and
- (b) avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of activities on natural character in all other areas of the coastal environment

FNDC is concerned that a permitted baseline argument may be pursued for activities on land where plantation forestry and the activities associated with plantation forestry are a permitted activity in the NES-PF. The permitted activities of concern include:

- 'Earthworks' in Green and Yellow zones, as well as Orange zones where the slope of the land is less than 25 degrees. In terms of District Plan permitted activity conditions, the only requirement is notification at least 20 working days prior to commencement.
- 'Harvesting' in Green, Yellow and Orange zones. Harvesting is detailed to include:
 - discharges of slash and contaminants to land and water associated with harvesting;
 - soil disturbance associated with harvesting, including disturbance by harvesting machinery;
 - damage to indigenous vegetation adjacent to the plantation forest where necessary to remove the production crop
 - riparian vegetation disturbance;
 - the damaging or removal of indigenous vegetation within a plantation forest, where its removal is necessary to harvest a plantation forest...

In terms of District Plan permitted activity conditions, the only requirement is notification at least 20 working days prior to commencement.

- 'Mechanical Land Preparation' in Green and Yellow zones, in Orange and Red zones where the slope is less than 25 degrees and in Orange and Red zones where the slope is greater than 25 degrees but the technique used affects the subsoil (for example, deep downhill ripping or giant discing). Mechanical Land Preparation includes root raking, discing, mounding and spot mounding, contour and downhill ripping, roller crushing, other cultivation of land (including spot cultivation) and associated removal of vegetation. There are no District Plan permitted activity conditions for this activity.
- Forest Quarrying in all zones except the Red zone. Forest quarrying includes the extraction of rock, sand or gravel for the formation of forest roads. In terms of permitted activity conditions created by the NES, requirements include notification at least 20 working days prior to commencement, a volume control where visible from an existing dwelling or formed public road (5,000m³) and property setbacks not allowing these activities to take place within 500m of an existing dwelling and restricting the placement of overburden within 20m of an adjoining property. Furthermore, the material must not be transported off the property on public roads.

Section 87A(1) of the RMA states that an activity permitted by regulations (including any national environmental standard), a plan, or a proposed plan does not require a resource consent if it complies with the requirements, conditions, and permissions, if any, specified in the RMA, regulations, plan, or proposed plan. Section 104(2) of the RMA states when forming an opinion for the purpose having regard to any actual and potential effects on the environment, a consent authority may disregard an adverse effect of the activity on the environment if a national environmental standard or the plan permits an activity with that effect.

Definition of 'perennial river or stream'

The NES-PF has stated that where the term 'river' or 'stream' is used that the definition provided in the RMA for 'river'⁴ is used. The NES-PF has provided a definition for 'perennial river or stream'. Given that the terms 'river' and 'stream' have already been defined to mean that identified in the RMA, the definition then falls on the word 'perennial'. The Oxford dictionary definition of perennial is "Lasting or existing for a long or apparently infinite time; enduring or continually recurring". In the context of a river or stream the word perennial is clearly associated with flow, so it is unclear why the suggested definition in the NES-PF has now incorporated an ecological component.

FNDC have identified concerns with the NES-PF on a number of matters above. FNDC request that those concerns be addressed by amendments to the NES-PF. FNDC also request the following specific ~~deletions~~ and additions to the NES-PF:

- **~~Section 6.4 Hazardous Substances and New Organisms Act 1996~~**
~~Genetically modified organisms are regulated under the Hazardous Substances and New Organisms Act 1996. To avoid duplication, the proposed NES-PF includes a provision permitting afforestation using genetically modified tree stock where it has been approved by the Environmental Protection Authority under the Hazardous Substances and New Organisms Act 1996.~~
- **Afforestation Rules**
~~Genetically modified tree stock~~
~~Afforestation using genetically modified tree stock is permitted where the tree stock has gained the appropriate approval for deployment from the Environmental Protection Authority (EPA), and is subject to conditions imposed by the EPA.~~

~~This condition recognises that the EPA is best placed to evaluate the risks of genetically modified organisms and that approval and conditions imposed under the EPA regime will be sufficient to ensure any risks associated with the deployment of the tree stock are managed.~~
- **Replanting Rules**
~~Replanting using genetically modified tree stock is permitted where the tree stock has gained the appropriate approval for deployment from the Environmental Protection Authority (EPA) and is subject to conditions imposed by the EPA.~~

~~This condition recognises that the EPA is best placed to evaluate the risks of genetically modified organisms and that approval and conditions imposed under the EPA regime will be sufficient to ensure that any risks associated with the deployment of the tree stock are managed.~~
- **Table 4: Summary of matters where councils may apply more stringent rules**
~~Significant natural areas, natural character and outstanding natural features and landscapes~~

~~Areas of mapped significant indigenous vegetation, natural character, significant habitats of indigenous fauna, and outstanding natural features and landscapes are more appropriately managed at a local or regional level.~~

⁴ "means a continually or intermittently flowing body of fresh water; and includes a stream and modified watercourse; but does not include any artificial watercourse (including an irrigation canal, water supply race, canal for the supply of water for electricity power generation, and farm drainage canal)"

- **Glossary**

~~**perennial river or stream** A stream that maintains water in its channel throughout the year or maintains a series of discrete pools that provide habitats for the continuation of the aquatic ecosystem.~~

Yours sincerely

A handwritten signature in blue ink, appearing to read 'K Ross', with a long horizontal flourish extending to the right.

