



# MASTERTON DISTRICT COUNCIL

*SERVING THE COMMUNITY*

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

Dear Sir

## **Consultation Document - National Environmental Standard for Plantation Forestry**

Thank you for the opportunity to provide comment on the Discussion Document for the National Environmental Standard for Plantation Forestry.

### **Introduction:**

Masterton District Council serves an estimated resident population of 24,200 people on almost 12,000 properties spread over 229,500 hectares. The vast majority of the land area, 227,704 hectares, is rural.

### **Consultation Document**

In general, Masterton District Council (MDC) endorses the submission made by Local Government New Zealand (LGNZ). LGNZ captures and outlines our key concerns and opinions in relation to Plantation Forestry.

In addition Masterton District Council would like to see the National Standards provide a clear set of permitted activity rules or conditions that require minimal opportunity for subjective evaluation.

It is also clear that the National Environmental Standards will require Local Authorities to reassess their plans to determine what aspects will be extinguished or re-formulated. It would be most useful to allow Council's existing rules to continue to apply until their operative plans are up for review. This would provide an opportunity for Council's to assess how the NES sits with existing uses and whether their Council plans may need to be stricter, in some instances, than those in the NES.

Yours faithfully



Susan Southey  
**Manager Planning & Regulatory Services**

11 August 2015

17 August 2015

Ministry for Primary Industries  
[NESPFConsultation@mpi.govt.nz](mailto:NESPFConsultation@mpi.govt.nz)

Dear Sir/Madam

**RE: PROPOSED NATIONAL POLICY STATEMENT FOR PLANTATION FORESTRY**

Thank you for the opportunity to provide feedback on the Proposed National Environmental Standard for Plantation Forestry. The forestry industry is a significant contributor to the District's economy and therefore plays an important role.

Opotiki District Council supports the submission made by Local Government NZ, in particular the points made on page 11. Further clarification is sought about responsibilities regarding areas that overlap for example earthworks.

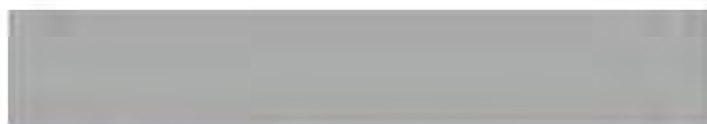
Support is also given to those matters detailed on pages 13 -17 of the submission regarding permitted activities. Council's concerns relate to the ability to recoup costs associated with administration and monitoring of permitted activities.

If you require further clarification or would like to discuss this submission further, please contact me on [REDACTED]  
or email [REDACTED]

Yours faithfully



Michal Akurangi  
**SENIOR POLICY PLANNER**



5620453

10 August 2015

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

By email to [NES-PFConsultation@mpi.govt.nz](mailto:NES-PFConsultation@mpi.govt.nz)

Dear Mr Miller

## **SUBMISSION ON THE PROPOSED NATIONAL ENVIRONMENTAL STANDARD FOR PLANTATION FORESTRY**

Please find enclosed a submission by the Palmerston North City Council on the recently released Discussion Document on a Proposed National Environmental Standard for Plantation Forestry.

This submission has been prepared by officers of the Palmerston North City Council working in the areas of resource management and forestry operations. It has not been ratified by Council and as such cannot be deemed to be the formal position of the Council.

We would be happy to discuss these comments with the Ministry upon request.

Yours sincerely



Paddy Clifford  
**CHIEF EXECUTIVE**

### **Contact details for this submission are:**

Submitter: Palmerston North City Council

Contact Address:   
Palmerston North

**Proposed National Environmental  
Standard for Plantation Forestry 2015**

**Submission on behalf of the  
Palmerston North City Council**



This submission has been prepared by officers of Palmerston North City Council working in the areas of forestry operations and resource management planning. It has not yet been ratified by Council and as such cannot be regarded as the formal position of the Council.

## **Introduction**

The Palmerston North City Council thanks the Ministry for the opportunity to present a written submission on the 2015 Proposed National Environmental Standard for Plantation Forestry ('NES-PF').

Forests and forestry operations are very significant for the economy, society and the environment. The plantation forest industry in New Zealand makes significant contributions in terms of economic prosperity and environmental values and there is a good case for stronger policy direction and better integration for forestry activities, relative to other agricultural landuse activities in the primary sector.

Over the last three decades, the Palmerston North City Council has invested significantly in its three forest holdings, situated on the Tararua Ranges: Gordon Kear Forest, Turitea Forest and the Arapuke Forest Park. (A Description of Council's forest operations is attached in Appendix 1: Palmerston North City Council Forestry Stocktake).

The Gordon Kear Block is included within Council's investment portfolio and is managed to maximise financial revenues. Silviculture operations (pruning and thinning) are scheduled to begin in 2016/17. The Council's forward programmes for their forestry operations in the 2015-25 LTP relate to the development of internal roading and replanting at the Gordon Kear Forest.

## **City/Regional Context**

The estimated total forest area within the Palmerston North City boundary is 2,372 hectares<sup>1</sup>.

The Palmerston North City Council's forest holdings are small in terms of total forest area, comprising only around 1% of the planted area within the Southern North Island Wood Supply Region. The estimated area of replanting is 438 hectares<sup>2</sup>:

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<sup>1</sup> National Exotic Forest Description as at 1 April 2014, Ministry for Primary Industries, NZ Forest Owners Association, NZ Farm Forestry Association.

<sup>2</sup> Gordon Kear (340 ha); Turitea Forest (23ha); Arapuke Forest Park (75ha).

## Submission outline

The Palmerston North City Council is making this submission on the 2015 NES-PF in recognition of its:

- resource management responsibilities under the Resource Management Act 1991 (RMA);
- advocacy role for the City on policy or operational interests; and
- obligations as a small forest owner and investor in three sizeable forestry blocks in the Tararua Ranges and amongst its foothills.

The format and focus of the Council's submission is to provide general comment on the implications of the 2015 Proposed National Environmental Standard for Plantation Forestry (NES-PF) on the industry sector and the Council as a forest owner and then more specific comment on the Key Questions for Submitters, and the Palmerston North planning context.

## General comments

The Council commends the Ministry for Primary Industries and the Working Group on their collective research effort and the technical reporting to support the 2015 NES-PF proposal.

We understand the objectives of the 2015 NES-PF are to:

- Remove unwarranted variation between local council's planning controls for plantation forestry;
- Improve certainty of 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;
- 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.

The Council acknowledges the three environmental risk assessment tools<sup>3</sup> being proposed in the 2015 NES-PF and that the information derived from these tools will be used to assess the risk of adverse effects and determining the activity status of forestry activities through a rules cascade proposed in the NES-PF. In terms of the Council's forest holdings, the ESC suggests that the level of risk is green or yellow (being low risk) and that forestry activities are likely to be permitted, provided accompanying conditions are met. In the Palmerston

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<sup>3</sup> These are the Erosion Susceptibility Classification, Fish Spawning Indicator and the Widling Spread Risk Calculator.

North context, district plan rules<sup>4</sup> are likely to be required in relation to areas of known cultural heritage value and outstanding natural features and landscapes<sup>5</sup>.

The Council understands the RMA planning implications arising with implementing the NES-PF are:

- Councils will no longer need to develop forestry specific rules in plans, except where they are able, and wish to apply greater stringency;
- The NES-PF will replace existing District and Regional Plans for plantation forestry and where inconsistencies exist between existing rules and the NES-PF, the NES-PF will supercede the existing Plan rules<sup>6</sup>;
- Council's will be required to amend their District Plans to remove conflicts with the NES-PF; and
- Council's will need to monitor Permitted Activity conditions and therein understand the rules and environmental risk assessment tools used for assessing any forestry activity.

The Council has strong reservations with the proposed 2015 NES-PF planning framework for managing plantation forestry. While the Council supports Principle 1, that where possible activities are provided for as permitted activities, it is submitted that the desired objectives of 'nationally consistent rules across NZ' and 'certainty about RMA processes' will not be achieved under the proposed NES-PF, given that Councils have the ability to apply more stringent provisions over a broad range of matters, including:

- a. the coastal marine area (to align with the New Zealand Coastal Policy Statement);
- b. geothermal and karst protection areas;
- c. areas of known cultural or heritage value;
- d. significant natural areas and outstanding features and landscapes;
- e. shallow aquifers (complex groundwater systems); and
- f. meeting the National Policy Statement for Freshwater Management (NPSFM).

Of these (c) and (d) are directly relevant to Palmerston North City Council and (f) of some relevance. Although, it is noted that the NPSFM is principally directed at Regional Councils.

In terms of the RMA planning context in Palmerston North, the Council advises that the operative Palmerston North District Plan provides for production forestry as a permitted activity. These provisions have recently been reviewed and new amended provisions have been notified through PPC15A<sup>7</sup>. These provisions seek to promote a more enabling framework and significantly, the permitted performance standards have been streamlined to reflect local conditions and the 'actual' effects of plantation forestry development and harvesting operations. For example, the separation distances from roads have been

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<sup>4</sup> Permitted Activity Performance Standards.

<sup>5</sup> Matters where Council's can retain local decision making (cited in Table 2 and 4 of Appendix 3).

<sup>6</sup> Refer s43A(5) and s76(2) of the RMA 1991.

<sup>7</sup> Council notified PPC15A on 29 January 2015 with hearings scheduled to commence mid October 2015. A submission in support of the proposed changes was received by New Zealand Fire Service Commission.

significantly reduced (now 10 m) on the grounds that the primary access roads are gravelled and don't have extreme icing issues in winter. Also the overshadowing effects are minimal as in many cases, the forests lie below the roads. There is no separation distance where the adjoining property is forested.

The Council reiterates its previous submission, that the appropriate balance of planning controls and achieving operational flexibility for the sector, can be better achieved by:

- actively participating in second generation RMA plan making processes;
- upskilling local government planners and industry on 'industry-best practise' through the provision of relevant technical information and education relating to management approaches, guidelines and standards, national agreements (or accords) and legislation; and
- identifying and working with potentially affected communities.

The Council submits that the current review of RMA plans provides forest owners and investors with a valuable opportunity to promote an appropriate, enabling planning management framework and the sustainable management of natural and physical resources.

A comparison between the new forestry provisions (PPC15) and the 2015 NES-PF, is provided in Appendix 2 to this submission. This analysis shows that the Definitions, the Resource Management Issues, Objectives & Policies are not in conflict with the intent of the NES-PF, and that the rules relating to the forestry activities are more only a little more stringent than the regulations proposed by the NES-PF. In relation to the separation distances included in PPC15, the NES-PF appears to be significantly more stringent.

If the NES-PF proceeds, the Council recognises that it will be responsible for giving effect to the NES-PF (administering and enforcing its requirements) and also bear the related implementation costs. If the NES-PF proceeds, the Council has specific concerns about:

- the lead-in times prescribed for Council's to adequately research and develop rules (Permitted Activity performance standards) concerning cultural and natural heritage, significant natural areas and outstanding natural features and landscapes. It is noted that these matters are both sensitive and complex and require specific expertise.
- The costs of carrying out a plan change or initiate a variation ( ie PPC15A) to align the District Plan with the proposed regulations. In particular, the research costs to develop legally robust Performance Standards in relation to abovementioned local decision making aspects. The NES-PF Implementation costs were not been identified not considered in Council's deliberations for the 2015-25 Long Term Plan:

A risk factor for successful implementation of the NES-PF, if local authorities are required to administer the NES-PF, are difficulties which could arise due to poorly drafted or misdirected regulations. For example, determining where vegetation might shade a dwelling between 10am and 2pm on the shortest day, or allowing forests to be established closer than 10 metres to boundaries as a permitted activity provided written approval is obtained. While these conditions aim to make the process of forest establishment relatively permissive and



seek to avoid 'red tape', issues may arise once forests are planted (as a permitted activity and with no Council interaction) and shading does occur 10 years later, or in resolving disputes as to whether written approvals were actually obtained at the time of establishment. The Council submits that an Implementation Guideline for Local Authorities will be a critical to achieving the desired policy objectives.

## **Specific Comments**

- **Certainty about RMA Processes and Environmental Outcomes**

The Council is concerned that the 2015 NES-PF will generate more uncertainty about RMA processes and environmental outcomes given the number of technical compliance assessments implicit in the NES-PF planning regime.

- (i) Environmental Risk Assessment Tools

The proposed mechanisms (ie, ESC, FSI & WSRC) for assessing regulatory compliance for Permitted Activity status are complex and involve a number of interpretive judgements to verify compliance. The Council is concerned that this will make implementation of the NES-PF difficult, the decisions open to dispute, and potentially prolong consent timeframes and consent costs.

The Council is very concerned about changing to a consent regime which results in unwieldy and costly additional assessments for plantation forestry activities. The Council submits that most of the aspects that the 2015 NES-PF seeks to instigate are already permitted in the Palmerston North District Plan<sup>8</sup>.

- **Risks and Opportunities**

- (i) District Plan Rules - Outstanding Natural Features and Landscapes

Significantly, the NES-PF provides the ability for district plans to be more stringent in relation to places and areas of known cultural or heritage value, significant natural areas and outstanding natural features and landscapes. The Council submits that deriving performance standards for these matters is not straightforward and involves significant research and specialist expertise to ensure that permitted activity standards are clear, robust and enforceable.

For example, the process of spatially defining the "Tararua Ranges Skyline" Landscape a regionally outstanding landscape and feature<sup>9</sup>, and the ensuing landscape report took

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<sup>8</sup> Refer Proposed Plan Change 15A-H to the Palmerston North District Plan.

<sup>9</sup> The Horizons' One Plan requires Council to spatially define the Tararua Ranges "skyline" on District Planning Maps.

approximately 2 years to complete. This technical report was the first step and a precursor to developing an appropriate rules package (including the 32 assessment) to go into the District Plan. It is most important that sufficient time is built-into the NES-PF planning regime, to enable Council's to develop valid and effective rules in regards to these planning matters.

- **NES-PF Implementation Issues**

- (i) Gaps in the 2015 NES-PF

The Council is concerned that if the NES proceeds, there will be 'gaps' in the management of effects of plantation forestry development. From an RMA perspective, the Council identifies the following matters<sup>10</sup>:

- a. Managing amenity conflicts and traffic management issues that arise from harvesting operations
- b. The wear and tear on district roading infrastructure from forestry vehicles and machinery, and the ability to recoup costs for damage to road infrastructure.

Currently these particular matters are managed in the operative District Plan, as the effects of plantation forestry development and harvesting activities is listed as a significant resource management issue for the Rural Zone. The Council requests that these matters are included in the list of matters that District Councils are able to reserve control over in their District Plans. As a minimum Council seeks that the NES-PF provide the ability for District Plans to be able to recover costs for damage to local roads from forestry vehicles.

- **Conditions for Permitted Activities**

The Council submits that the 2015 NES-PF assessment of compliance used to determine Permitted Activity status will introduce more complexity and generate more uncertainty than the new forestry provisions within PPC15A. Council submits that most of the aspects that the 2015 NES-PF seeks to instigate are already permitted in the Palmerston North District Plan, through PPC15. The proposed resource management regime for plantation forestry will involve a lot of extra work and costs for Council's.

Particular aspects of concern are:

- The ESC tool needs more work if it is going to be used and relied upon to determine permitted activity status for a forestry activity.
- The Permitted Activity standards are potentially unworkable and may be ultra vires the RMA, as the proposed rules and associated performance standards involve multiple

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<sup>10</sup> Matters where Council can set more stringent rules in plans or more stringent conditions in resource consents.

elements of assessment, to determine whether a specific forestry activity comes under this rule or not (and therefore deemed to have permitted activity status).

Particular examples of concern are:

- Afforestation Rules:
  - The use of the 'wilding tree dispersal' to assess Permitted Activity status involves a subjective assessment, including a judgement about scores, which is potentially open to dispute;
  - The vegetation setback from roads involves a complex analysis in relation to ground levels and ambient shading and is potentially difficult to assess for compliance, given the variability of vegetation growth rates and changes through the plantation cycle.
- Afforestation & Replanting Rules:
  - Monitoring compliance with the criteria for genetically modified tree stock is not straight forward and is likely to require a technical expert to verify compliance with the rules.
- Earthworks, Harvesting & Forestry Quarrying:
  - The requirement for a Notice of Commencement is potentially cumbersome and lacks transparency which is implicit in resource management planning under the RMA.
- River Crossings:
  - The compliance assessment for permitted river crossings are complex and also includes an exercise of discretion in determining compliance.
- Permitted Activity Standards – 'Vegetation Clearance and Disturbance':
  - This standard will be difficult to assess and introduces an inappropriate level of ambiguity by using terms like '*incidental damage that will readily recover in 5 years*'. Compliance with this standard will require a technical assessment and an exercise of judgement as to compliance, making it potentially ultra vires the RMA.
- General Conditions:
  - The specification in relation to 'Nationally Critical' or 'Nationally Endangered' indigenous bird species and the general standard relating to nesting times, is also considered problematic. The way the NES-PF is currently set out, the expectation is that District Councils will monitor this issue and respond to any complaints regarding forestry operations and nesting sites or times. The Council is concerned that the relevant authority for this information (DOC?) is not clearly identified in the NES-PF and also queries the vires of this type of standard.