Kathryn Ross

General Manager - Strategic Policy and Planning

If calling ask for Craig Scott

File Ref EXT-01-18-15-161

4 August 2015

Stuart Miller
Spatial, Forestry and Land Management
Ministry for Primary Industries
PO Box 2526
Wellington 6140

Dear Stuart

SUBMISSION ON PROPOSED NATIONAL ENVIRONMENTAL STANDARD FOR PLANTATION FORESTRY

1. Introduction

The following submission has been prepared by the Hastings District Council ("the Council") in response to the Proposed National Environmental Standard for Plantation Forestry ("the Proposed NES").

2. General Statement

The Council supports in general the Proposed NES and its stated policy objectives of:

'Removing unwarranted variation between Local Councils' planning controls for plantation forestry'

'Contributing to the cost-effectiveness of the Resource Management System by providing appropriate and fit-for-purpose planning rules to manage the effects of plantation forestry'.

Council accepts that a nationally recognised policy needs to be established to provide for consistency when addressing Environmental Effects from Plantation Forestry.

3. Relief Sought

That the Proposed NES give greater consideration to horticultural and viticultural activities and versatile soils within a District and include allowance for more stringent controls on plantation forestry within zones to acknowledge these resources.

The Hastings District Council opposes the provisions in the National Environmental Standard for Plantation Forestry referring to genetically modified tree stock and requests the removal of such provisions. The deletion of Section 6.4 Hazardous Substances and New Organisms Act 1996 on page 43 of the consultation document, Permitted Activity Rule - Genetically Modified Tree Stock (on page 64 of the consultation document) and Permitted Activity Rule - Replanting using genetically modified tree stock (on page 82 of the consultation document) in Appendix 3 Draft Rules of

HASTINGS DISTRICT COUNCIL

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the Proposed NES is sought. It is also requested that any further references to genetically modified tree stock be removed. This effectively results in the Proposed NES remaining silent on the issue of 'genetically modified tree stock'.

4. Current provisions relating to Plantation Forestry in the Proposed Hastings District Plan

The Proposed Hastings District Plan (PDP) has generally taken a passive approach to controlling the effects of forestry within the District particularly in relation to earthworks associated with forestry activities. Upon consultation with Forestry companies, it was considered that forestry activities be exempt from adhering to the earthworks provisions of the PDP. These provisions were not opposed. Upon review of the NES, it appears that the additional requirements with regards to earthwork controls, largely relate to Regional Council functions such as soil erosion and sediment control. It is therefore assumed that the current passive approach can be retained within the PDP and no changes will be required to the earthworks section.

There are provisions of greater restrictions elsewhere in the plan. This includes in highly valued landscape areas, 'recommended areas of protection' (in terms of 'significant natural areas') and cultural and heritage sites (including Waahi Tapu), HDC is pleased with the aspects of the NES which allow for Councils' to provide more stringent rules on these particular matters.

The operative District Plan and Proposed District Plan also have stricter controls on Forestry in our Plains Zone (the District's primary horticultural and viticultural production area). Currently afforestation within the Plains Zone is a Discretionary Activity, the reason being the potential impacts forestry may have on the sustainable management of the soil resource, amenity values, effects on adjacent land uses (i.e. horticultural and viticultural land uses), potential fire risks, impacts of heavy traffic on the roading network and disturbance to adjacent land uses and residents during time of harvest. The NES would likely convert afforestation and replantation to a Permitted Activity.

Furthermore, the issue of GMO within the District has also been assessed through the Proposed District Plan process and through other formats. The issues of GMO within the District and Forestry within the Plains Zone are discussed below.

5. Implications for permitting forestry in the HDC Plains Zone

Currently Forestry in the Plains Zone of the District Plan and Proposed District Plan is a Discretionary Activity. There is strong Policy direction to the restriction of Forestry on the Plains Zone within the PDP in the form of Policy PPP2 which reads:

POLICY PPP2 *Restrict Forestry activities in the Plains Production Zone.*

Explanation

The presence of Forestry in close proximity to horticulture, viticulture and cropping activities can have adverse effects in terms of increased bird habitat, and shading. It can also be regarded as not making the most sustainable use of the versatile soils of the District as it can have adverse impacts on soil structure and drainage in the long term. For these reasons the Council will restrict production forestry in the Plains Production Zone.

It is noted that this Policy and the Discretionary Activity status of forestry in the Plains Zone has been subject to submissions in opposition from forestry companies, which is discussed in further detail below. As stated in the explanation there are two key aspects to restricting Forestry within the Plains Zone, that being the protection of versatile soils which are important to the Regional and National Economy, and the protection of adjacent crops from fauna which inhabit forestry trees and use adjacent crops as a food source.

The NES-PF permits afforestation provided that it is located within the Green, Yellow and Orange Zone for Soil Erosion and that the afforestation has a score of 11 or less on the wilding spread risk calculator. Plains Zone land is generally flat and is not located within any Red Zoned soil erosion area, and a check of the wilding spread risk calculator has found that in most, if not all instances a new forest would gain a score lower than 11. Therefore it is likely the afforestation would become a default permitted activity in the Plains Zone.

This issue of permitting forestry on prime horticultural land was raised at the recent road show provided by the Ministry of Primary Industries as part of the consultation for the NES-PF. The response given was that the high cost of the versatile plains land would be prohibitive to the establishment of forestry in this zone and therefore the permitting of Forestry will have little to no consequences on the use of this land. While it is recognised that in many cases this would likely be the case, Hastings District Council would like to raise the following concerns as to why we wish that afforestation should remain Discretionary within its Plains Zone.

Firstly it is recognised that there are some pockets of soil within the Plains Zone that are less versatile and thus valuable for cropping purposes. Some of these soil areas have little value for cropping purposes and alternative land uses are required. Many of these pockets of land are located adjacent to highly versatile and productive soils (often this is due to the location of historic river beds within the District). In these locations, forestry is a viable alternative use for the land. As raised above, the allowance of forestry on these small pockets of land can cause issues to adjacent crops. Furthermore Production Forestry does not result in the most sustainable use of the versatile land of the District as the economy is inextricably linked to food production. Production Forestry within the Plains Production Zone would result in reduced employment opportunities and it is likely to result in reduced water yield in the long term. For these reasons, it would be Hastings District Councils' preference to retain tighter controls on these areas to ensure the protection of existing crops and the economy of the Region.

In terms of the demand aspect of forestry within the Plains Zone, it should also be noted that there has been a submission on the Proposed Plan has to the activity status within the zone. Three separate forestry groups submitted to have PPP2 removed and to have a less stringent rule status for Forestry within the Plains Zone. This would tend to suggest that there is a reasonable demand for the location of Forestry in at least some parts of the Plains Zone.

These submissions have been heard, but no decision has been made on the submissions. Decisions are anticipated to be made public on September 12th 2015.

It is noted that one of the primary objectives of the NES was to provide a consistent approach for Plantation Forestry across different local and regional authorities. It was considered important due to the fact that forestry plantations often cross multiple territorial authority boundaries, and therefore multiple rules may apply to the same forest. It is submitted that the Plains Zone is considered an important resource within the Hastings District. Part of the Plains Zone is located adjacent to the territorial authority boundary with Napier City, but there are no pine plantations that straddle this boundary. The cross boundary issues which caused the initial frustrations for forestry companies would not apply

in this instance, but would apply in the hill country areas of the District which adjoin the Central Hawke's Bay, Taupo and Wairoa territorial authority boundaries in particular. It is therefore submitted that where zonings seek to address specific issues relating to the effects of forestry on horticultural and viticulture land uses which may not be anticipated or addressed through the NES, that a provision be allowed within the NES affording councils the ability to make more stringent rules where deemed appropriate.

6. Implications of Permitting Genetically Modified Tree Stock:

The NES-PF proposes that "*Afforestation or replanting using genetically modified tree stock is permitted where the treestock has gained the appropriate approval for deployment from the Environmental Protection Authority (EPA), and is subject to conditions imposed by the EPA*".

The Environment Court in *Federated Farmers v Northland Regional Council [2015] NZEnvC 89* (subject to appeal) has confirmed that there is jurisdiction under the Resource Management Act 1991 for Regional Councils to control Genetically Modified Organisms (GMOs) through their regional policy statements and plans. It is considered that this finding applies equally to District Councils. This decision established that Hazardous Substances and New Organisms Act 1996 and Resource Management Act 1991 have different purposes and jurisdictions when it comes to the management of GMOs. In Councils opinion, the Environment Courts observations at paragraphs [49], [51] and [52] are of particular relevance to the proposed NES and the Hastings context:

[49] Once having been approved for import and release into New Zealand under HSNO, regional authorities can provide for use and protection of them together with other resources in a fully integrated fashion, taking account of regional needs for spatial management that might differ around the country for many reasons, not the least of which might include climatic conditions, temperatures, soils, and other factors that might drive differing rates of growth of new organisms and/or of other organisms, as just a few of perhaps many examples.

[51] ... regional authorities might, with community input, consider particular regional approaches acknowledging social, economic and cultural wellbeing (among other things), somewhat beyond the more limited policy considerations for regulation of import and release of new organisms under HSNO. These aspects in s 5 RMA are underpinned by the statutory requirements for preparing and publishing evaluation reports under s32, including ... the requirement for assessment of benefits and costs of the environmental, economic, social and cultural effects that are anticipated from the implementation of proposed provisions, including opportunities for economic growth and employment. Particular regional considerations would come in for study in a way not anticipated by HSNO.

[52] Mr Mathias gave further examples including policy positions representative of strong cultural concerns of Maori, and if thought appropriate "marketing and branding advantages" based upon an approach to limiting the use of GMOs in an area, for instance by encouraging price premia for agricultural production and tourism activities in the locality. I accept these submissions.

Locally issues surrounding Genetic Modification have been extensively considered by the Hastings community, since it was first raised as important by the regions food producers in submissions to the Long Term Plan and then in submissions to the Rural Areas Discussion document (document released by Council for public comment on the potential rural issues facing the District over the next 10 years and what implications this could have for the review

of the rural sections of the District Plan). The regions food producer's, have highlighted concerns regarding the Districts international reputation and marketability associated with GMOs. As a result of these concerns the regions producers established Pure Hawkes Bay, a group *"committed to building the region's global reputation for safe, sustainable and high quality food"* who see *"huge opportunities for the Bay by keeping our fields free of GM food crops¹".*

Council has recently been through an exhaustive public consultation process via the development of the Proposed District Plan regarding whether to control the commercial release and field testing of GMOs in the District. In the early stages this included organising in October 2012 a Regional Forum on GMOs, which comprised a number of guest speakers from environmental, cultural, science, economic, marketing, horticultural and agricultural perspectives. This issue has also been considered in light of a Colmar Brunton survey carried out in 2012 which found that 84% of respondents believe that Hawkes Bay should remain a GE free food producing region.