In view of the issues around transparency, enforceability and the vires of some of the standards for Permitted Activities, Council is of the view that there will be negligible economic, social, cultural or environmental benefits arising from the 2015 NES-PF, relative to the extra work and costs for Council's.

The Council is most concerned with the potential administrative and financial burden of the 2015 NES-PF on the local government sector. Firstly, the costs to 'out source'<sup>11</sup> the technical assessments associated with new plantation forestry proposals to determine permitted activity status, and secondly, the new requirements for compliance monitoring, including the monitoring of existing forestry plantation forestry activities for compliance with the NES-PF.

The Council submits that the proposed compliance and monitoring regime will have significant financial implications for local government as the 2015 NES-PF does not allow charging back monitoring cost to consent holders, as permitted activities do not require consents. With non-recoverable costs for monitoring the resultant financial burden for some Council's may be considerable.

The Council further submits that the local government sector or forestry operators do not have the capacity and resources to undertake the battery of technical assessments. The forestry sector and key stakeholders will be heavily reliant on a small pool of experts to undertake the various assessments, principally in the fields of environmental and biological sciences. One foreseeable outcome is that due to the costs and difficulties of undertaking multiple technical assessments, short cuts will be taken - the information won't be checked, resource consent conditioning will be sub-standard (not reflective of the level of environmental risk) -leading to uncertain environmental outcomes.

In view of the above comments, Council submits that the implementation of the NES-PF will inevitably be variable and with inherent risks. Consequently, the status quo is the preferred approach.

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<sup>11</sup> Council is not currently resourced to undertake these technical assessments.

## **Appendix 1: Palmerston North City Council Forestry Stocktake**

### **Gordon Kear Forest**

The Gordon Kear Block comprises approximately 666 hectares of generally easy medium contour rising from the Kahuterawa stream to steeper bush covered hills at the rear. The property is situated on Scotts Road, an unsealed public road, located between Linton and Tokomaru. The road was upgraded in the summer of 2006 to allow access for logging trucks.

The net stocked production forest area comprises approximately 416 hectares and makes up around 18% of the forest area in the district<sup>12</sup>. This includes 60 hectares previously subject to a forestry right which has since been discharged. The first tree crop is jointly owned by PNCC (majority) and Manawatu District Council. By the end of August 2015, approximately 340 hectares will have been harvested and replanted back into radiata pine. The harvest is expected to be completed within the next two years. The second tree crop is owned solely by PNCC.

The remaining area of approximately 250 hectares is a mix of regenerating and mature native forest. This includes extensive areas, particularly in the southern end of the property.

The Gordon Kear Block is held primarily for commercial purposes and is included within Council's investment portfolio. It is managed to maximise financial revenues.

The Council's 10 Year Plan includes provision for development of internal roading and replanting. Silviculture operations (pruning and thinning) are scheduled to begin in 2016/17.

### **Turitea Forest**

The Turitea West Forest and Turitea East Forest have a net stocked area of 43 hectares and 33 hectares respectively and together comprise 3% of the forest area in the district. These two forest blocks of radiata pine are located within the Turitea water catchment area and were established primarily as protection forests to stabilise clearings for erosion control.

The West block was established in two stands. The older of the two stands was originally harvested in the 1970s and was replanted in 1975. In contrast, the second stand is relatively young and was planted in 1995. Feasibility of harvesting is currently being investigated. Considerations include physical access, proximity to the water supply dams and estimated net returns.

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<sup>12</sup> Estimated total forest area within the Palmerston North City boundary is 2,372 hectares. National Exotic Forest Description as at 1 April 2014, Ministry for Primary Industries, NZ Forest Owners Association, NZ Farm Forestry Association

Most of the East block was cleared a few years ago to comply with the terms of forestry encouragement loans in place at the time. Harvested areas have been left to regenerate into native vegetation, rather than being re-established as production forest. The remaining 33 hectares were written off as uneconomic to harvest. However, harvest would be reconsidered if a positive net return could be achieved.

**Arapuke Forest Park** (previously called Woodpecker Forest)

PNCC acquired Arapuke Forest Park in July 2006 primarily for recreation purposes. The property comprises 171.5 hectares of easy to medium steep hill country. It lies amongst the foothills of the Tararua Ranges approximately two kilometres from Gordon Kear Forest.

The net stocked area of the original production forest was approximately 130 hectares. Harvesting of the radiata pine tree crop was completed in May 2015. The forest is being replanted in a range of longer lived exotic species including Douglas Fir, Ovens's Cypress, Mexican Cypress, Japanese Cedar, Redwood, Eucalyptus Fastigata and Eucalyptus Globoidea. Native regeneration is being encouraged on the steeper slopes and around waterways. The total area replanted is estimated at 75 hectares.

Palmerston North City Council Forestry Stocktake



## Appendix 2:

### PNCC District Plan

The Palmerston North District Plan contains provisions relating to forestry, including provisions that have recently been proposed through PPC15A. In particular it contains an issue statement [Section 9.2, Issue (4)] relating to potential adverse effects of forestry development and harvesting, a related objective and policy (Section 9.3, Objective 4 and associated policies) recognising the diversity of the rural environment, and specific rules (9.5.2 and 9.7.4) which provide for forestry as permitted activities provided certain performance standards are met, or as a restricted discretionary activity if those performance standards are not able to be met.

In terms of the performance standards for permitted production forestry activities, the District Plan requires planting notices to be provided to the Council prior to any plantings, that certain separation distances be maintained, that harvesting notices be provided to the Council before the commencement of harvesting, that loading space and access standards are complied with, that cultural heritage provisions are complied with and that signage standards are complied with. There is also an additional performance standard limiting the use of portable sawmills to six months on any one site.

In addition, the District Plan also has general rules relating to noise and earthworks in Section 6 and treats quarrying activities as a full discretionary activity under Rule 9.8.3.

### Comparison between the District plan and the NES-PF

#### Definitions

The District Plan rules are focussed on "Production Forestry" which it defines as:

***Production Forestry means the planting, replanting, cultivation, management and extraction of exotic trees in forests or tree plantations and indigenous forestry specifically planted and grown for harvest. This includes the processing of the timber on the site by use of a portable sawmill provided this does not occur for a period exceeding 6 months in any calendar year. This does not include shelter belt planting.***

The NES-PF is focussed on "Plantation Forestry" for which the following definition is proposed:

- (a) *at least 1 hectare of forest cover of forest species that has been planted and has been, or will be, harvested;*
- (b) *including all associated internal infrastructure; but*
- (c) *not including:*
  - (i) *a shelter belt of forest species, where the tree crown cover has, or is likely to have, an average width of less than 30 metres;*
  - (ii) *forest species in urban areas;*
  - (iii) *nurseries and seed orchards;*

- (iv) *fruit and nut crops;*
- (v) *long-term ecological restoration planting of forest species;*
- (vi) *willows and poplars space planted for soil conservation purposes.*

The definitions are similar in that they both address planted forests specifically for harvest, and they both exclude shelterbelts. The NES-PF definition differs in that it includes a minimum area of one hectare of forest cover before the plantings are considered plantation forestry, and it includes all associated internal infrastructure. The NES-PF definition also spells out a number of exclusions. However, these exclusions are essentially examples of trees that might be planted for non-harvestable purposes.

### **Resource Management Issues and Objectives and Policies**

National environmental standards do not contain issues, objectives or policies, so it is appropriate that the District Plan continues to contain these statements. The Resource Management Issue related to forestry in the District Plan is specific to forestry development and forest harvesting. These matters do not cover all of the forestry activities addressed by the NES-PF, which includes afforestation, pruning and thinning-to-waste, earthworks, river crossings, quarrying, harvesting, mechanical land preparation and replanting.

The relevant District Plan objective and associated policies are generic and recognise the diversity of the rural environment. This is considered appropriate.

### **Regulations and Rules**

The NES-PF contains regulations that provide for the eight forestry activities. It covers both district and regional functions, but identifies the relevant jurisdiction within the rule tables. Overall the NES-PF is more comprehensive than the District Plan forestry rules as it also covers matters such as earthworks and quarrying as an integral part of forestry activities.

The permissive regime of the District Plan with a restricted discretionary activity status for those activities that cannot comply with the performance standards is similar to the NES-PF regime, which is also largely permissive, and uses controlled and restricted activity statuses for those activities not meeting the required conditions.

### **District Plan Performance Standards**

#### **(a) Planting Notice**

Performance standard (a) requires a planting notice to be provided to PNCC prior to the commencement of planting. The information included in the notice is to include:

- (i) *The number of hectares to be planted.*
- (ii) *The species to be planted.*
- (iii) *The sequence of land preparation, planting and other activities associated with establishing the new forest.*

- (iv) *The legal description and location of the site or sites to be planted.*
- (v) *The sources and location of water supplies for fire- fighting purposes.*
- (vi) *The intended crossing places and local road, to be used in the management of the forest.*

The NES-PF does not require any such notice for afforestation or replanting activities. Performance standard (a), as contained in the District Plan, is therefore inconsistent with the proposed NES-PF.

#### (b) Separation Distances

Performance standard (b) requires that forestry plantings maintain setback distances as set out in Table 1 below:

**Table 1**  
**Setback Distances**

Parameter	PNCC DP Setback	NES-PF Setback	Comment
Adjoining Property	5 metres from properties under separate ownership and not forested	10 metres (unless neighbours' approval has been obtained)	NES-PF is more restrictive. Future issues may arise as to neighbours' approvals. Forestry owners will need to keep good records of such approvals.
Formed public roads	10 metres from the carriageway	Where vegetation could shade a paved public road between 10am and 2pm on the shortest day of the year, except where Topography already causes shading Icing does not occur Written consent of the road controlling authority has been obtained	NES-PF only relates to paved roads. The NES-PF would appear to be considerably more restrictive than the District Plan for paved roads. The usefulness of this setback is questioned, given that a shelterbelt could be planted adjacent to a road boundary and cause the same icing effect (permitted baseline).
Turitea/ Kahuterawa Streams	10 metres	10 metres for perennial rivers or streams over 3 metres wide.	Setbacks from waterbodies are within regional councils jurisdiction - not district councils.
Adjoining existing dwellings	-	The greater of i. 40 metres; or ii. where vegetation could shade the dwelling between 10am and 2pm on the shortest day of the year (unless neighbours approval has been obtained)	
Urban/ Residential Zones	-	30 metres (unless neighbours approval has been obtained)	

It is also noted that the proposed NES-PF does not require setback distances to boundaries, roads and dwellings for replanting activities. However, it does contain a condition that when replanting immediately adjacent to indigenous vegetation that is scheduled in a district or regional plan as a Significant Natural Area then the replanting must take place no closer than the stump line of the previous crop.

Overall the District Plan's setback distances are seen as more permissive than, but inconsistent with, the NES-PF setback requirements.

**(c) Harvesting Notice**

Performance standard (c) requires that a harvesting notice be supplied to PNCC at least one month prior to the commencement of harvesting. The notice is to provide the following information:

- (i) *Identification of the access points and roads to be used by logging vehicles; and*
- (ii) *The projected number of traffic movements per day.*

In terms of district councils, the proposed NES-PF simply requires that they be notified at least 20 working days and no more than 60 working days before harvesting operations start. No additional information is required to be supplied, making the District Plan more stringent than the NES-PF.

**(d) Access and Loading**

This performance standard requires that the standards relating to loading spaces and access are complied with. The proposed NES-PF has no equivalent provisions.

**(e) Duration of Occupation**

This performance standard relates to portable sawmills. Milling activities and the processing of timber are one of the matters that are listed as being out of scope of the proposed NES-PF.

**(f) Cultural and Natural Heritage**

This performance standard requires compliance with the provisions of Section 17 of the District Plan that deals with cultural and natural heritage.

The proposed NES-PF also contains general conditions. In terms of known archaeological sites, it permits the modification or destruction of such sites only if it is carried out under the authority of and in accordance with the Heritage New Zealand Pouhere Taonga Act 2014. If any unrecorded archaeological sites are exposed or identified before or during plantation forestry activities then all works in the immediate vicinity must cease, the area must be secured to prevent further disturbance until the relevant Heritage New Zealand Pouhere

Taonga authorisation is obtained and then works may only continue in accordance with the authorisation.

It is noted that the NES-PF allows for councils to set more stringent rules in relation to places and areas of known cultural or heritage value. In this respect, performance standard (f) could well be seen as being appropriate.

### (g) Signs

The performance standard requires compliance with Rule 6.1.5.1 in relation to signage. The Proposed NES-PF does not have any equivalent regulation.

### Other Activities

#### Noise

The District Plan deals with noise under Section 6 and through the noise limits in Section 9. The NES-PF also contains noise regulations within its general section. The respective limits are displayed below in Table 2.

District Plan	Proposed NES-PF
<p>Sound emissions, when measured at or within the boundary of any land zoned for residential purposes or at or within the boundary of any land in the Rural Zone (other than land from which the noise is emitted or a road) shall not exceed the following:</p> <p>7.00 am – 7.00 pm 50 dB LAeq (15mins)  7.00 pm to 10.00pm 45dB LAeq (15 mins)  10.00 pm – 7.00 am 40dB LAeq (15 mins)  Night-time Lmax 10.00pm – 7.00 am 70dBA Lmax</p>	<p>The noise from forestry activities at the notional boundary of the nearest dwelling, where that dwelling is under different ownership, except where approval from the adjoining owner(s) has been obtained, does not exceed:</p> <p>55dBA (L eq) between 6 am and 10 pm; and  40dBA (L eq) between 10 pm and 6 am;  <b>except</b> forestry vehicles and machinery or equipment operated and maintained in accordance with the manufacturer's specifications in accordance with accepted best management practices.</p>

There are several differences between the two standards as outlined below:

- The NES-PF measures noise at notional boundaries from dwellings whereas the District Plan measures noise at boundaries.
- The times at which the night time noise limits apply differ (7am versus 6am).
- The limits themselves differ, as does their measurement unit (LAeq versus Leq)
- The NES-PF contains an exception for forestry vehicles and machinery.

Overall, the District Plan is more stringent than the proposed NES-PF and amendments would need to be made to its noise limits for forestry, i.e. exclude forestry from the District Plan noise limits in Rule 6.2.6.2, in a similar manner as aircraft noise.

## **Earthworks**

The District Plan deals with earthworks in the general rules in Section 6. For the Rural Zone, the Plan sets limits on earthworks as follows:

- Maximum 1,000m<sup>3</sup> of disturbance in any 12 month period.
- Maximum alteration of ground level of 1.5 metres.
- Minimum setback to site boundary of 3 metres
- Minimum setback to National Grid support structures of 6 metres.

Except for a requirement to notify district councils before commencing earthworks, the proposed NES-PF places earthworks regulations entirely within the jurisdiction of regional councils. Maximum volumes only apply for certain aspects of earthworks (road widening), there are no setback requirements from boundaries or national grid infrastructure.

The District Plan is more stringent in respect of earthworks and in this regard is inconsistent with the NES-PF.

## **Quarrying**

Rule 9.8.3 of the District Plan provides for quarrying as a full discretionary activity. The proposed NES-PF provides for quarrying as a permitted activity provided that:

- Councils are notified prior to the activity commencing.
- If the quarry is visible from an existing dwelling, an adjoining property under different ownership, or a formed public road that no more than 5,000m<sup>3</sup> of material is quarried in a five year period.
- A 500 metre minimum setback distance is maintained between the quarry and an existing dwelling under different ownership.
- No soil or overburden is deposited within 20 metres of an adjoining property under different ownership.
- Material must not be transported off the property on public roads.

There are a number of other conditions that fall within the jurisdiction of regional councils. However, it is very likely that quarries for forestry operations will be able to be established and operate as permitted activities, thereby making the District Plan more stringent than the NES-PF.