Through submissions to the Proposed District Plan, the Hastings community is seeking a precautionary approach to the management of the outdoor use of GMOs. This approach is a direct reflection of the aforementioned survey results and social and cultural expectations that Hastings will remain a GM free District. GMO activities are unacceptable given current social and cultural attitudes amongst the Hastings community, including those of mana whenua.

Based on extensive research and in response to community concerns, Council adopted a resource management policy framework in its Proposed District Plan that is precautionary and district specific taking into account environmental, economic and social well-being considerations. This included the field testing of GMOs as a Discretionary Activity and Release as Prohibited. This framework does not preclude laboratory testing from being carried out, medical and veterinary applications and food containing GM products that are non-viable. A precautionary approach seems available and appropriate in instances where there is insufficient information about any specific GMO proposal that may be allowed to establish in a District or its potential effects and what provision should be made to address those specific effects. This would allow proper consideration of the likely effects of the activity at a future time if necessary, in light of information then available. It also allows regard to the appropriateness of GMOs to be had at a local level taking into account the potential benefits and costs to the community at that time. For this reason it was drafted in the Proposed Plan that a review policy be included, where these provisions could be revisited, particularly if there is new information on benefits and/or adverse effects of a GMO and/or there is community acceptance to the use of GMOs that have proven to be safe and economically beneficial without adversely affecting the environment and the general social and economic wellbeing of the community.

Council received numerous submissions to the Proposed Plan on this issue, both against and in favour of the inclusion of proposed provisions around the land use management of GMOs. These submissions included points seeking the complete removal of provisions pertaining to the land use management of GMOs to complete prohibition for both field trials or testing and releases. Should these submissions seeking complete prohibition be accepted, then this effectively makes the Hastings District 'GE Free'.

Included in the submissions received and evidence tabled during the course of the hearing were specific points regarding GMO pine plantations and the potential economic effects that

¹ <http://purehawkesbay.org/>

controlling their land use could have on scientific and commercial forestry interests, but also on local growers and producers who rely on GE free to maintain their organic status and export markets. Pine pollen associated with GM tree stock has the potential to compromise organic certification, export markets and in turn local producer's economic livelihoods. During the course of the hearing evidence was presented highlighting that the Hastings District (and region) is not a low cost food producing region and food growers and producers do not on the whole produce bulk production commodity crops. The focus is instead on premium products for high value markets. GM free may not be the sole quality that gets a premium but, it is one of a range of non-negotiable differentials in high end markets. These markets are needed, because they afford higher economic returns which in turn allow ongoing production investment locally. A GM free status is a prerequisite to many of these markets.

A copy of all of the submissions and further submissions received on GMOs can be found via this link: <http://www.hastingsdc.govt.nz/proposed-hastings-district-plan-further-submissions>. In principle decisions have been made by the Hearings Committee on all submissions pertaining to GMOs, with final Council decisions made at the end of August and notification the following month. These decisions are then subject to the Resource Management Act appeal period.

Of concern to Council is that the Proposed NES completely undermines Council's resource management policy framework which has been carefully drafted taking into account local environmental, social and economic factors. It appears that the NES as drafted is activity focused in this instance, as opposed to effects based, which gives limited consideration to local effects and conditions. A permitted activity status for GM production forestry removes local decision making abilities of the Council and the ability of interested and affected members of the public to participate through a democratic submissions process. It also does not acknowledge or respect the community's strong preferences for the District to remain GM free. Council acknowledges that the Environmental Protection Authority has the best scientific resources to evaluate the risks of GMOs but simply the community of the Hastings District does not currently have the appetite for any viable GMOs, which includes plantation forestry. Presently it is considered that there is more benefit to the region in being GMO free. The Hastings District Council therefore requests that all references to genetically modified tree stock be deleted from the National Environmental Standard on Production Forestry.

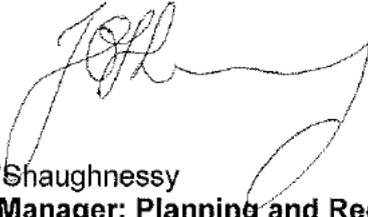
9. Summary

In summary Council supports the outcomes and intentions of the proposed NES guidelines but recommends that further consideration be given to the subjects outlined above; that is:

- Allowance for more stringent status within Zones providing for horticultural and viticultural activities and based on a predominance of versatile soils within a District, providing the specific effects of Forestry Activities within the Zones have not been addressed within the NES; and
- Removal of permitted standard relating to afforestation and replantation using genetically modified tree stock where the tree stock has gained the appropriate approval for deployment from the EPA.

Thank you for the opportunity to make this submission.

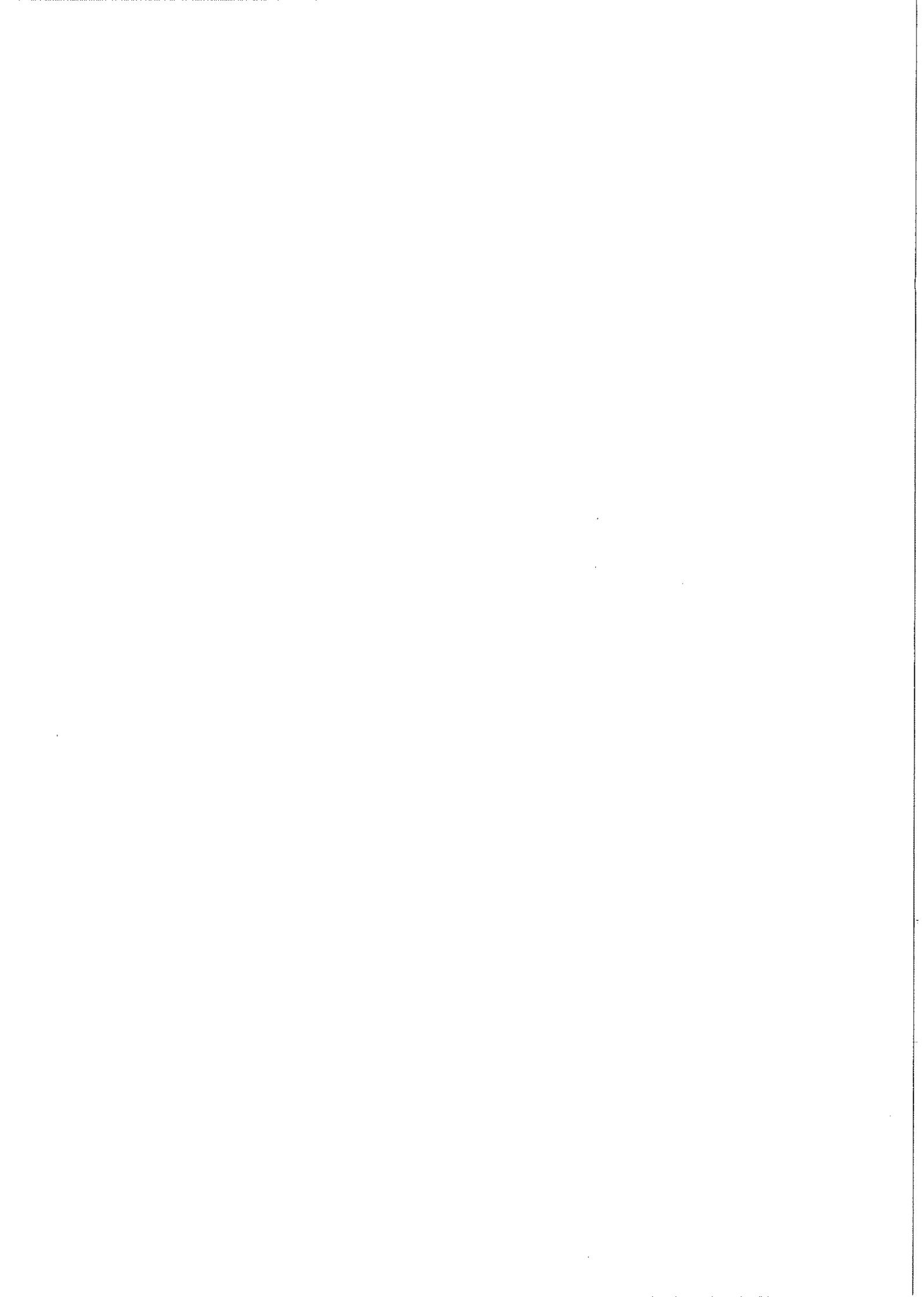
Yours sincerely

A handwritten signature in black ink, appearing to read 'JOH', with a long horizontal stroke extending to the right and a large loop at the end.

John O'Shaughnessy
Group Manager: Planning and Regulatory



Copy to: [Click & type Name, delete line if not needed]





TO: Ministry for Primary Industries

RE: Proposed National Environmental Standard for Plantation Forestry

FROM: Hurunui District Council

DATE: 10 August 2015

This submission is made by and reflects the views of the elected members of the Hurunui District Council.

A handwritten signature in black ink, appearing to be 'Hamish Dobbie', is written over a dotted line.

Signed by Hamish Dobbie, Chief Executive Officer and authorised signatory.
Dated: 10 August 2015

Address for service of submitter:
Hurunui District Council



Contact person: Stephanie Chin, Policy Planner

Email: [Redacted]

DDI: [Redacted]

The Hurunui District Council (HDC) wish to thank you for the opportunity to provide comments on the consultation document relating to the proposed National Environmental Standard for Plantation Forestry. HDC wish to offer the following comments on the proposal:

Setbacks

- HDC is in general support of the proposed setbacks set out in the Afforestation and Forest Quarrying activities. This is because the proposed rules are similar to the HDC Operative District Plan and Proposed District Plan.