# 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](mailto: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:**

Chief Executive, Porirua City Council

**Postal address:**

s 9(2)(a)

**Phone number:**

s 9(2)(a)

**Email address:**

s 9(2)(a)

**Are you submitting on behalf of an organisation? Yes**

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

Porirua City Council

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



### ***Privacy Act 1993***

Where you provide personal information in this consultation MPI will collect the information and will only use it for the purposes of the consultation. Under the Privacy Act 1993 you have the right to request access and correction of any personal information you have provided or that MPI holds on you.

### ***Official Information Act 1982***

All submissions are subject to the Official Information Act 1982 and may be released (along with the personal details of the submitter) under the Act. If you have specific reasons for wanting to have your submission or personal details withheld, please set out your reasons in the submission. MPI will consider those reasons when making any assessment for the release of submissions if requested under the Official Information Act.

*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?

Please provide comments to support your views.

Please refer to the Statement of Submission from Porirua City Council that accompanies this form

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

Please provide comments to support your views.

Please refer to the Statement of Submission from Porirua City Council that accompanies this form



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?

Please provide comments to support your views.

Please refer to the Statement of Submission from Porirua City Council that accompanies this form

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)?

Please provide comments to support your views.

Please refer to the Statement of Submission from Porirua City Council that accompanies this form

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 of the consultation document)?

Please provide comments to support your views.

Please refer to the Statement of Submission from Porirua City Council that accompanies this form

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

Please include reference to the rule you are referring to.

Please refer to the Statement of Submission from Porirua City Council that accompanies this form

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.

Please refer to the Statement of Submission from Porirua City Council that accompanies this form



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.

Please refer to the Statement of Submission from Porirua City Council that accompanies this form

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.

Please refer to the Statement of Submission from Porirua City Council that accompanies this form

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

Please refer to the Statement of Submission from Porirua City Council that accompanies this form

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.

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)?

Please refer to the Statement of Submission from Porirua City Council that accompanies this form

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

Please refer to the Statement of Submission from Porirua City Council that accompanies this form

## **Statement of Submission of Porirua City Council**

**on the**

### **2015 Proposed National Environmental Standard for Plantation Forestry**

#### Statement of submission

1. Porirua City Council ('the Council') thanks the Ministry for Primary Industries ('the Ministry') for this opportunity to make a submission on the 2015 Proposed National Policy Statement for Plantation Forestry ('NES').
2. The Council understands the concerns of the Ministry that have driven preparation of the NES.
3. Achieving regulatory certainty is important for economic development, safeguarding important environmental values, and transparency and natural justice and consistency in decision making, whether one is a forestry operator or a local community alike.
4. We have concerns with the expression of these aspirations in the NES. In its current form, we have concerns that the NES is likely to generate more uncertainty and confusion for plantation forestry operators and councils alike, due to the highly technical compliance assessments implicit in the NES standards. This will make implementation difficult and decisions open to dispute, potentially adding to regulatory costs and prolonging consenting timeframes.
5. We have concerns that the NES is not flexible enough for practical administration, and that this will have negative impacts on the management of plantation forestry. Mechanisms for assessing regulatory compliance in the NES appear to be complex, time-consuming, and require potentially-costly specialist technical assessments. It is questionable as to whether benefits will result, let alone greater certainty. We are also concerned that there does not appear to be a viable mechanism for councils to recover costs of such assessment work.
6. We also have concerns that the NES leaves some gaps unaddressed related to the management of aspects of plantation forestry. These do not appear to be able to be plugged by district plans in the list of aspects that the NES allows regional and district plans to include more stringent provisions for. The aspects of primary concern to the Council relate to:
  - a) managing amenity conflicts that arise from harvesting operations; and
  - b) traffic management and wear and tear on district council roading infrastructure that results from harvesting operations (although this oddly appears to be within the purview of regional councils, but not district councils).
7. The abovementioned issues are significant for the Council. It is requested that these are

addressed if the NES is to be made operative.

8. The following sections of this submission address specific relief sought by the Council, which is followed by further explanation relating to the Council's concerns, and comments on the workability or otherwise, of some specific provisions in the NES.

#### Relief sought

9. With regard to the risk assessment tool and mapping for Erosion Susceptibility Classification ('ESC'), the Council seeks:
  - a) In the first instance to be exempt from use of the ESC to assess NES rule compliance within the Council's territorial jurisdictional area; or
  - b) In the second instance (and without prejudice to the prior relief) that the ESC be simplified within the Council's territorial jurisdictional area.

#### *Reasons:*

The Council is concerned about poor environmental outcomes if inaccuracy of ESC results in inappropriate forestry activity on highly erosion-susceptible land.

10. With regard to the Ministry's offer of refinement of the ESC, the Council seeks:
  - a) That the process for classification of soil erosion potential be cost-optimised in relation to expected environmental benefits. If there is no option but to proceed with using the ESC, the Council would like the criteria for classifying erosion potential clearly specified by the Ministry, so that the Council may choose to whom the task of refining the ESC is assigned to.
  - b) The alternative is to exempt the Council from having to use the ESC to determine compliance with permitted activity standards in the NES, and instead replace the ESC regime with a simpler more-transparent and less assessment-intensive set of rules for determining which forestry activities are permitted.

#### *Reasons:*

In order for the Ministry's offer of refinement of the ESC to be considered by the Council, the Council would expect a range of options for refining the soil erosion classification presented by the Ministry, so that the Council may choose an option that is the most optimal and cost-effective for Porirua.

Most aspects that the NES seeks to instigate relating to plantation forestry are already permitted activities in the Porirua City District Plan. The Council is most concerned about changing to a regime which results in increases in unnecessary, unwieldy and costly additional assessment processes in this regard.

11. With regard to other mechanisms in the NES for determining status of various aspects of forestry activity, the Council seeks deletion of rules for determining activity status that rely upon complex assessments and interpretative judgments about compliance, particularly rules for *Permitted Activity* status,



*Reasons:*

The Council has severe reservations about the legality and practical workability of rules whose interpretation depends on complex technical assessment tools that require evaluations and judgements to be made about compliance. Complex assessments may be appropriate in assessing particular resource consent proposals, but rules that trigger *Permitted, Controlled, Discretionary etc Activity* status should be straightforward and able to be understood without reliance on complex assessments. This is important in ensuring transparency, efficiency, and in order to facilitate natural justice in decisions about natural and physical resource allocation. In this regard, synopses of the NES rules that the Council has concerns about are detailed later in this submission.

12. With regard to matters left out of NES, the Council seeks that hours of operation, traffic management, and ability to levy financial contributions for recouping costs for damage to road infrastructure from plantation forestry harvesting traffic, be included in the list of matters that district councils are able to reserve control over in district plans.

*Reasons:*

The Council is concerned that these matters, which are currently managed in the Porirua City District Plan ('the District Plan'), are not provided for within the list of matters district councils can manage in the NES. Yet these issues are important issues associated with the aspect of harvesting activity associated with plantation forestry in Porirua. This is a major gap in the NES from the Council's viewpoint.

13. With regard to the overall regime of the NES, the Council seeks,
  - a) More appropriate proactive methods in the NES for managing harvesting risks, that are simpler to comply with, such as requiring harvesting plans showing how logs can be extracted without having to cross streams.
  - b) Where operative District Plans are less restrictive than the NES in terms of requirements that trigger resource consent processes for plantation forestry, that such existing District Plan provisions should prevail.

*Reasons:*

The Porirua City District Plan already has a fairly lenient approach to plantation forestry. Afforestation doesn't require consent in the District Plan and is a permitted activity. Harvesting less than 1ha at any one time is also permitted where it is not within a Landscape Protection Area or within 20 metres of a waterway wider than 3 metres. It is only where harvesting doesn't comply with these simple rules, that consent is required for harvesting plantation forestry in the Porirua District Plan.

The NES regulatory compliance regime for plantation forestry is more onerous than the present District Plan provisions in Porirua. The NES regime changes activity status in some areas, making afforestation need resource consent. The NES makes assessment of regulatory compliance matters more complex and uncertain. The Council would prefer to dispense with the unnecessary complexity and uncertainty in the NES. However if this is

not going to happen, then the Council would rather that Porirua was exempt from the NES and that the District Plan provisions should take precedence over the NES.

14. Reasons for above relief sought are expanded upon in the following sections.

Particular concerns with the NES

15. The Council has concerns about shortcomings with the NES given that implementation of it will be left up to local government. There are practicability, cost and equitability issues. There are cost-efficiency issues where the NES standards are impractical or unworkable in terms of their means of assessment of compliance.

16. The NES lacks certainty around many of the aspects of plantation forestry activity that it seeks to regulate. Confirmation of compliance with several *Permitted Activity* standards in the NES requires detailed complex assessments, with a high compliance cost for Councils. The uncertainty inherent in many of the standards will encourage a culture of litigious risk-aversion amongst decision makers, which will be counterproductive to the intent of the NES in aspiring to promote certainty.

17. The following subparagraphs provide a synopsis of tools and standards in the NES that are of particular concern:

- a) The ESC tool needs more work if it is going to be relied upon to determine activity status for forestry. The accuracy of the ESC is suspect and the relationship to Porirua's terrain appears somewhat ambiguous. The concerns with this are expanded upon later in this submission.
- b) Several *Permitted Activity* standards are impractical, unworkable and questionable as to their vires because they imply assessment leading to conclusions and exercise of discretion in judgement as to their compliance. These include:
  - i. Use of 'wilding tree dispersal' to assess Permitted Activity status in the *Afforestation* rule (p.62 of the consultation document). This requires a subjective assessment followed by a judgement about scores where discretion of the assessor is implied. The vires of this is questionable. The subjective aspects of the resulting assessment would be open to dispute to the extent that this standard is practically unworkable. Furthermore, wilding tree dispersal is not a significant environmental issue in regard to managing plantation forestry in Porirua, and requiring mandatory assessment of this aspect of forestry activity in a national environmental standard is of questionable benefit.
  - ii. The vegetation setback from roads in the *Afforestation* rule (p.62 of the consultation document). Determining 'where vegetation could shade a paved public road between 10am and 2pm on the shortest day of the year' implies a complex analysis of azimuth angles in relation to ground levels and ambient shading. Furthermore, vegetation is constantly growing and determining when icing will occur, or potential weather effects on road surfaces, is complex. How this standard is expected to be monitored,

- let alone assessed for compliance, is highly problematic, to the extent that the standard is effectively unworkable. Furthermore, road icing caused by plantation forestry shading is unlikely to be any more significant than road icing caused by shading from hills and valleys in Porirua's hilly terrain. Therefore requiring this aspect to be mandatorily assessed in a national environmental standard is of questionable benefit.
- iii. The mechanism for triggering compliance with standards for setbacks from neighbouring properties and/or urban/residential zones etc. in the *Afforestation* and the *Forestry Quarrying* rules (pp.62 and 77 of the consultation document), whereby permitted activity status is triggered by obtaining written approval, is of questionable vires. The Quality Planning website certainly suggests such rules could be ultra-vires, even though it has been a practice in some plans (e.g. in some district plans with respect to minor yard encroachments). What would arguably be more appropriate is to use written approvals to disregard effects of any activity on the provider(s) of the written approval (to the extent that such approval infers total approval). If *Permitted Activity* status is desired, then be specific about how that is to be complied with, rather than triggering a change in status via written approval.
  - iv. The requirement to monitor whether planting complies with the criteria for *Genetically modified tree stock* in the *Afforestation* and *Replanting* rules (pp.64 and 82 of the consultation document) is cumbersome, impractical and of questionable vires. There is no indication how this condition would be practically assessed for compliance. Will an inventory of genetically modified tree specimen genotypes be maintained which local authorities can easily refer to? Even if the Environmental Protection Authority is to be the holder of such information, how complex will it be to check compliance with this standard? Does it require specialist expertise to certify compliance? To what extent is the determination of compliance with this standard at the discretion of the person doing the assessment? The fact that there are so many unknowns highlights that it's not a straightforward matter to determine compliance with this standard.
  - v. The requirement for a *Notice of Commencement* in relation to *Earthworks* and *Harvesting* and *Forestry Quarrying* activities (pp.65, 71 and 77 of the consultation document) is potentially cumbersome, is of questionable practicality, and is not transparent. Will there be a national register of Notices of Commencement so that these can be independently tracked? How can council costs be recovered?
  - vi. The definition of 'harvesting' (p. 70 of the consultation document) should not include damage to indigenous vegetation where this is within significant natural areas. Such damage is an impact of harvesting on *matters of national importance* (in the RMA), and is not harvesting activity. The rider 'likely to recover' that is in the definition, is ambiguous and open to subjective interpretation, making the definition unworkable. To clarify this, the risk of 'disturbance and potential loss of significant natural areas' should be added to the list of risks particular to harvesting operations.
  - vii. The requirement to determine when and where a quarry is visible from an existing dwelling in relation to *Forestry Quarrying* (p. 77 of the consultation document) is

potentially problematic, impractical and of questionable vires. There is an implied exercise of judgement as to compliance with the line-of-sight trigger for the standard. How should ephemeral obstacles such as stands of vegetation, which may obscure line-of-sight but which might be on a 3<sup>rd</sup>-party property, be factored into assessment when it comes to determining whether a quarry will be visible from a neighbouring site? (What if such stands of vegetation are removed by property owners during the period that the quarry is operational? Does that then negate compliance?). There are practical issues with entering third-party properties to confirm compliance with this standard. There are cost-recovery issues associated with such assessment.

- viii. Procedures applicable to ‘Known Archaeological Sites’ and ‘Unrecorded Archaeological Sites’ in the *General Conditions* rule (p. 83 of the consultation document) need to be extended to include ‘alert layers’ that identify the possible presence of archaeological artefacts and historic heritage issues in district plans. Alert layers are becoming a standard mechanism for identifying potential heritage issues in district plans.
- ix. The permitted activity standard for ‘vegetation clearance and disturbance’ in the *General Conditions* (p.84 of the consultation document) is difficult in assess compliance with and is of questionable vires. The term ‘will readily recover’ is ambiguous and unworkable. The term ‘that will readily recover within 5 years’ requires specialist (ecological or botanical) expertise and will depend on the species involved as to its fitness for purpose. It is of questionable vires because it requires an exercise of judgement as to compliance e.g.; if a vulnerable species of tree is on the edge of a plantation forest that will not recover within 5 years, will harvesting go around that particular spot? What does ‘at the edge’ mean? This also creates confusion in terms of interpreting ability of a regional or district plan to be more stringent in regard to the protection of significant natural areas if it excludes the ability to be more stringent in respect of incidental damage that will readily recover within five years.
- x. The ‘Noise’ rule in the *General Conditions* (p. 42 of the consultation document) is highly unworkable, impractical, and of questionable vires. Reliance on written approval to trigger a change in activity status is questionable, as is the specification in the standard which states exceptions for “*forestry vehicles and machinery or equipment operated and maintained in accordance with the manufacturer’s recommendations specifications in accordance with accepted best management practices*”. This is open to interpretation and lacks transparency as to how, or by whom, compliance is determined.
- xi. The specification in the *General Conditions* rule, for checking whether ‘Nationally Critical’ or ‘Nationally Endangered’ indigenous bird species are known to nest in areas where forestry operations are planned or underway (p. 85 of the consultation document), is practically unworkable. What is the nesting season for particular species? To whom are the bird species expected to be known? (Any member of the general public? The property owners? The local authority? The local bird watchers club?) Who supplies this information? Who checks the information? The vires of this

standard is questionable.

- xii. The assessments of compliance for permitted *River Crossings* (pp. 88 to 94 of the consultation document) are also complex and impractical to administer. The concerns raised previously about recovery of assessment costs, complexity of assessment and exercise of discretion in determining compliance apply in this regard.

Implementation of the NES will be left up to local government.

- 18. Under the NES, district and regional councils will have to assess proposals for plantation forestry activity within their districts/regions in order to decide whether consent is required, as well as monitor existing plantation forestry activities for compliance with the NES. The administrative and financial burden of on local government (and hence on local communities) could be considerable. There is insufficient clarification surrounding who will bear the burden for the Council's costs of such plan change work and forestry activity assessment.
- 19. Where the NES relies upon complex assessments and judgements to be made about compliance with activity status, the resulting determination of activity status will be open to interpretation and dispute, which has the potential for costly delays.
- 20. Either way the Council is of the view that there will be negligible economic, social cultural or environmental benefit despite this extra work and cost.
- 21. Reliance on highly specialized assessments is practically unworkable. Some of the assessments required, such as for wilding tree dispersal (and fish spawning), require detailed knowledge of environmental and biological science. It is unlikely that many local authorities or forestry operators have the capability to undertake such assessments themselves.
- 22. Therefore they will be reliant on a very small pool of available experts for advice and advocacy, and these happy few experts will invariably be conflicted between opposing clients. Alternatively, the difficulty and cost involved in undertaking assessments will deter local authorities and forestry operators from undertaking them altogether.