Wilding tree risk

- It is noted that wilding tree risk is a district council matter under Afforestation activity when dealing with conifer species, but is not a matter for consideration under Replanting activity. The rationale for this is that the Biosecurity Act 1993 and regional pest management plans provide sufficient control of wilding risk of non-conifer species. Within the HDC area there are issues with wilding trees being established from existing and previous plantation forestry lots and HDC considers controls need to be strengthened to address this.
- *Relief sought:* HDC requests that the Wilding Spread Risk Calculator be applied to Replanting activity so that district councils can assess this matter for Replanting as well as Afforestation activities.

Sensitive water catchments and water flows

- HDC considers it is important to ensure protection of sensitive water catchments, particularly in dry areas such as some parts of the Hurunui District. This is important to ensure that forestry planting does not have significant adverse effects on the water catchments. HDC considers there needs to be consistency between the proposed NES and the Waipara Catchment Environmental Flow and Water Allocation Regional Plan, managed by Environment Canterbury. This plan takes a holistic approach to water management in the region, based on catchments, and therefore it is important that an NES does not undermine that plan.

Cost of monitoring permitted activities

- HDC is concerned about the cost of checking and monitoring permitted activities and the ability for councils to cost recover for damage caused by permitted activities. An example is a forestry company undertaking harvesting as a permitted activity and causing damage to a local road during this permitted activity.
- Section 36(1)(c) of the RMA sets out that a local authority may fix charges payable by holders of resource consents. This technically does not include those undertaking permitted activities because no resource consent is required. HDC is concerned that councils will not have the ability to charge for such permitted activities under the proposed NES.

Ability to be more stringent – coastal marine area

- The New Zealand Coastal Policy Statement (NZCPS) requires councils to assess the natural character of the coastal environment. Policy 1 (2) of the NZCPS recognises that the coastal environment includes the coastal marine area; areas where coastal processes, influences or

qualities are significant and elements and features that contribute to the natural character, landscape, visual qualities or amenity values.

- As part of reviewing the Hurunui District Plan, HDC has undertaken a review of the coastal environment and mapped both a Coastal Environment Area (updated from the operative plan) and an Outstanding Natural Character Area within the Coastal Environment Area (as required by the NZCPS). (For clarity, it is noted these are different to Outstanding Natural Features and Landscapes pursuant to s6(b) of the RMA (which is also a matter where councils can be more stringent)).
- The mapping of these areas is in line with Policy 1(2) of the NZCPS which views the coastal environment as a larger, contiguous area that can include land, and not just the coastal marine area. Correspondingly, HDC has proposed rules in its proposed plan to manage activities within the Coastal Environment Area and Outstanding Natural Character Area within this Coastal Environment Area. This includes rules regarding forestry.
- Given that HDC has proposed a Coastal Environment Area and Outstanding Natural Character Area that will be in accordance with the NZCPS, HDC would expect the ability to be more stringent about these areas under the proposed NES. As currently worded, the proposed NES would only allow regional councils to be more stringent regarding the coastal marine area itself (i.e.: the zone on the seaward side of Mean High Water Springs).
- *Relief sought:* That the matter regarding “Coastal marine area” where regional councils can apply more stringent rules also applies to district councils who have a defined Coastal Environment area or zone, in accordance with the NZCPS.



**To: Stuart Miller
Spatial, Forestry and Land Management
Ministry for Primary Industries
PO Box 2526
WELLINGTON 6140**

e-mail: NES-PFConsultation@mpu.govt.nz

Submission by the Invercargill City Council on the Proposed National Environmental Standards for Plantation Forestry

The Invercargill City Council makes the following submission points for consideration:

1. Thank you for the opportunity to comment on the proposed National Environmental Standard for Plantation Forestry. While the Invercargill City Council supports the intent of the proposed NES-PF, it does question the capacity of the NES to deliver cost-effective environmental outcomes that are in effect any better than those currently being delivered by existing Planning frameworks that provide context specific solutions. The Council also questions the effectiveness of the proposed NES-PF in removing variation between local authorities and improving certainty of process. In addition to the NES-PF there are still a large number of matters outside the scope of the NES-PF that foresters will have to consider (for example, effects on roading infrastructure, traffic nuisance effects etc.), as well as any local variation within district and regional plans relating to those matters local authorities have the ability to be more stringent on. The NES-PF will effectively create an additional layer of planning controls for foresters and local authorities to navigate, potentially making the process more complex than it currently is.
2. The Invercargill City Council considers the reliance on permitted activity performance conditions will create additional monitoring work and associated costs for local authorities. The proposal will have the effect of shifting the focus of Council's resources away from processing any consents triggered by a small number of existing regional and district rules, for which cost is recovered from the applicant, to now focusing on the monitoring of permitted activity performance conditions of forestry activities now managed by an increased number of rules, for which no revenue is recovered from the resource users. While the Council supports the intent of the NES-PF and sees value in achieving a greater degree of consistency in how forestry activities are managed across the country, it is considered more desirable to manage potential adverse effects through resource consents before operations commence, rather than addressing the adverse effects of permitted activities after the fact through monitoring e.g. noise breaches, set back breaches etc. The Council considers that those who create the need for monitoring work should bear the cost of that work. Notwithstanding the requirement for Erosion and Sediment Control Plans and Harvest Plans to be submitted to regional authorities, the Council believes that a requirement could be introduced into the NES-PF to ensure that,

at the time of notifying local authorities of commencement of operations, foresters provide all local authorities with full management plans that include the minimum level of information necessary for a local authority to be able to meet its monitoring obligations under the NES-PF. This would go some way to helping reduce the costs and resourcing burden the proposed NES-PF will have through its permitted activity performance conditions.

3. Under both the current and proposed Invercargill City District Plans forestry activity has been restricted to generally being permitted only within rural zones. The use of zoning as a tool for controlling land use is widely accepted and limiting forestry to rural zones is likely to be a common approach taken to managing forestry activities in District Plans across the country. The Proposed NES-PF, however, will have the effect of permitting forestry activity in all zones, subject to meeting performance conditions including setbacks. This means that forestry activity that complies with performance conditions could establish within any residential or industrial zone as of right. This could be particularly troublesome in fringe urban areas where land intended for future urban expansion may also be seen as attractive for foresters, resulting in an inefficient and unsustainable use of the land resource, and leading to conflicts in amenity and potential reverse sensitivity issues as a result of incompatible and competing land uses. It is noted that a 30m setback from urban/residential zones is required as a permitted activity condition for afforestation activities. This implies that such activities are not appropriate within these types of zones; however there does not appear to be anything actually preventing them from establishing within the zones themselves, as long as setbacks are met at the time of afforestation. The Council considers that the NES-PF should provide local authorities with the ability to apply more stringent rules in Plans to restrict forestry activities in non-rural areas where they may conflict with existing or potential non-rural land uses.
4. The majority of plantation forestry present in the Invercargill City district occurs on Council managed reserve. This is likely to be a situation occurring elsewhere the country also. The Operative and Proposed Invercargill City District Plans both provide for activities that comply with a relevant Reserve Management Plan developed under the Reserves Act 1977 as permitted activities. However, that may no longer be a relevant consideration when taking the NES-PF into consideration as well. This may be undesirable in some cases where the Reserve Management Plan has been developed in such a way as to ensure forestry activities are tightly controlled and managed under a more stringent environmental model than is provided for under the NES-PF. Therefore the proposed NES-PF may have the effect of not only imposing an additional layer of Planning controls on these forestry activities, but may also relax, or lead to a perception of relaxing, the more stringent existing environmental controls. For this reason the Council believes local authorities should have the ability to be more stringent on reserves managed under the Reserves Act. It would be useful if the guidance material produced to assist local authorities in implementing the proposed NES-PF included some clarification as to the relationship between the proposed NES-PF and Reserve Management Plans that provide for the management of the reserves upon which the forestry is located.

5. It is noted that with regard to the proposed setbacks for afforestation activities, the permitted activity performance conditions provide an exemption where the approval of the adjoining landowner has been obtained. The Council considers it unclear how this approval process is intended to operate and what responsibilities local authorities have in monitoring compliance with such performance conditions. Do local authorities have a duty to ensure the neighbouring owner approval is obtained before afforestation work begins? In what format are the approvals required to be provided, and is the intention for local authorities to be responsible for the recording and holding of these approvals? Are local authorities actually intended to be involved in the neighbouring property approvals at all? The Council considers that it would be preferable for any requirements for setbacks to stand on their own merits with any approvals that are provided by neighbouring property owners being considered as part of the resource consent process, as is the approach adopted by both the Operative and Proposed Invercargill City District Plans.
6. Additionally, further clarification is considered necessary with regard to setback requirements for afforestation activities from adjoining existing dwellings under different ownership, and from roads. Does the permitted activity performance condition that states "*Where vegetation could shade a dwelling or paved public road between 10am and 2pm on the shortest day of the year...*" refer to a continuous period of shading, or any shading within that specific period i.e. is some degree of shading acceptable, or does the setback have to be such that it allows access to sunlight at all times between those hours? Is the setback to be taken from the boundary of the property that has the existing dwelling, or is it taken from the dwelling itself?
7. It is also considered important that any setbacks take into account any potential adverse effects on consented dwellings or approved building platforms that form part of the "existing environment", and that the greater degree of shading that occurs on adjacent land to the south of plantation forestry is also considered.
8. The setbacks should also take into account the variation in shading effects that occur throughout the country as a result of the differences in sun angles at different latitudes. For example, the shading effects of plantation forestry will be greater in Southland, where the sun angles are lower, than they will be in Northland where the sun angles are higher. The Council considers that it is important that setbacks are set in a way that ensures they account for areas that have the lowest sun angles and therefore the greatest degree of potential shading effects.
9. The Council also has concerns regarding the height of plantation forestry upon which the setbacks have been based. Is it based on the average height of a plantation at the time of harvest? Is it sufficient to allow for a 'worst case scenario' whereby market conditions might lead to plantations being left in situ well beyond the intended harvest dates while forest owners wait for more favourable market conditions? In such a scenario the trees may keep growing beyond the height that the setbacks have been designed to mitigate against, potentially leading to significant shading effects on neighbouring properties,

dwelling and roads that would otherwise have been protected by the NES setbacks, had the plantation been harvested on the harvest date that was anticipated at the time the plantation was established. The Council believes that setbacks need to be set in a way which takes into account such scenarios.