Erosion Susceptibility Classification tool needs more work

- 23. MPI have evidently struggled with developing the Erosion Susceptibility Classification ('ESC') tool. The delineation of risk areas looks somewhat arbitrary. The 2015 Landcare review of the ESC (Basher et al 2015) is a macro-level delineation of erosion risk areas that was intended to 'simplify' the initial Canterbury University classification for the ESC (Bloomberg et al 2011).
- 24. The main challenge with macro-level delineation of this type lies in its appropriateness in ensuring desirable outcomes. At worst, the risk of inappropriate classification is that poor environmental outcomes will occur if plantation forestry ends up being deemed to be permitted on land that is in fact at a higher risk of soil erosion.

25. At ‘best’, the ESC results in new requirements for resource consent for forestry, such as ‘afforestation’ in ‘high risk’ and ‘very-high risk’ ESC areas. Whereas the Porirua City District Plan presently doesn’t require consent for planting new forestry in the Rural Zone – this aspect is presently a permitted activity. Requiring resource consents to allow forestry in areas where consent previously hasn’t been required will add delays and costs for forestry operators in Porirua.

### Refining the ESC

26. In terms of accuracy, the delineation of low-moderate risk land from high risk land in the ESC appears somewhat arbitrary in relation to physical ground conditions. The Council is not confident that the mapping in the ESC to-date is appropriate to guarantee beneficial outcomes if managed in the way envisaged in the NES.
27. Whilst defining erosion susceptibility is laudable in principle, the attempt at classification undertaken to-date (Basher et al 2015; Bloomberg et al 2011) is really only suitable as a basis for beginning this type of exercise. Mapping of this kind is complex and hugely resource-intensive. This is more complicated in districts where there is a complex blend of landform and topography. More work could probably be done to ‘ground truth’ the delineation of erosion risk areas (in the ESC map) in order to reflect Porirua’s hilly terrain.
28. If the ESC was to function effectively, then further refinement is needed in order to provide certainty about the anticipated environmental outcomes of permitting various activities associated with plantation forestry. For instance, if plantation forestry is deemed to be permitted on land that is in fact at a high risk of soil erosion, then there could be significant adverse effects on the environment from carrying out certain aspects of activity associated with plantation forestry on such land. Te Awa o Porirua Harbour is a sensitive receiving environment and activities in the harbour catchment that have potential to cause adverse waterway sedimentation impacts need careful management, particularly in relation to harvesting-related activities.
29. The Ministry’s offer to work further with local government on refining the ESC is welcomed, although the Council is uncertain about where the funds are expected to come from to deliver improvements. Given the general concerns the Council has with the NES, it is very reluctant to increase rates in order to facilitate refinement of the ESC.

### Gaps in the NES

30. The Council is concerned that the NES has not addressed all relevant matters that the Porirua City District Plan enables consideration of, which are important to the communities of Porirua. These are addressed in the following sections.



### Transportation and traffic management issues

31. The NES appears to omit district councils from ability to manage impacts of forestry operations on district roads. Yet district council have responsibility for local roads under the Local Government Act 1974. Therefore the powers of district councils with regard to managing impacts of forestry activities on roads, needs to be reflected in the NES.
32. There are road capacity and traffic safety issues to consider. Due to the close proximity of Porirua's rural area to Wellington's metropolitan urban areas, and the availability of cross-region road access via State Highway 58 which make this area easy to access, many narrow rural roads serve rural lifestyle subdivision. Several rural roads exit onto SH 58 and there are intersection design and level-of-service issues.
33. There are also concerns around impact of logging trucks on local roads during harvesting, and how these impacts are able to be mitigated. Under the operative Porirua City District Plan, the Council can presently levy financial contributions for this aspect when assessing consent applications for forestry harvesting. At a minimum, the Council would expect a similar ability to recover costs for damage to local roads from logging trucks in the NES.

### Amenity conflict issues.

34. Managing amenity conflict amongst different land uses is a significant issue for Porirua. Harvesting can occur near residential areas. Some plantation forestry areas (such as Silverwood Forest) are accessed through residential neighbourhoods. Control of traffic related effects including hours of operation and noise is important. This is an important issue in terms of limiting truck numbers through Pauatahanui village, location of access, speeds and sightlines, as well as limiting of right hand turns on busy roads.
35. In terms of noise and disturbance, present practice when processing forest harvesting consents is for the Council to address issues such as hours of felling in order to manage effects on amenity of adjacent rural properties. Skidder haul sites and access points can be proposed very near to existing dwellings or neighbourhoods. Forestry operators often like to start as early as 4am if they could in order to transport logs loaded the day before so that they can hit the Port as soon as it opens with the first load. This is not always appropriate when close to rural or suburban dwellings.

### Hearing of submissions

36. If there is to be a hearing of submissions, Porirua City Council wishes to be heard in support of its submission.

## References

- Basher, L.R., Lynn, I.H., Page, M. (2015). *Update of the Erosion Susceptibility Classification (ESC) for the proposed National Environmental Standard for Plantation Forestry – revision of the ESC*. Nelson: Landcare Research.
- Bloomberg, M., Davies, T., Visser, R. and Morgenroth, J. (2011). *Erosion Susceptibility Classification and Analysis of Erosion Risks for Plantation Forestry*. Christchurch: University of Canterbury.

## Address for service of Submitter:

Chief Executive

s 9(2)(a)

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## Contact details

Attention: Peter Matich – Senior Policy Analyst (Environment)

Ph: s 9(2)(a)

Email: s 9(2)(a)

11 August 2015

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

Dear Stuart

**PORIRUA CITY COUNCIL SUBMISSION ON THE PROPOSED NATIONAL ENVIRONMENTAL STANDARD FOR PLANTATION FORESTRY**

Please find enclosed a completed submission form together with a statement of submission from Porirua City Council in regard to the Proposed National Environmental Standard for Plantation Forestry.

The enclosed Statement of Submission was adopted following a recommendation by the Council's Te Komiti, which is a committee of the whole of Council, at its meeting on 6 August 2015.

Enquiries concerning the Council's submission may be directed to the Council's Senior Policy Analyst (Environment), email: [REDACTED] DDI: [REDACTED].

Yours sincerely



Gary Simpson  
**CHIEF EXECUTIVE**  
Porirua City Council

Encls:

- Porirua City Council Statement of Submission on the Proposed National Environmental Standard for Plantation Forestry
- Template for Submitters - Proposed National Environmental Standard for Plantation Forestry



11 August 2015

OFFICE OF THE MAYOR

NES-PF Consultation  
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Spatial, Forestry and Land Management  
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Dear Stuart

**SUBMISSION ON THE PROPOSED NATIONAL ENVIRONMENTAL STANDARD –  
PLANTATION FORESTRY (NES-PF)**

Thank you for the opportunity to submit on the proposed NES-PF and to involve the QLDC in the development of the NES-PF.

While the reasons for the proposed NES-PF are recognised, the QLDC oppose the implementation of the proposed NES-PF in the Queenstown Lakes District (the District) because it is not an appropriate method to manage forestry in the District.

In the context of the District, the proposed NES-PF does not meet the purpose of the RMA. Making forestry and the planting of tree species with wilding potential a permitted activity, in favour of the operative District Plan rules that require resource consent for these activities would not promote the sustainable management of natural and physical resources.

The proposed NES-PF would not meet the purpose of the RMA in terms of managing and protecting the landscape resource and containment of wilding exotic trees. In addition, permitting the planting of trees with wilding potential would reduce the opportunities for the Council to manage the containment of wilding species, as currently enabled by conditions on resource consents.

The proposed NES-PF would not enable the QLDC to fulfil its functions as required by Section 31 of the RMA. The administration of the NES-PF would be the responsibility of the QLDC and in doing so would compromise its ability to manage the important landscape resource and contain the spread of wilding exotic trees.

The QLDC supports the NES-PF where it would allow the ability for councils to apply their own rules in specific circumstances, identified as outstanding natural features and landscapes (ONF/L), significant natural areas and places and areas of known cultural or heritage value. However, the QLDC seek to be able to apply its own rules to afforestation and planting of trees with wilding potential throughout all areas within the District.



The following table summarises the QLDC's position and changes sought. Further commentary is provided below why the NES-PF is not the most appropriate method to manage forestry and why the MPI should accept the changes sought by the QLDC.

**Table 1. Changes sought to the NES-PF**

Issue	Proposed NES-PF	Changes sought
<b>Matters where councils can apply more stringent rules</b>	Heritage values; SNA; Outstanding freshwater bodies; ONL/F;	<p>The QLDC can apply more stringent rules within its 'amenity landscapes'. These are the rural landscapes that have amenity values in the context of section 7 of the RMA. The management of these landscapes are also important where they are located adjacent to the ONF/L.</p> <p>In the context of the operative District Plan these are the 'Visual Amenity Landscapes' and 'Other Rural Landscapes'.</p> <p>In the context of the Proposed District Plan these are the 'Rural Landscapes'.</p>
		The QLDC retain the ability to have more stringent rules to manage forestry within other rural areas. These include the Rural Residential, Rural Lifestyle, Rural Visitor, and special zones.
		Similar to the gazetting process identified in the NES-PF for the 'Gisborne Sustainable Hill Country Project'. QLDC seek that the NES allow a gazetting process that will exempt the District from the provisions permitting mechanical land preparation, afforestation and replanting, allowing the QLDC to apply its own rules to manage these activities.
<b>Permitted provisions to manage the remaining forestry activities.</b>		<p>The remaining provisions to manage forestry activities apply to the District. Identified in the proposed NES-PF as:</p> <ul style="list-style-type: none"> <li>• Earthworks;</li> <li>• Forestry quarrying;</li> <li>• River crossings;</li> <li>• Pruning and thinning to waste; and</li> <li>• Harvesting.</li> </ul> <p>These activities manage processes related to established forestry, and are likely to assist with consistency and reduce unwarranted variation.</p> <p>It is also noted that many of these relate to functions of the regional council and could</p>

		be out of the scope of the District Council's functions.
<b>Jurisdiction/responsibility to manage the NES-PF.</b>	Draft rules of the Proposed NES-PF.	<p>The QLDC seek confirmation from the MPI whether the functions of district or regional councils are intended to be transferred to one organisation to facilitate efficient processing of permitted activity confirmations, or resource consents.</p> <p>The Otago Regional Council do not have a land use plan to control the use of land for soil conservation, and appear to rely on territorial authorities through their respective district plans.</p> <p>A territorial authority and a regional council sharing the management of activities covered by the NES-PF has the potential to create an overlap of functions, or 'unwarranted variation'. This would constrain an important objective of the NES-PF.</p>

The consultation document and reasons the proposed NES-PF is not the most appropriate way to manage forestry and wilding exotic trees.

The 'Principles underpinning the draft rules', at Page 9 of the consultation document, states *'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'*.

In addition, a large part of the rationale for the NES-PF is to relieve production foresters from the issue of 'unwarranted variation', defined as *'a level of variation between plans that is not justified by environmental, economic, social or cultural benefits and imposes unnecessary cost'*. Many of these relate to activities related to the processes associated with the management and harvesting of established forests.

QLDC emphasise that removing the ability to manage the approval of forestry and wilding exotic tree spread in its District is a significant environmental, economic, social and cultural cost to the District's landscape and biodiversity resource and would benefit very few, if any foresters. The implementation of the NES-PF as proposed is not a justifiable cost to the District.

It is considered that throughout the entire Queenstown Lakes District, forestry has a potentially high risk of adverse effects in terms of landscape and spread of wilding exotic trees. The potential adverse effects of forestry are not only limited to the District's outstanding natural features and landscapes (ONF/L). Afforestation within rural areas not located within the ONF/L such as the valley floors, Wakatipu and Upper Clutha Basins identified as a 'visual amenity landscape' have the potential to obstruct views and degrade the appreciation of the ONF/L as viewed from private and public locations.

Even with the assistance of the wilding spread risk calculator, the establishment of exotic trees with the potential to spread and naturalise, particularly in the high country areas, could undo the efforts made by the QLDC and advocacy groups including the Wakatipu Wilding Conifer Group to reduce the spread of wilding conifers. Allowing afforestation of trees with wilding potential, without the ability to monitor and control spread through conditions on resource consents could significantly increase the risk of wilding tree spread.

In support of the above, the following reasons further explain why the proposed NES-PF is not the most appropriate method to manage forestry and the containment of wilding exotic trees in the Queenstown Lakes District:

1. *The District's economy is dependent on tourism, which the landscape is an important component.*
  - a. The QLDC Economic Strategy (February 2015) identifies tourism as an important component of the District's economy and the District's landscape values are a major part of this attraction. Other economic initiatives that utilise the District's landscapes are the film industry. The NES-PF would not appropriately manage this and could create a significant risk to the decline of tourism.
2. *There is only a small amount of forestry in the District.*
  - a. Planting (other than for amenity purposes) of more than 0.5 hectares constitutes a forestry activity and requires resource consent. Since 1994, there have been only 15 resource consent applications for forestry in the District. One application was withdrawn and the majority are for small scale operations.
  - b. The Council is the owner of the largest production forests in the District. These three forests are designated in the operative District Plan. This means that the land can be used primarily for the purpose of planting, tending, managing and harvesting of trees for timber and wood production, without needing any resource consents under the District Plan.
  - c. The forests have a management plan and are managed to control fire risk and wilding spread.
3. *There are significant efforts being made to contain wilding exotic trees*
  - a. Efforts to control the spread of wilding conifers could be undone by allowing plants with wilding potential to be planted as a permitted activity.
  - b. The Council, with the Department of Conservation, sponsors and landowners contribute to funding the Wakatipu Wilding Conifer Group, which spent \$1,632,225 on wilding control in the 2013/14 season. This season it is estimated that \$1.3 million will be spent by the group toward wilding conifer control.
  - c. In the 2013/14 season, volunteer hours of the Wakatipu Wilding Conifer Group were tallied at 3,945 hours.
  - d. The QLDC allocates \$100,000 per annum to wilding pine control, and in its recently adopted Ten Year Community Plan 2015 - 2025 has increased the budget for Wilding Pine Control by \$100,000 for 2015-2016, \$200,000 for 2016 – 2017 and \$262,000 for 2017 – 2018.
4. *The operative district plan has more stringent rules on forestry.*

- a. The operative District Plan requires resource consent for forestry and for the planting of identified species with wilding potential. The proposed District Plan will be notified in August 2015 will retain the requirement for forestry and will prohibit the planting of trees identified to have wilding potential. The following table summarises the operative and proposed District Plan rules in the rural zones, and the proposed NES – PF.

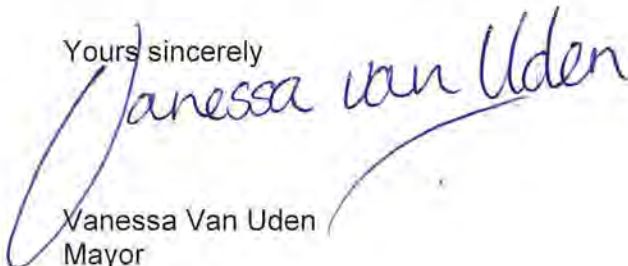
**Table 2. Broad comparison of the District Plan and NES-PF**

Activity	QLDC Operative District Plan	QLDC Proposed District Plan	Proposed NES-PF
<b>Forestry</b>	Discretionary	Discretionary  Non-complying in ONF/L	Permitted subject to standards for each of the identified 8 forestry activities.  Councils can apply more stringent rules in ONL/F, SNA and places with known heritage values.
<b>Planting of identified wilding tree species</b>	Restricted discretionary	Prohibited	Permitted subject to compliance with the permitted standards for afforestation.

The QLDC are interested in working with and to assist the MPI with further advancing a gazetting process that would exclude the Queenstown Lakes District from the mechanical land preparation, afforestation and replanting provisions of the NES – PF.

Thank you for considering this submission.

Yours sincerely



Vanessa Van Uden  
Mayor



**Table 3. Questions for submitters – derived from the MPI template for submitters**

<b>Comment</b>	<b>Action sought</b>
<b>1. Do you think section 2.1 and 2.2 of the consultation document accurately describe the problem facing plantation forestry?</b>	
<p>The consultation document has a narrow focus that seeks to eliminate 'unwarranted variation' from forestry processes. The narrow focus will come at a significant cost to the landscape and biodiversity resources of the Queenstown Lakes District.</p> <p>Section 2.1 and 2.2 do not consider the potential effects of forestry on a districts resource such as the use, enjoyment and protection of landscapes, and the maintenance of indigenous biodiversity from the control of wilding tree spread.</p> <p>The identified scope of the issues are too narrow and do not consider the effects of forestry appropriately. Sections 2.1 and 2.2 make an incorrect assumption that plantation forestry is reasonably expected in any rural area.</p>	Refer to Table 1.
<b>2. Do you consider that the conditions for permitted activities will manage the adverse environmental effects of plantation forestry?</b>	
No. the conditions for permitted activities are predicated on the assumption that afforestation is reasonably expected to happen in any rural area.	Refer to Table 1.
<b>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?</b>	
<p>Afforestation:</p> <p>There does not appear to be a prescribed setback for roads.</p>	Consider whether it is easier to apply a more substantial setback from public roads than attempt to address all possible eventualities through the exceptions.
<b>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)?</b>	
No. QLDC seek that they can apply their own rules in rural areas.	Refer to Table 1.
<b>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 of the consultation document)?</b>	



Only as far as the proponent is willing to manage the potential effects. Particularly in the case of managing wilding spread from permitted forestry. It is difficult for the Council to monitor permitted activities and would need to rely on enforcement. By which time an adverse effect may have occurred through the unintended spread of wilding trees.	
<b>6. Do you have any comments about any particular activity or draft rule (see appendix 3 of the consultation document)?</b>	
Refer to comments above.	Refer to Table 1.
<b>7. Is the NES-PF the best option to meet the assessment criteria (in Box 13 of the consultation document)?</b>	
Any process and outcome improvements for forestry stakeholders would be at the expense of a more important resource to the Queenstown Lakes District, landscape and biodiversity.  The scope of the NES evaluation is inadequate.	Refer to Table 1.
<b>8. Have the expected costs and benefits of the NES-PF been adequately identified (see section 4.3 of the consultation document)?</b>	
Inadequate evaluation of permitting afforestation in District's that are dependent on the landscape resource.	Refer to Table 1.
<b>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)?</b>	
Absence of a Regional Council land use plan for soil conservation within Otago.	
<b>10. Please describe any risks or opportunities that you consider have not been identified or addressed in the proposal.</b>	
Refer to the comments above.	
<b>11. Will the proposed NES-PF support regional councils to implement the NPS-FM (see section 6.1 of the consultation document)?</b>	
No comment, except to note that there is not any regional land use plan for soil conservation in Otago.	
<b>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)?</b>	

<p>The NES-PF should not have immediate effect. A 'bedding-in' process should be provided similar to proposed district and regional Plans having a proposed status, until made operative. This would provide the opportunity for MPI to make changes without impacting the ability for councils to undertake their functions under the section 30 and 31 of the RMA.</p>	
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<p><b><i>13. Are there any other issues that you would like to raise?</i></b></p>	
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<p>Refer to the comments above.</p>	
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30 July 2015

File No: 2-EA-2-1

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Email: [NES-PFConsultation@mpi.govt.nz](mailto:NES-PFConsultation@mpi.govt.nz)

Dear Stuart

## **Submission - Proposed National Environmental Standard for Plantation Forestry**

Rangitikei District Council would like to thank the Ministry for Primary Industries for the opportunity to contribute to the discussion on the proposed National Environmental Standard for Plantation Forestry (NES-PF). This submission addresses the questions provided in the consultation material.

### **1. Do you think section 2.1 and 2.2 of the consultation document accurately describe the problem facing plantation forestry?**

Rangitikei District Council considers the problems identified are a fair representation of the issues facing plantation forestry, particularly for larger forestry companies. However, many smaller forestry companies do not experience the same issues when they are located wholly within one district. Nevertheless, the proposed NES-PF will remove the uncertainty associated with plan reviews – a plan could be reviewed up to three times during the life of a forest.

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

Rangitikei District Council generally supports the proposed permitted activity approach. This approach aligns with the Rangitikei District Plan, which seeks to enable activities so long as they meet permitted activity conditions - unless the activity is likely to create adverse environmental effects.

It is important that there is ongoing monitoring of the effectiveness of the permitted activity approach to ensure adverse effects are being adequately mitigated. The proposed permitted activity conditions are slightly more stringent than the existing provisions in the Rangitikei District Plan: the Council's view is, therefore, that the proposed conditions will work well within our district in managing the adverse effects they are intended to manage.

### **3. Are the conditions for permitted activities clear and enforceable? Can you suggest ways of making the rules clearer and more enforceable?**

#### Neighbour approval

The proposed permitted activity conditions for afforestation, forestry quarrying and noise allow neighbouring properties to give their approval as a permitted activity condition. This concept seeks to retain as many activities as possible as permitted. Rangitikei District Council would like to highlight our experiences with these types of provisions<sup>1</sup>.

Issues result when the person who provided their approval subsequently changes their mind or when the ownership of adjoining properties changes. Such situations create complex discussions over the validity and legality of the neighbour approval. These issues can create uncertainty for both the forestry company as well as, the neighbouring land owner. Requiring resource consent gives the forestry operator and adjoining neighbour certainty. In reality, if the neighbour is willing to provide their approval, it should be a very simple, straight-forward, low-cost consenting process.

There are also issues tracking the affected party approvals when they are not part of a consent process. In the Rangitikei District the filing systems for resource consents are much easier to manage than for general property files.

*Recommendation (a): That the permitted activity conditions allowing neighbour approval for afforestation, forestry quarrying setbacks and noise are removed from the final NES-PF.*

#### Notice of commencement

The proposed notice of commencement of harvesting, earthworks and forestry quarrying activities is a permitted activity condition supported by Council. It will be a helpful tool to ensure that monitoring can be planned and the relevant contact details of the forestry operators are available if any issues arise. Additionally, it is recommended that the notice of commencement requirement is extended to include afforestation and replanting activities. This will enable local authorities to discuss the permitted activity standards with forestry operators before the trees are planted. It will also ensure that local authorities have accurate information about the location of plantation forestry activities in their area, so that permitted activity conditions can be monitored.

*Recommendation (b): That the final NES-PF retains the proposed notice of commencement for harvesting, earthworks and forestry quarrying activities and adds the requirement for a notice of commencement for afforestation and replanting activities.*

### **4. Are the matters where local authorities can retain local decision-making appropriate?**

The matters where local authorities are able to increase stringency are supported, particularly for outstanding natural features or landscapes and for heritage areas. It is considered that these areas are often unique to local circumstances, therefore, are best managed at this level.

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<sup>1</sup> The first generation Rangitikei District Plan had a number of these provisions.

Increased clarity is sought surrounding the process of implementing these provisions. The Rangitikei District Plan currently has identified outstanding natural features and landscapes, as well as, heritage areas identified. Would a plan change process be required to retain these areas as more stringent than the NES-PF, or would they automatically be accepted?

*Recommendation (c): That the final NES-PF retains the matters where local authorities are able to increase stringency.*

*Recommendation (d): That clarity is provided regarding whether existing district plan provisions for outstanding natural features and landscapes and heritage sites will be required to go through a plan change process.*

## **5. Will the environmental risk assessment tools appropriately manage environmental effects as intended?**

It is important that there are consistent methods for assessing risk and that they are regularly updated to reflect improving information or best practice.

*Recommendation (e): That the risk management tools are monitored for effectiveness and updated regularly to reflect better information for best practice.*

## **6. Do you have any comments about any particular activity or draft rule?**

### Definition

The proposed definition of plantation forestry under the proposed NES-PF incorporates forestry areas over 1 hectare. This is smaller than the 2 hectare requirement in the Emissions Trading Scheme, as well as the Rangitikei District Plan. The smaller area is likely to capture owners of small woodlots who may find themselves considerably more regulated than at present. The potential impacts from such small areas of forestry will be low. It is recommended that the definition of plantation forestry is consistent with other existing legislation.

*Recommendation (f): The definition of plantation forestry is consistent with existing legislation - and that a minimum area of 2 ha applies.*

### Setbacks – restricted discretionary standards

Currently, where setbacks are not met for district matters, discretion is limited to the effects on adjacent landowners, dwellings or urban/residential zones and icing or shading effects on the road. It is recommended that this standard is expanded to require the consideration of the following issues:

- The orientation of the proposed forestry in relation to the affected site.
- The potential effects of falling branches.
- Shading effects on the adjoining site.
- Shelter effects on the adjoining site.
- The land use occurring on the adjoining site.

*Recommendation (g): The restricted discretionary considerations for planting setback (district matters) are extended.*



### Road widening and realignment for safety purposes – earthworks provisions

The earthworks rule section has a permitted activity standard which allows the realignment or widening of roads for safety purposes. The wording in the 'scope' section of this rule stream suggests that this rule is intended to cover forestry roads and tracks. Increased clarity is required to ensure that this rule is not misinterpreted to cover the wider roading network which is managed by the local authority or NZTA.

*Recommendation (h): The intent of the rule under earthworks for road widening and realignment is clarified to ensure the public roading network is excluded.*

### Jurisdiction issues

The draft rules provide a guideline of which rules are under the jurisdiction of the district versus the regional council. It is unclear whether these guidelines are intended to remain or are identified in the draft proposal only to provide guidance. It is suggested that, at a minimum, these guidelines remain. The Rangitikei District Council considers it would be preferable for the specific jurisdictions to be determined by each regional council in consultation with the relevant territorial authorities. For example, there are a number of areas that Rangitikei District Council considers are better managed by Horizons Regional Council. These issues are as follows:

- Vegetation clearance and disturbance – Horizons have already taken the lead for managing indigenous biodiversity through the One Plan.
- Nesting times – Horizons have specialist staff.
- Significant natural areas – addressed through the One Plan.
- Wilding tree risk assessment – Horizons have specialist staff.

*Recommendation (i): That areas of jurisdiction are retained in the final NES-PF; however, consideration is given to the jurisdiction for vegetation clearance, nesting times, significant natural areas and wilding tree risk and allowing specific jurisdictions to be determined by each region.*

### Consistency between afforestation and replanting provisions

The afforestation permitted activity conditions have district council setback requirements and wilding tree requirements which are absent from the replanting provisions. At the public meeting held in Palmerston North it was identified that issues with consistency were attributed to existing use rights issues. If this is the situation, it is highly desirable that the areas where existing use rights apply or do not apply are made explicit in the guidance documentation.

In addition, with no boundary setback rules in the replanting provisions, forestry operators could replant their crops closer to boundaries. Therefore, it is recommended that setback provisions are added to the replanting section.

In addition, we suggest that further consideration is given to the definition of replanting. The draft rules state that an activity is considered replanting if the crop is replanted on a site where plantation forestry has occurred in the last five years. We are uncertain whether this definition is consistent with existing use rights.

*Recommendation (j): That the district council setbacks from the afforestation section are included in the replanting section.*

*Recommendation (k): That increased guidance and clarity is given around the issue of existing use rights for replanting activities and whether existing use rights should be deemed as having expired on harvesting.*

### Harvesting

The rationale section for the notice of commencement refers only to regional councils. We consider that this rationale section should be amended to refer to 'relevant councils' (to remain consistent with the provisions of notice of commencement for forestry quarrying activities).

*Recommendation (l): That the rationale section under harvesting activities and the notice of commencement are amended to refer to relevant councils.*

The harvesting rules require that slash and debris is managed so that it does not accumulate to levels that could cause it to collapse at skid sites. The focus of this rule is to reduce the risk of slash entering waterways, which is certainly appropriate. Council would like extend the consideration of the effects to the impacts that the debris entering waterways can have on bridges. The June 2015 flood event highlighted the damage to bridges resulting from debris from forestry harvesting operations entering waterways. In addition, Rangitikei District Council has experience with the potential adverse effects of skid sites where slash and debris has fallen onto the roading network. We believe this rule needs to recognise a wider risk.

*Recommendation (m): That the rule for slash and debris management under the harvesting activities provisions is amended to provide for specific reference to the adverse effect slash and debris entering waterways can have on bridges, as well as, avoiding slash and debris collapse onto the roading network.*

The proposed rules require a harvest plan to be prepared to assess and address the operational risks to the environment. The provisions in this section make no mention of potential effects on the roading network. Slips due to land instability as a result of forestry harvesting activities can have significant adverse effects on the roading network. It is recommended that the Harvest Plan includes consideration of the effects of land instability on the roading network.

*Recommendation (n): That the rule requiring a harvest plan is amended to provide for specific reference to require the assessment and management of the potential adverse effects of harvesting activities (and subsequent land instability) on the roading network.*

### Replanting adjacent to significant natural areas

The rule requires replanting to occur no closer than the stump line of previous crops. It is assumed this rule has been drafted in this manner to provide for existing use rights considerations. It is recommended, as mentioned above, that consideration is given to the consistency between existing use rights and the replanting definition/timeframes.

*Recommendation (o): The existing use rights requirements are made explicit in the guidance documentation (if not deemed to have expired on harvesting).*



## General Conditions

It is important that vegetation clearance and disturbance activities do not destroy the habitat of indigenous fauna and that all fauna, rather than only bird species, are considered with regard to nesting sites.

*Recommendation (p): That the permitted activity condition for vegetation clearance and disturbance includes a provision which states 'is not the habitat to indigenous fauna'.*

*Recommendation (q): That the reference to bird species under the 'Nesting Times' rule, refers to all indigenous fauna, rather than just bird species.*

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

A National Environmental Standard provides for national consistency. This is potentially positive for forestry operators, as they will have increased certainty of rules throughout all areas of New Zealand. However, ongoing training and guidance documents will be required to ensure the rules are applied consistently throughout New Zealand.

*Recommendation (r): That ongoing training and guidance to forestry operators and local authorities is provided to ensure consistent implementation of the NES-PF.*

### **8. Have the expected costs and benefits of the NES-PF been adequately identified?**

The consultation document and support documents comprehensively consider the potential costs and benefits of the NES-PF. The impact of the costs and benefits which affect Rangitikei District Council are outlined below. As a very small district council, resources are limited, thus any increases will have a more significant effect.

#### **(i) District Plan Change**

In the short term, the NES-PF will create increased costs, due to the requirement to undertake a plan change to reflect the standard.

#### **(ii) District Plan Review**

Rangitikei District Council is currently operating under the second generation district plan, which became fully operational in October 2013. Thus, a review is due by 2023. At this stage Council has no plans to undertake a sectional review. There are potential savings for this future plan review as plantation forestry will not need to be dealt with (outside of the issues where Council can be more stringent). These potential savings are considered to be minor.

#### **(iii) Monitoring of permitted activity conditions**

The NZIER economic analysis notes that there is a variable approach for compliance monitoring throughout New Zealand. This variation extends from reactive monitoring based on an identified breach or complaint, through to proactive monitoring where regular liaison between forestry operators and council staff occurs. The variation between these two approaches creates significantly different cost requirements. It is suggested that MPI provides guidance on which approach they expect to be taken, or whether local authorities will have responsibility.

If a proactive approach is required, it would be helpful to give consideration to the implications for smaller territorial authorities. In a larger council, increased monitoring requirements might be absorbed within the planning team, but in the Rangitikei District Council the increased monitoring requirements will fall on one part-time planner. One potential means of easing this is enabling local authorities to recover the costs of monitoring permitted activity conditions. While monitoring of resource consent conditions can be recovered from the consent holder, at present the cost of monitoring of permitted activity conditions is borne by the ratepayer.

*Recommendation (s): That consideration is given to the increased costs of the proposed NES PF from required district plan changes and monitoring requirements, particularly small territorial authorities, and whether local authorities will be empowered to recover the costs of monitoring compliance with the NES-PF.*

## **9. Are there any issues which might affect successful implementation of the NES-PF?**

There are a number of issues which might affect the successful implementation of the NES-PF. These include a lack of training/understanding of the requirements by local authorities and foresters and lack of consistency in the implementation of the NES-PF. The purpose of the NES-PF is to make the regulatory environment surrounding plantation forestry more consistent. If staff in local authorities have different interpretations, monitoring regimes or consenting requirements, then the consistency strived for will be reduced. These issues will best be addressed by initial and ongoing training and workshops with local authorities and MPI staff. This reinforces our earlier recommendation for such opportunities.