10. The Invercargill City Council is also concerned at the potential impacts the proposed NES-PF may have on the permitted baseline. For example, the setting of limits and setbacks for forestry quarrying activities in the proposed NES-PF creates a permitted baseline argument for other non-forestry quarrying and gravel extraction. Drawing any meaningful distinction between the effects of forestry type quarrying and other types of quarrying will be difficult when considering any potential limit setting or introducing setbacks for such activities.
11. The Invercargill City Council supports the ability for local authorities to use more stringent rules in plans where outstanding natural features and landscapes and/or significant natural areas are identified and mapped and requested that it be retained, although it is unclear what constitutes 'incidental damage' to riparian and indigenous vegetation adjacent to plantation forest. Maps accompanying district plans should be used to identify those significant natural areas that warrant protection. This provides landowners with certainty and is an efficient method for managing indigenous biodiversity. Reliance on a list of criteria to be applied on a case by case basis is not considered efficient and does not provide sufficient clarity or certainty for landowners and is not supported by the Council.

Signature:


.....

Date:

11-08-2015
.....

Contact Details:

Gareth Clarke
Senior Policy Planner
Invercargill City Council



10 August 2015

Stuart Miller
Spatial, Forestry and Land Management
Ministry for Primary Industries
PO Box 2526
Wellington 6140

Email: NES-PFConsultation@mpi.govt.nz

Dear Mr Miller

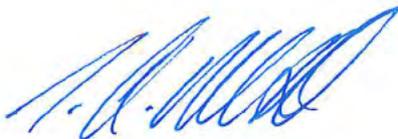
Submission on a National Environmental Standard for Plantation Forestry (NES-PF)

Please find attached Kapiti Coast District Council's submission on the consultation document on a NES-PF, as approved by resolution of the Environment and Community Development Committee (ECD) on 30 July 2015.

Please contact Darryl Lew, Manager, Research, Policy and Planning on [REDACTED] or email [REDACTED] if you have any questions about this submission.

Thank you for the opportunity to make a submission on the NES-PF.

Yours sincerely



Stephen McArthur
GROUP MANAGER, STRATEGY AND PLANNING

10 August 2015

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Email: NES-PFconsultation@mpi.govt.nz

Submission on a National Environmental Standard for Plantation Forestry (NES-PF)

Thank you for the opportunity to make a submission on the consultation document on a NES-PF.

The **Kāpiti Coast District Council** (the Council) commends the progress made by the Ministry on the proposed NES-PF.

The Council supports the intent of the proposed NES-PF, as outlined in the NES-PF consultation document, to:

- provide more consistent Resource Management Act (RMA) planning controls for plantation forestry activities throughout New Zealand, including within the Greater Wellington Region which encompasses the Kāpiti Coast District;
- harmonise rules and standards between regional and district plans, avoiding the duplication of planning controls between regional and district councils;
- provide greater certainty for plantation forestry stakeholders, potentially reducing their RMA consenting and compliance costs; and
- give councils the ability to apply more stringent rules than those in the proposed NES-PF in relation to a number of matters, including significant natural areas and outstanding landscapes, where appropriate.

However, the Council is concerned that if jurisdiction for controlling harvesting activities (including the approval of Harvest Plans) falls to regional councils it will lose the ability to require controlled activity resource consents for harvesting of larger areas of forest (i.e. over 10ha in any 12 month period). Of particular concern would be losing the ability to impose financial contributions to meet the cost of upgrading and/or repairing damage to local roads that may occur. Council wishes to retain the ability to impose financial contributions in its own right should consents be required.

The Council recognises the potential for riparian areas to be damaged during earthworks and harvesting activities. The Council considers that the NES-PF should be amended to include conditions that require riparian areas to be replanted, preferably with indigenous vegetation, where unavoidable damage has occurred.

It is unclear how monitoring and compliance functions will be allocated between regional councils and district councils, where both councils have responsibility for enforcing conditions for the same activities (e.g. forestry quarrying rules). The Council considers that the NES-PF should be amended to address this issue.

The NES-PF provides the ability for the Council to apply more stringent rules with respect to outstanding natural features and landscapes and Sensitive Natural Areas (SNAs), among other things. However, the Council's ability to apply more stringent rules for outstanding natural features and landscapes is limited to 'afforestation' activities. The Council is concerned that other activities, such as earthworks and forestry quarrying which are permitted under the NES-PF (subject to compliance with conditions that allow large volumes of material to be disturbed/excavated), may also have significant adverse effects on these features and landscapes. Such effects may not be consistent with section 6(b) of the Resource Management Act, which requires the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development. The Council considers that the NES-PF should be amended to enable Councils to apply more stringent rules for earthworks and forestry quarrying within these areas, as appropriate.

With respect to applying more stringent rules in relation to SNAs, the NES-PF excludes the damage, destruction or removal of vegetation that is incidental damage to vegetation adjacent to plantation forest, including indigenous vegetation at the edge of an SNA (or similar) that will recover within five years. The Council is concerned that this exception would not allow it to impose more stringent rules to protect vegetation on the edges of ecological sites in the Kapiti Coast District from damage or destruction. Such damage would not be consistent with section 6(c) of the Resource Management Act, which requires the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna. Furthermore, a judgement would need to be made about whether the damaged vegetation will recover within 5 years.

The Council, therefore, considers that the NES-PF should be amended to allow Councils to apply more stringent rules to protect significant indigenous vegetation and significant habitats of indigenous fauna within SNAs where they are adjacent to plantation forests.

Please contact Darryl Lew, Manager, Research, Policy and Planning if you have any questions about this submission.

Yours sincerely



Pat Dougherty
CHIEF EXECUTIVE