Due to the considerable changes which may result from this consultation round, and that legal rules are yet to be formulated, it would be appropriate for the Ministry to undertake further consultation once the regulations have been formed.

*Recommendation (t): A further consultation process occurs once the rules have been formally drafted.*

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

A risk not considered in the consultation document is where the liability of non-compliance with the NES-PF would sit. For many small forestry owners contractors are engaged to undertake works e.g. harvesting, earthworks, afforestation and replanting. Clarity required as to whether liability non-compliance issues would affect the contractor, the forest owner, or both.

If liability was to sit with the forestry owner, then consideration would need to be given to the benefits of implementing a system of 'approved operators' or another system where the forest owner would be able to assess the capability of the operator.

*Recommendation (u): Increased clarity is given regarding liability on forest owners and operators for non-compliance with the NES-PF and if appropriate consider the potential of 'approved operators'.*

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

This is not applicable to the Rangitikei District.

**12. What resources or other implementation activities would help you to prepare for and comply with the proposed NES-PF? How should these activities been delivered?**

Training and the provision of guidance documents will be essential for the successful implementation of the NES-PF. It will be important that all local authorities are correctly and consistently applying the rules of the NES-PF, existing use rights and have a consistent approach for processing similar resource consent applications.

The most helpful implementation activities will be:

- Local workshops.
- Guidance material – particularly guidance on how to apply existing use rights and where liability would fall if there are non-compliances with the provisions (e.g. on the property owner, the operator, or both).
- Trained staff at MPI available and actively engaged to address ongoing questions.
- Trained staff available to attend regional planning events.
- Templates provided where appropriate – e.g. if there will be reporting requirements.
- Further guidance and information on bird nesting sites. There are permitted activity standards for setbacks, but it is unclear where information may be sourced for identification of these sites.

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

No

**Conclusion**

In summary, Rangitikei District Council has the following recommendations:

- a. That the permitted activity conditions allowing neighbour approval for afforestation, forestry quarrying setbacks and noise are removed from the final NES-PF.
- b. That the final NES-PF retains the proposed notice of commencement for harvesting, earthworks and forestry quarrying activities and adds the requirement for a notice of commencement for afforestation and replanting activities.
- c. That the final NES-PF retains the matters where local authorities are able to increase stringency
- d. That clarity is provided regarding whether existing district plan provisions for outstanding natural features and landscapes and heritage sites will be required to go through a plan change process.
- e. That the risk management tools are monitored for effectiveness and updated regularly to reflect better information for best practice.

- f. That the definition of plantation forestry is consistent with existing legislation - and that a minimum area of 2 ha applies.
- g. The restricted discretionary considerations for planting setback (district matters) are extended.
- h. The intent of the rule under earthworks for road widening and realignment is clarified to ensure the public roading network is excluded.
- i. That areas of jurisdiction are retained in the final NES-PF, however, consideration is given to the jurisdiction for vegetation clearance, nesting times, significant natural areas and wilding tree risk and allowing specific jurisdictions to be determined by each region.
- j. That the district council setbacks from the afforestation section are included in the replanting section.
- k. That increased guidance and clarity is given around the issue of existing use rights for replanting activities and whether existing use rights should be deemed as having expired on harvesting.
- l. That the rationale section under harvesting activities and the notice of commencement are amended to refer to relevant councils.
- m. That the rule for slash and debris management under the harvesting activities provisions is amended to provide for specific reference to the adverse effect slash and debris entering waterways can have on bridges, as well as, avoiding slash and debris collapse onto the roading network.
- n. That the rule requiring a harvest plan is amended to provide for specific reference to require the assessment and management of the potential adverse effects of harvesting activities (and subsequent land instability) on the roading network.
- o. The existing use rights requirements are made explicit in the guidance documentation (if not deemed to have expired on harvesting).
- p. That the permitted activity condition for vegetation clearance and disturbance includes a provision which states 'is not the habitat to indigenous fauna'.
- q. That the reference to bird species under the 'Nesting Times' rule, refers to all indigenous fauna, rather than just bird species.
- r. That ongoing training and guidance is provided to ensure consistent implementation of the NES-PF.
- s. That consideration is given to the increased costs of the proposed NES PF from required district plan changes and monitoring requirements, particularly small territorial authorities, and whether local authorities will be empowered to recover the costs of monitoring compliance with the NES-PF.
- t. A further consultation process occurs once the rules have been formally drafted.

- u. Increased clarity is given regarding liability on forest owners and operators for non-compliance with the NES-PF and if appropriate consider the potential of 'approved operators'.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Andy Watson', with a stylized, cursive script.

Andy Watson  
**Mayor of the Rangitikei District**



# RUAPEHU DISTRICT COUNCIL

Website [www.ruapehudc.govt.nz](http://www.ruapehudc.govt.nz)

Our Ref: 611108

File: R31-0004

17 August 2015

**To:** Ministry for Primary Industries  
**NES-PFConsultation@mpi.govt.nz**

**Subject:** **Submission on National Environmental Standard for Plantation Forestry**

**Submission from:** Ruapehu District Council  
[Redacted]  
[Redacted]

**Point of Contact:** Steve Costelloe  
**REGULATION MANAGER**  
Email: [Redacted]  
Phone: [Redacted]

**Council does wish to speak in support of its submission.**

## INTRODUCTION

- 1.1 Ruapehu District Council (RDC) would like to thank the Ministry for Primary Industries for the opportunity to make a submission on the proposed National Environmental Standard for Plantation Forestry (NES).
- 1.2 The RDC is supportive of the forestry industry and is cognisant of both the local and national benefits that plantation provides in both a financial and environmental context.
- 1.3 The RDC is also fully aware of the many negative aspects of plantation forestry that affect our community.
- 1.4 As a result we have heavily invested in a suite of measures, in our recently adopted District Plan that balance the needs of all parties.
- 1.5 The RDC recognises the benefits to the forestry industry that a nationally consistent

***The Ruapehu District ... where adventure begins !***



*modus operandi*, such as the proposed environmental standard, would deliver. However, these benefits should not come at the expense of the community and the environment.

- 1.6 RDC applauds the risk-based approach applied to erosion susceptibility but is concerned that our own risk-based analysis that led to the creation of the rules in our District Plan is potentially being overridden by a “one size fits all approach” in the proposed NES.

## 2 MAIN ISSUES

- 2.1 RDC believes that the Ministry for Primary Industries (MPI) has accurately described the problems facing plantation forestry owners and operators, however, the document is light on the problems facing immediate neighbours and the wider community.
- 2.2 RDC is supportive of many of the permitted activity standards and believes these will provide clarity and a guarantee of consistency for those involved in the industry.
- 2.3 RDC would like to comment specifically on a number of permitted activity standards that will result in negative outcomes for our community:

(a) ***Setbacks from adjoining properties in different ownership.***

The proposed planting setback of 10m is inadequate in many situations and for many reasons:

(i) ***Shading.***

There is no agricultural crop that grows to the height of species such as *pinus radiata*. Combined with the dense canopy this creates real shading issues for adjoining landowners. These issues can be amplified in winter with large areas of pasture remaining under frost conditions for lengthy periods, possibly weeks. *P.radiata* can grow to 60m and with solar incidence at approximately 40° this could mean an average shadow, on southern forestry boundaries, in excess of 70m **ON FLAT LAND**. If the adjoining land has a 20° fall the shadowing could increase to 134m.

Additionally, site visits to farms within our District have confirmed that branches of *P.radiata* can, and do, extend laterally up to 16m.

In recognition of the above and also the fact that the trees are not 50+ m for the whole of their life RDC adopted a pragmatic approach to the matter with a rule requiring a 25m setback as a permitted activity standard for all southern boundaries and a 10m setback for all other boundaries.

(ii) ***Invasive roots.***

Root growth into adjoining paddocks creates a risk of damage to cultivation equipment, as well as contributing to soil moisture and nutrient theft. Lateral roots extend at least as far as the drip-line, which, as identified above, can extend in excess of the proposed 10m setback.

(iii) ***Moisture and nutrient theft.***

It has been long established that moisture and soluble nutrients migrate through soil along concentration gradients. The combination of the large demands from species such as *P.radiata* and their invasive roots creates



large barren bands during periods of dry weather.

**(iv) *Species toxic to livestock.***

There are at least 20 common variants of *pinus sp*, including *p.radiata*, that are toxic to cattle, sheep, deer and other livestock causing renal and neurological damage and in small doses causing abortion of calves and fawns. The potential overhang and frequent falling of limbs poses real issues for neighbouring pastoral farmers.

**(v) *Fence damage and stock escape.***

During storms it is common for large limbs and often whole trees to fall over boundary fences. This again creates risks of toxicity but also incurs neighbouring farmers real issues of stock escape and also costs from repairing fence lines as foresters are not always appropriately responsive to damage.

**Recommendation**

That the standard boundary setback be increased to 25m.

If the above recommendation is not accepted, that the proposed 10m setback be retained but for southern boundaries the setback be increased to 25m (*as per appended extract from the operative Ruapehu District Plan*).

**(b) *Setbacks from existing dwellings under different ownership***

The earlier proposal proposed a 30m setback from existing dwellings. RDC in an earlier submission argued that this was insufficient and inconsistent with many other Council's plan rules relating to structure setbacks.

RDC supports the proposed increase to 40m.

**(c) *Setbacks from Urban/Residential zone.***

The proposal is for a 30m setback for afforestation. Forestry planted as close as 30m to a settlement may have a number of undesirable outcomes:

- (i)** It has the potential to affect the overall character of the area by 'enclosing' a settlement.
- (ii)** Due to the permanent nature of forestry, replanting requirements, forestry could have a growth limiting effect.
- (iii)** Plantation forestry will, on the whole, require harvesting. Unlike most agricultural activity, forestry harvesting is more akin to an industrial activity on a scale that is not in-keeping with other rural practices.

It is RDC's view, in response to the above issues, that afforestation should not be given permitted activity status within 1km of an existing settlement. The matters described above can then be taken into consideration under the resource consent process with appropriate conditions to mitigate site specific issues.





**Recommendation:**

That the setback from urban/residential zones be increased to 1km.

**(d) Road setbacks.**

RDC supports the road setback permitted activity standard as proposed. Should specific issues arise in relation to shading; these matters can be dealt with under the Local Government Act 2002 section 355.

**(e) Noise.**

RDC supports the proposed noise parameters for notional boundary of the nearest dwelling. Exceedance of these levels can be addressed in the normal fashion.

However, RDC does not support the exception for forestry vehicles and equipment. Excluding these sources of noise largely defeats the purpose of having noise limits. This is especially the case if harvesting activities are occurring over lengthy periods in proximity to dwellings and or settlements.

RDC recognises that some equipment being operated within manufacturer's guidelines will exceed the levels proposed and this provides further evidence for the need to increase setbacks to dwellings and settlements.

**Recommendation**

That the forestry vehicles and equipment are not excluded from the noise limits proposed.

- 2.4 RDC is supportive of the Wilding tree risk, Notice of commencement, permitted activity standard

**CONCLUSION**

- 3.1 RDC would like to thank the Ministry for Primary Industries for the opportunity to contribute to the development of this National Environmental Standard.
- 3.2 RDC recognises the need and benefits for all stakeholders in the forestry industry to have certainty and consistency.
- 3.3 However, RDC also recognises those neighbours, whether immediate, or in the wider community, have needs and require protections.
- 3.4 Forestry, unlike all other agriculture, operates on a generational timeframe and therefore the environmental effects of forestry need to be considered in a different way from the rest of New Zealand's agricultural production.
- 3.5 RDC hopes the above submissions will be incorporated in the final standard.





**Submission to the  
Ministry for Primary Industries and  
the Ministry For The Environment  
on the Proposed NES for Plantation  
Forestry**

From Selwyn District Council  
11 August 2015

<b>Submitter</b>	Selwyn District Council
	Attention: Andrew Mactier – Strategy and Policy Planner
<b>Submitters Address</b>	[REDACTED]
	[REDACTED]
<b>Telephone Number.</b>	( [REDACTED] )
<b>Email.</b>	[REDACTED]
<b>National Environmental Standard</b>	Plantation Forestry

## INTRODUCTION

1. The Selwyn District Council ("the Council") thanks the Ministry for Primary Industries and the Ministry for the Environment for the opportunity to make this submission in relation to the proposed National Environmental Standard for Plantation Forestry (NES-PF).
2. The Council acknowledges the intent of the proposed NES-PF, as articulated in the proposal documentation and Regulatory Impact Statement, and in statements by the Associate Minister for Primary Industries Hon Jo Goodhew – to resolve industry concerns about variation in controls in regional, district and unitary plans, to reduce compliance costs and operational uncertainty for the industry, to secure improved environmental outcomes and generally to encourage development in the forestry sector. We acknowledge that the existing systems in some areas of New Zealand have created complications for all parties, including regional and district councils and communities as well as the forestry sector.
3. We also note the concurrent proposals for changes to the Permanent Forest Sink Initiative (PFSI). The intent expressed in the Ministry for Primary Industry's Discussion Paper and other documentation for the PFSI proposals is to encourage the establishment of forestry cover, particularly in lands described as "marginal" in the hill country.
4. The Council's analysis of the implications of the proposed NES-PF for the Selwyn District – and for the Council's ability to fulfil our statutory responsibilities and strategic objectives as a district council – has identified a number of matters of concern.

## SUBMISSION

5. The following submission is offered on the basis of the Council's roles, functions and responsibilities under the Resource Management Act 1991 (the Act), and the Local Government Act 2002 (the LGA).

6. The Council has also read and supports the draft submissions of both Local Government New Zealand (LGNZ), and the Canterbury Regional Council (ECan).
7. As with the Council's previous submission on an earlier iteration of the proposed NES-PF (26 October 2010), it is still not clear that the NES fits within the parameters of s43 of the Act as to what an NES is; the NES-PF as proposed is more slanted to being a series of activity processes, rather than setting an environmental baseline(s), a technical standard or a methodology as required by s43 of the Act,
8. The Council also questions the appropriateness of using a NES to address the issues identified by the NZFOA and MPI, and considers the response as being akin to "using a sledgehammer to crack a walnut". Alternative methods other than a NES may be more appropriate (such as discreet plan changes to the relevant district or regional plans).
9. The problems the NES are seeking to resolve are primarily process or inconsistent rules issues and the reason for introducing the NES is inconsistency of RMA regulation of land use as it relates to plantation forestry activity. In addition, plantation forestry is a local industry not a network that relies on national consistency and there seems to be little justification for developing a NES for plantation forestry over any other industry group in New Zealand, who would presumably face similar inconsistencies and hurdles. The Council is concerned that the development of this NES has the potential to set a precedent for other inappropriate activity based NES, such as a NES for dairying.
10. In spite of the misgivings highlighted above, the Council supports initiatives that seek to improve certainty of Resource Management Act 1991 processes and contribute to the cost effectiveness of the resource management system.
11. In the event that the NES-PF does advance beyond this consultation document and submission phase, the direction of the NES-PF should be clearer and responsibilities as they relate to administration of the NES-PF should align with RMA sections 30 and 31 functions. Currently, this is not sufficiently clear and in particular, how both monitoring and compliance functions will be allocated between Regional and District Councils.
12. With respect to permitted activity conditions, the Council is strongly of the view that these should provide certainty. Where evaluation is required, an activity should trigger resource consent to allow that evaluation to be undertaken as is the current standard practice.
13. As currently drafted, there is too much subjective discretion for many of the activities to properly be the subject of permitted activity conditions. Furthermore, the Council is concerned that the proposed permitted activity standards in the NES-PF have the potential to expand the permitted baseline and undermine other planning controls. We note that this matter is more fully considered in the LGNZ submission.
14. Council is aware that both the LGNZ and ECan submissions highlight concerns with the general drafting of the NES-PF, including the lack of certainty, ambiguities and subjectivity of the provisions of the NES-PF. Examples identified in those submissions include the following:

- Provisions being made conditional upon unquantified, or unspecified criteria, such as ‘as soon as practicable’, ‘as far as possible’, ‘if unavoidable’, ‘except where topographical constraints leave no alternative’, ‘to the extent that it causes more than minor adverse effects’;
  - provisions based on potential future states or processes: for example, ‘where the deposition of spoil could lead to reactivation or exacerbation of the earthflow...’, vegetation ‘that will readily recover within five years’
15. The Council is firmly of the view that such loosely-framed provisions are of considerable concern in that, if carried forward into the rules and standards set under the proposed NES-PF, there is significant doubt that they would meet the legal tests for a valid permitted activity rule as established by the Courts. Ambiguous and subjective provisions would also create complex enforcement issues, which would potentially be costly and time-consuming for both local authorities and the forestry sector, and counterproductive to achieving the intended aims of the proposed NES-PF.
  16. The Council endorses the concerns set out in both LGNZ and ECan’s submissions on these matters and recommends that the NES-PF is reviewed so that these areas of concern are adequately resolved.
  17. Also related with permitted activity conditions is the requirement for the preparation and lodgement with local authorities of management plans for erosion and sediment control, harvesting and quarry management. As currently drafted there is no approval or certification process of the management plans envisioned by the NES-PF.
  18. This approach is problematic as it has the potential to encourage a ‘minimum necessary to achieve compliance’ approach to the development of management plans. In addition, it is not clear what purpose serving such plans on local authority has when the activity is a permitted activity and there seems to be no ability for local authorities to compel management plans to be amended in the event they are deemed to be found deficient.
  19. A more efficient and effective approach would be if such activities were assessed as a controlled activity to provide for an approval or certification process of management plans.
  20. Also of concern in relation to the various management plans is the lack of any clear standards the various activities associated with management plans must achieve; as currently drafted the NES-PF does identify the various matters each management plan must address, but without any clear standards which must be achieved it is doubtful these plans will provide for any meaningful environmental protection.
  21. With respect to monitoring of permitted activities, the Council considers that the expected costs and benefits of the NES-PF have not been adequately identified, and in particular, the cost to local authorities of monitoring permitted activities has not been adequately considered and appropriately addressed
  22. A targeted rate was raised at the Christchurch consultation on 27 July 2015 as the preferred cost recovery mechanism. This is not supported by the

Council as it is not the most efficient way to address cost recovery, as changes to the Long Term Plan and Annual Plan would be required. This can be a lengthy and involved process, requiring considerable staff time. This approach will not align with the timeframes for giving effect to the proposed NES-PF and it is questionable whether the ability to charge a targeted rate for permitted activity monitoring through section 150 of the LGA is permissible.

23. Typically, monitoring costs of land use activities are recovered through conditions of resource consent for compliance monitoring. This is a very effective and targeted approach to cost recovery for monitoring.
24. When monitoring of an activity by a local authority is required, then that activity should require resource consent to allow appropriate analysis and cost recovery. The activity status of permitted activities that require monitoring should be amended to be a controlled activity. A consent authority cannot decline a resource consent for a controlled activity and therefore there will be no change in outcome.
25. The Council believes that further consideration of the funding mechanism for monitoring by local authorities and the legality of permitted activities with subjective conditions is required. We note that this matter is more fully considered in the LGNZ submission.
26. The Council supports the retention of local decision-making with regard to the matters listed in Table 2 and Table 4 of the Consultation Document. It is important to retain the ability for local authorities to be more stringent for matters that are important to the local community, such as Outstanding Natural Features and Landscapes and significant natural areas. If this was not provided for, then important local values could be compromised or even destroyed. However, further work is required in this area, as set out in this submission.
27. The Council has a statutory responsibility in relation to section 6 matters, including outstanding natural landscapes. The proposed NES-PF allows the Council to set more stringent rules to manage the effects of plantation forestry on outstanding natural features, landforms and landscape areas, as identified in district or regional plans. However, as currently drafted it is unclear whether defined/identified will be taken to mean 'mapped'.
28. In Canterbury, increased intensive agriculture across the Plains has meant that forestry is now moving inland to the hill and high country. These unique and beautiful environments are among our most sensitive and iconic ecosystems, often with high biodiversity, landscape, heritage and cultural values. The potential effects of increased forestry activities in the hill and high country will need to be evaluated and managed across very wide areas and including many inter-related factors and the pressures of forestry expansion in these landscapes will need careful management.
29. The proposed NES-PF should be worded so that landscapes that are referred to in different ways in district and regional plans are captured. The Selwyn District Plan includes landscape provisions that manage adverse effects in Forestry Exclusion Zones in the hill and high country areas of the District. The NES-PF as currently draft seemingly excludes consideration of these areas from the Councils ability to be more stringent.

30. As such, the Council supports ECan's submission that the proposed NES-PF is amended to include provision for regional councils and territorial authorities to make more stringent rules for the management of potential adverse environmental effects of plantation forestry on regionally and locally determined hill and high country management priorities.
31. In addition, in the case of outstanding natural features and landscapes greater stringency is limited to 'afforestation'. Other activities permitted under the NES-PF (such as earthworks) may have significant impacts on landscapes, for which it is appropriate that the Council retains control over on behalf of the wider community.
32. With respect to the NES-PF providing scope for the Council to be more stringent in respect to the potential effects of plantation activities on indigenous biodiversity (section 6(c) sites - frequently known as SNA's), the Council supports the submissions of both LGNZ and ECan.
33. The NES-PF as currently drafted provides for more stringent rules to be adopted in cases where significant indigenous vegetation and significant habitats of indigenous fauna are identified in a regional policy statement, regional plan or district plan. However the proposal also acknowledges that in some cases there will be valuable indigenous vegetation that has not been specifically classified as 'significant' in plans, and further goes on to state that at page 98 of the consultation document that:
- "Setting levels for the clearance and conversion of such indigenous vegetation for plantation forestry activities is most appropriately determined at a local level, as values, including habitat values, vary from case to case."*
34. The Council agrees with the submissions of both LGNZ and ECan where they note that the consultation document acknowledges that there are important values, resources, sites and ecological connections that may not necessarily rank highly enough to warrant definition with a 'significant' classification but nevertheless deserve recognition and appropriate protective measures as determined by regional or local councils.
35. Furthermore, the limitation to having the ability to be more stringent seemingly only applies to areas identified in planning documents, such as a regional or district plan, and does not recognise alternative approaches to the identification and protection of such areas. These alternatives, in the Selwyn District context, includes the Council working with landowners to assist them in identifying significant natural areas on their property and putting in place management and protection regimes, but does not include identifying these sites in the District Plan.
36. The difficulty and expense of mapping such sites and areas, and the time required to carry out such an exercise means that the NES-PF as currently drafted has the potential to result in considerable adverse effects for significant natural areas deemed to be section 6(c) sites or areas.
37. As such, the Council supports ECan's recommendation that the NES-PF is amended such that regional and territorial authorities are provided the scope to make more stringent rules for the management of potential adverse environmental effects of plantation forestry on regionally and locally

determined indigenous biodiversity (vegetation and habitats - whether terrestrial or aquatic).

38. In addition, the Council believes there are issues associated with the allowances for greater stringency for section 6(c) matters. It is the Council's view that many of these are significant especially when considered alongside the permitted activity ethos of the NES-PF. Issues include:
  - There is no age restriction or any other qualification or restriction on the kind of 'pre-existing access way' through a significant natural area on which vegetation can be damaged, destroyed or removed;
  - It will be difficult to craft rules, or alternatively, to monitor and enforce rules around the exclusion that requires an evaluation of whether riparian vegetation will 'readily recover within five years'; and
  - Damage, destruction or removal of vegetation that is incidental damage to indigenous vegetation adjacent to plantation forest, including indigenous vegetation at the edge of an SNA (or similar) has the potential to result in significant adverse effects on indigenous vegetation in the Selwyn District. As noted above, it will also be difficult to craft rules, or monitor and enforce rules around these exclusions, especially where an evaluation of whether vegetation will 'readily recover within five years'.
39. Given the above issues with the NES-PF in relation to section 6(c) sites and areas, the Council considers that these exclusions to matters where the Council can be more stringent must be amended.
40. The Council has a responsibility under section 9(3) of the Act in relation to managing the spread of wilding conifers, while regional councils have statutory responsibilities to manage the risks of pest species, including wilding conifers, via Regional Pest Management Plans (RPMP) under the Biosecurity Act 1993.
41. The Resource Management Act and Biosecurity Act have complimentary roles in managing wilding trees. While the Biosecurity Act targets the management of wilding trees from past land use practices, the RMA, through the Selwyn District Plan is concerned with the avoidance, remediation or mitigation of adverse effects associated with future forestry activities.
42. The effects of wilding tree spread include:
  - Costs to adjoining landholders to remove trees; or, If trees are left to seed and spread;
  - Loss of grazing land; and
  - Changes in landscapes or views; and
  - Changes in microclimate which may destroy other plant species; and
  - Loss of ecological value.
43. It is the Council's understanding that ECan is developing their own RPMP and is also working collectively with other regional councils to develop nationally consistent rules for wilding conifer management that will be incorporated into the various RPMPs. The Council also understands that The New Zealand



Wilding Conifer Management Strategy (the Strategy) was released in 2014 and establishes an agreed vision for wilding conifer management.

44. The Council understands that as currently drafted, the NES-PF will require the wilding conifer 'Wilding Spread Risk Calculator' (WSRC) to be administered by Territorial Authorities, and that the NES-PF has significant potential to undermine the approaches being taken in RPMPs to manage the risk associated with the spread of wilding conifers and that the NES-PF will compromise regional council's ability to fulfil their statutory obligations for biosecurity.
45. The LGNZ and ECan submissions raise concerns that the WSRC is untested and will be potentially inconsistent with the regulatory measures that will be necessary under the Strategy and councils' RPMPs. The submissions of LGNZ and ECan also note that tools are needed to enable more stringent provisions to be developed where a regional council has identified a species as being particularly invasive.
46. The LGNZ and ECan submissions on this matter recommend that the NES-PF is amended so that there is the ability for regional councils to make more stringent rules for the management of wilding conifer species that are priority risks in a region/district as identified in Regional Pest Management Plans, and that the WSRC is amended so that it aligns with decisions made to implement the Wilding Conifer Management Strategy and the National Policy Direction for Pest Management.
47. On all these matters the Council supports the submissions of both LGNZ and ECan in respect to wilding conifer management for the reasons set out in those submissions.
48. The NES as drafted contains rules to manage excessive shading of paved roads. This is in conflict of Council's Plan Change 39 'Tree Shading in Rural Areas'. This plan change is removing a number of rules related to the planting of trees, shelterbelts and plantations where they may grow to shade roads or private property. The principal reason for removing these rules is that there are a number of alternative enforcement mechanisms which are more efficient and effective at dealing with the issue than the current rules in the District Plan.
49. Historically, complaints regarding tree shading in rural areas have been dealt with by the Council's Monitoring Officer with the most common method being to serve an abatement notice under the Resource Management Act 1991, requesting that the infringing tree(s) be trimmed to a complying level or removed.
50. The use of abatement notices has proven to be relatively ineffectual as often the trees in question have been deemed to most likely hold existing use rights (under s10 of the RMA) given that by the time they grow sufficiently to create a shading issue, they are usually much older than the life of the current Plan and its requirements. There are also uncertainties with determining the age of such trees in order to determine when they were first planted and what Plan was applicable when this occurred.
51. Alternative methods for managing the adverse effects of trees shading roads and adjoining properties include:

- Where trees impact upon Council controlled roads, the Council's Assets Department is able to deal with these issues via the Local Government Act 1974 (Section 355) to enable any tree to be trimmed or removed where it may contribute toward a road safety hazard;
  - Where trees impact upon State Highways, there are provisions within the Transit New Zealand Act (Sections 55-57) to enable any tree to be trimmed or removed where it may contribute toward a road safety hazard;
  - With regard to trees shading, or other matters such as root damage and leaf fall (both of which are not covered by the District Plan rules), where the effects fall upon neighbouring property, the Property Law Act 2007 (Sections 333-338) provides an avenue to resolve these issue provided the problems cannot be resolved informally between parties.
52. For these reasons the Council does not consider it necessary to include provisions in the NES-PF that address tree shading of roads and recommends such provisions are removed.
53. While it is the Council's view that the proposed NES-PF is not an appropriate tool for the management of plantation forestry, in the event the NES-PF is progressed beyond this consultation document and submission phase the Council request training for consenting and compliance staff regarding how the Government anticipates the NES-PF will be interpreted and given effect to, including clear direction on how the roles and responsibilities of Regional and District Councils will be delineated. Guidance on what constitutes an acceptable harvest plan and a template for analysis is needed to ensure consistent administration.



Andrew Mactier  
**STRATEGY AND POLICY PLANNER**

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NES - PF Consultation

Attn: Stuart Miller

Spatial, Forestry and Land Management

Ministry for Primary Industries

PO Box 2526

**WELLINGTON 6140**

10 August 2015

Dear Sir,

**SUBMISSION ON CONSULTATION DOCUMENT- PROPOSED NES FOR PLANTATION FORESTRY (NES-PF)**

The South Waikato District Council (SWDC) appreciates the opportunity to submit on the proposals contained in the above Consultation Document. The following comments have not been considered by elected members, and should be regarded as a staff submission only. A large number of the proposed rules of the NES-PF have more relevance to regional councils than to SWDC's responsibilities, so Council has only responded to the Consultation Document's questions in terms of their implications for territorial authorities.

In 2013 some 52% of the South Waikato District was in forest, most of it used for pine plantations. Council is therefore very conscious of the contribution that forestry makes to the economy and local communities. If new environmental standards make doing business for forestry companies more difficult or costly, the costs and difficulties concerned will flow through into processing industries such as the Kinleith pulp mill, and through to have an impact on the prosperity of our rural towns. While Council does not presume to speak for the District's foresters such as Hancock Forest Management, or industries such as Carter Holt Harvey, it works closely with them and is aware of their operational needs. An even closer partnership exists between Council and the District's mana whenua groups, particularly the Raukawa Charitable Trust. This submission is made with that knowledge and those relationships occupying centre stage.

Question 1 - Do you think Sections 2.1 and 2.2 accurately describe the problem facing plantation forestry?

Many of New Zealand's plantation forests do span district and regional boundaries. Council remains unconvinced however that the "problem" of inconsistent rules between different councils is of a scale or permanence that requires intervention by way of national regulations. Many of the inconsistencies mentioned in the Consultation Document will be minimised as Councils prepare "second generation" plans such as the South Waikato District Plan, which became operative on 1 July 2015.

For example the South Waikato approach to quarrying was specifically mentioned as an issue on Page 22 of MfE's 2010 Discussion Document, because quarrying under the "first generation" South Waikato District Plan required a land use consent regardless of the volume of material extracted, the effects or location. This issue has now been remedied in the newly-operative Plan, through discussion with the forestry sector. Forest-related quarries are now covered by the definition of "forestry", and are therefore a permitted activity.

The suggested provisions of the NES-PF would result in an increase in the number of forest-related land use consents required from the SWDC, without an apparent corresponding benefit for the environment. The NES-PF would also result in significant additional monitoring duties for Council, without the ability to recover the costs of this monitoring. The inability to recover the costs of monitoring permitted activities was one of the reasons why forest-to-farm conversions was instead made a controlled activity under Council's new District Plan.

If the Ministry is serious about minimising "red-tape" for forest operators, Council staff would recommend that any NES-PF include a requirement to the effect that:

- Where operative "second generation" District Plan rules are less restrictive than the NES-PF in terms of requirements that trigger resource consent processes for plantation forestry, that such existing District Plan provisions should prevail.

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

One effect of forestry activities which has not been addressed by the proposed NES-PF conditions is the impact of wear and tear from forestry traffic upon the local roading network. Some councils recoup the necessary funds for road upgrading and repair by way of financial contributions under the RMA. Applying permitted activity status to forest harvesting via the NES-PF would preclude the ability for councils to collect such contributions. This would leave local residents to try and fund the shortfall, or to put up with substandard and potentially unsafe roads.

The suggested conditions seem to cover most of the other of potential adverse effects that plantation forestry may have, except for matters such as impact on Significant Natural Areas (SNAs) which have explicitly been left to councils to manage. The real question, though, is whether the NES conditions are necessary in the first place. SWDC staff consider that the conditions for permitted activities set down in the Consultation Document are unlikely to manage the adverse environmental effects of plantation forestry any more effectively or efficiently than the "second generation regional and district plans that are being made operative throughout the country. In fact there is a real risk that adding an extra layer of regulation by way of NES would work against the RMA's aim of effectively and efficiently managing adverse environmental effects, through creating additional confusion and duplication of environmental standards.

Requiring Councils to administer an extra layer of regulation would also tend to be contrary to the purpose of local government under Section 10 of the Local Government Act 2002. This purpose is "to meet the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses."

"Good-quality", in relation to performance of regulatory functions, means performance that is "efficient, effective, and appropriate to present and anticipated future circumstances". SWDC staff seriously doubt whether the NES-PF proposals contained in the Consultation Document pass this test.

Q.3 - Are the conditions for permitted activities clear and enforceable?

Not all of them. Council staff have read a draft of the Local Government NZ submission on the NES-PF, and wish to endorse the many specific examples cited in that submission of wording within the NES-PF that does not have the required level of legal certainty, and/or may be ultra vires.

Among the conditions that are within district jurisdiction, the following are examples of standards that are unclear and/or unenforceable:

- In order to calculate whether the standard for shading neighbouring dwellings on Page 61 requires afforestation to be set back, the NES would need to specify the tree height (relative to the dwelling) that should be used to calculate shadow length.
- Similarly the rule on tree planting that may cause ice on public roads (Page 61) would also need to specify the relative tree height to be of any use. The exemption that applies "where icing does not occur" fails to mention in whose opinion this needs to be the case. Vegetation is constantly growing, and determining potential weather effects on road surfaces is complex. How such a standard is expected to be monitored, let alone assessed for compliance, is problematic to the point of being unworkable.

The suggested icing standard is similar to a rule in the previous South Waikato District Plan that was scrapped because it lacked the required certainty. It has been replaced by Rule 28.4.21) which reads:

*"Council consent shall be obtained prior to the undertaking of any continuous planting of trees likely to grow to a height in excess of 10m and located within 5m of any local road boundary and 20m of the sealed edge of any state highway. When considering any application made under this Rule, Council shall take into account the likely effect on the road and road user during the winter months".*

This rule has been accepted by the major forestry companies that operate locally.

- The purpose of district councils being notified of commencement of earthworks, harvesting, and new forest quarrying is unclear (Pages 63, 69 and 75 respectively). The purpose is stated as being "so they [councils] are aware of operations occurring and can schedule monitoring programmes if necessary".

This notice perhaps makes sense for regional councils, which have related performance standards to monitor. The only possible involvement of district councils, though, would be if the earthworks or harvesting was adjacent to a public road. In those situations the established requirement for foresters to submit traffic management plans is sufficient to manage traffic safety impacts. Forest quarrying should not have any roading impacts, since the NES-PF's requirement is that material not be transported off site using public roads.

If district councils do not see any added value of notification under the NES-PF, the likely effect would be for most of them to waive notice, thereby negating this part of the National Standard.

- It is unclear whether the standard concerning "road widening and realignment for safety purposes" (Page 64) applies solely to forestry roads. The definition of "road" on Page 51 would indicate that it instead applies to public roads. If that is the case, SWDC would be concerned about the NES-PF allowing forestry companies to widen or realign its roads, and about jurisdiction for this standard being with regional not district councils. The NZ Transport Agency would surely also have a role in respect of State Highways. The NES-PF's applicability to roads is further confused by the "scope" statement on Page 94. This says that "traffic movements and roading issues also have implications under the Local Government Act 2012 and are best addressed at a local level." NB- There is no LGA 2012. Most council activities are conducted under the LGA2002, and councils' regulatory roading powers are largely contained in the un-repealed portion of the LGA 1974.
- The two suggested controls for visibility and property setbacks for forestry quarrying on Page 75 do not seem to fit together. No quarrying would be permitted within 500m of an adjoining dwelling without neighbour's consent. Up to 5000m<sup>3</sup> of extraction per five years is however allowed if a quarry is visible from an existing dwelling, which logic would dictate has to be more

than 500m away, since quarrying any closer than that is not permitted as of right. SWDC staff are not convinced of the need to protect such distant views.

There is also an issue that views of a forest quarry will depend upon intervening vegetation and topography, and on the position of windows in the "receiving dwelling". What happens if a third party removes trees on their property, or the householder installs a new window in a previously-blank wall, opening up views of a quarry and thereby creating non-compliance with the NES-PF?

It also seems anomalous that the property setback rule can be negated by obtaining neighbour's consent, but the visibility rule cannot. Likewise if the property setback rule is not met, a proposal becomes a restricted discretionary activity (RDA), but if the visibility rule is not met, it becomes a controlled activity. The reason for the difference is unclear. If non-compliance with the property setback rule triggers an RDA, the matters where discretion is restricted (not "reserved") on Page 78 need to include effects on neighbouring dwellings and properties.

- The suggested rule on disturbance of archaeological sites (Page 81) is necessary to align with the Heritage NZ Pouhere Taonga Act 2014, and foresters should be aware of any recorded archaeological sites on their properties. Councils however are increasingly using "alert layers" to help fill in the huge gaps in the NZ Archaeological Association database, and to identify the possible presence of archaeological artefacts and historic heritage issues. The NES-PF should also require regard to be had to these layers, whether or not they are contained in an operative District Plan.
- The suggested provisions on discovery of unrecorded archaeological sites (Page 81) should be aligned with the Heritage NZ Pouhere Taonga Archaeological Discovery Protocol. This protocol has been codified in the South Waikato District Plan, and accepted by Tangata Whenua. It is attached for the Ministry's information. The Protocol's wording is clear, complete and constitutes best practice. It also specifically covers situations where kōiwi tangata (human remains) are uncovered, which may be post-1900 and therefore not "archaeological" in nature.
- The suggested rules on indigenous vegetation clearance (Page 82) are of concern to Council. The question of what protection should be afforded to indigenous vegetation that does not qualify as an SNA has only just been extensively debated and resolved as part of the District Plan's preparation. Clearance of vegetation (indigenous or otherwise) that is not within an identified SNA has been established as a permitted activity. The proposed NES-PF would make clearance of indigenous vegetation in forests a discretionary activity if certain standards were not met, which means that foresters would be subject to more stringent rules than the farmer next door. This seems inconsistent with the stated purpose of the NES-PF to make business simpler for forest operators.
- The requirement on Page 82 that indigenous vegetation clearance and disturbance is permitted if it is "incidental damage to riparian vegetation that will readily recover within five years" would presumably also apply to vegetation within an SNA. This creates confusion about the ability of district plan rules to be more stringent in regard to SNAs, if this provision in the NES-PF effectively removes such "incidental damage" from Council's jurisdiction.
- The rule concerning nesting sites for endangered birds (Page 83) requires foresters to have procedures, but has no mechanism to ensure that these procedures are fit for purpose. How can foresters therefore be certain that they comply with this clause of the NES-PF?

Q.4 – Are the matters where local authorities can retain local decision-making appropriate?

It is unclear whether the proposed NES-PF would give proper effect to the principle that "effects that occur locally are best dealt with at a local level". Council supports the idea of removing the need for foresters to go through resource consent processes where the conditions imposed are virtually identical nation-wide, and can instead be codified as performance standards in an NES.

While the aim of the NES-PF is laudable, it is instead the detail of the proposed standards that gives rise to concerns. Council would be responsible for monitoring compliance with the strict wording of these standards, and would need to process resource consents in the event of non-compliance. This could have significant resourcing implications, without a corresponding ability for councils to recover monitoring

costs. At the moment Councils are unable to place a high priority on monitoring compliance with permitted activity performance standards in District and Regional Plans, relative to other demands on their limited resources. In reality councils tend to only undertake monitoring in response to complaints, or when other permissions such as building consents are applied for. Future monitoring of NES-PF standards is unlikely to be any different, especially when councils' costs cannot be adequately recovered.

Reverse sensitivity should be specified as a matter where local authorities can retain local decision-making. For example, a rule requiring all new buildings to be set back at least 30m from the legal boundary of any existing plantation forest was included in the new South Waikato District Plan. This was done in response to submissions from foresters.

Council's District Plan is legally obliged to give effect to the Vision and Strategy for the Waikato River (Te Ture Whaimana), under the Ngati Tuwhāretoa, Raukawa and Te Arawa River Iwi Waikato River Act. In response to this and in conjunction with Iwi, new rules on riparian management and on conversion of forest to farmland have been included in the South Waikato District Plan. The riparian management rules apply to all land uses in the Rural zone, including forestry, and should not be over-ruled by less-targeted standards in the NES-PF.

Council staff therefore suggest that district and regional councils be allowed to implement more stringent rules when those rules are being made specifically to give effect to Te Ture Whaimana. This would be consistent with the Consultation Document's proposal that regional councils be allowed to set more stringent rules to implement the National Policy Statement for Freshwater Management (the NPS-FM). Te Ture Whaimana actually has greater status than the NPS-FM, since its provisions prevail over NPSs and NESs in the event of any inconsistency. It would also preclude the potential for the NES-PF to override the considerable work that has already been done jointly between Iwi, councils, foresters, Federated Farmers and other stakeholders in the Waikato region to help restore and protect the health and wellbeing of the Waikato River and its catchment.

The Consultation Document makes the point on Page 103 that the NES-PF does not alter RMA provisions for iwi-council engagement, and the requirement to take iwi management plans into account. It is true that the RMA remains unaltered, but what the NES-PF does instead is to alter the effect of the regional and district plans that have been, and are being, developed through iwi-council co-operation. It therefore has the potential to undo some of the gains that have been made through joint initiatives such as the South Waikato District Plan's riparian management provisions.

The proposal that Councils be allowed to be more stringent in regard to afforestation of identified outstanding natural landscapes (ONLs) and features (Page 97) is supported. The South Waikato has several ONLs that include plantation forest in its third rotation, but planting of ONL areas that have never been under pine trees does have the potential to adversely affect the qualities that make those areas outstanding. Council staff however suggest that the list should be expanded to include forestry quarrying as well as afforestation in ONLs, since quarries also have potential impact on the landscape.

The list should also be expanded to include afforestation and quarrying in the "Significant Amenity Landscapes" (SALs) that SWDC and other Waikato councils have identified in their district plans. SALs are landscape areas which are not quite outstanding, but which still have high amenity values in terms of Sections 6a) and 7c) of the RMA. The identification, maintenance and enhancement of these areas through regional and district plans is mandatory under Policy 12.4 of the Waikato RPS.

Council staff consider that the "ability to be more stringent list" needs to be very carefully and sparingly framed. If this flexibility is over-utilised by councils to create extra rules for plantation forestry, the end result could be a large increase in bureaucracy across the country, with and no guarantee that consistency will actually be achieved. Councils could still develop many sets of diverse rules. This would tend to defeat the original purpose of having an NES-PF, i.e to make the regulatory regime simpler for foresters.

Q.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?

The Erosion Susceptibility Classification (ESC) now used seems to offer much more certainty than that which was put forward in 2010. The parts of a forest estate which are orange or red zones can be more readily ascertained, particularly by reference to website maps. It must be realised, though, that the surveys on which the NZ Land Use Capability Index were based were prepared at an inch-to-the-mile scale, and were never intended for use at a farm or property management scale.

The Consultation Document aims to skirt this problem by allowing landowners, forest companies or councils to have the ESC rating re-assessed. This will only be a solution if the re-assessment process is straightforward, consistent, expeditious and credible. In relation to a specific property, it should require little more than a suitably-qualified soil scientist lodging a report with the MPI and councils after a site walkover. MPI should develop a simple process for then amending the master database to amend the "zoning" of the property concerned.

The Ministry's offer on Page 24 to work further with local government on refining the ESC is welcomed. Given the general concerns the Council has with the NES-PF, though, it would be very reluctant to ask ratepayers to fund work on refining the ESC as it relates to the South Waikato.

Council has no experience with the Wilding Spread Risk Calculator, since wilding pines have not been an issue in the South Waikato, or for that matter much of the North Island. Council understands that the reason for specifying wilding tree risk as being within district jurisdiction, despite regional councils having statutory responsibilities for biosecurity, is that some district councils have already put wilding pine rules in their district plans. This appears to be mostly in areas of the South Island with tussock surrounding the forests and planting of Douglas Fir. If the reason for the NES-PF allowing districts extra control over wilding pines is for landscape/biodiversity reasons, rather than biosecurity, this needs to be made explicit in the NES.

From our limited knowledge of it, the Fish Spawning Indicator (FSI) seems to be the best current source of data to establish where spawning grounds for native fish might be. It may therefore be a useful starting point to try and protect these special habitats. It however illustrates the difficulty that arises wherever the NES relies upon complex assessments and judgements to be made before permitted activity status can be confirmed. The resulting determination of activity status will be open to interpretation and dispute, which has the potential for costly delays and inconsistent application across the country.

The FSI is just one of many of the assessments required under the suggested NES-PF where it is unlikely that many councils or forestry companies have the capability to undertake the assessments themselves. The pool of available experts in New Zealand is very small, and could easily become over-stretched. It is therefore very possible that the difficulty and cost involved in properly evaluating proposals under the NES will deter councils and foresters from undertaking assessments altogether.

Q.6 – Do you have any comments about any particular activity or draft rule?

#### Applicability to Farm Woodlots.

Council notes that, under the definition of "forestry" on Page 48, the NES-PF would apply to all forests of over 1ha in area. It would be preferable to specify a much larger minimum, for two reasons. Firstly, compliance with the NES-PF would pose greater difficulties for farm foresters than for the large forestry companies. For the farm foresters, requirements like providing advance notice to councils and preparing formal erosion and sediment control plans, harvest plans, and quarry management plans would just be additional paperwork unrelated to their main income. The undoubted risk of small blocks of trees causing environmental problems during harvest is more appropriately addressed by a brief prior discussion with soil conservation staff, rather than by creating an extra layer of plans and approvals.

Tree planting constitutes the best and wisest use for parts of many farms. Tree planting in such cases should be encouraged rather than discouraged, especially when it has positive benefits for promoting biodiversity and achieving the Vision and Strategy for the Waikato River. It would be a shame if many farm foresters for example started planting their trees in belts narrower than 30m to prevent being categorised as forestry, just to avoid the compliance hassle of the NES-PF.

The second reason is that the sheer number of the hundreds of farm woodlots (and related activities such as farm quarries) throughout a district would exacerbate the already significant monitoring difficulties for councils. Riparian areas and gully systems are where most farm foresters would currently plant a tree



crop, and the level of setbacks under the NES-PF could be a deterrent to this planting continuing to happen. The end result could then be that the areas concerned continue to be grazed, with significantly greater negative effects on wetlands and waterways than harvesting once every 28 years.

As noted above, the South Waikato District Plan has made conversion of commercial forestry land to farming a controlled activity, in order to help give effect to Te Ture Whaimana. "Farm forestry activities that are not necessarily-commercial scale wood production" are included in the definition of forestry. Council is therefore already obliged to monitor whether forest blocks and woodlots are being converted or re-planted, and whether substantial conversion areas comply with Certificates of Compliance obtained before the new rules were instituted. The extra monitoring requirements imposed by the proposed NES-PF would make an already difficult task nigh on impossible, in the absence of being able to recover costs.

#### Inclusion of Noise Standards

Council staff consider that proposed noise standards for forestry activities should not be included in any NES-PF. Council's new District Plan has recently established appropriate noise levels for the rural areas. The suggested limits for the NES are 5dBA higher than the District Plan control, do not have a Lmax limit for sleep disturbance, and use a different definition of "day time". If it is acceptable for neighbouring dwellings to experience 55dBA from forestry sources, this would then become the "permitted baseline" under the RMA. Why after all should farming, function centres or rural industries be any quieter? The whole NES-PF should use an approach which is consistent with the statement on Page 75 for forest quarrying that "these controls do not address noise, vibration, dust and vehicle issues".

It is also noted that the proposed noise standards for forestry activities include an exception for "forestry vehicles and machinery or equipment operated and maintained in accordance with the manufacturer's specifications in accordance with accepted best management practices" (Page 83). This wording is too open to interpretation, and lacks transparency as to how, or by whom, compliance is determined. Like many of the suggested rules in the Consultation Document, it lacks the necessary level of certainty to be used in a Regulation under the RMA.

#### "Bundling" of Consents

If the NES-PF proceeds, it will obviously be necessary to identify erosion-prone land in an appropriate way that is relevant at the property scale. If a suitable system to demarcate "red zone" land can be devised, SWDC staff support the proposed rule on "bundling" of consents (Page 83). We agree that it would be inappropriate for afforestation of a large area to become a restricted discretionary activity because a small part of the block concerned was in a "red area".

Council staff note that the issue of "bundling" of consents was addressed by the Court in the recent case involving proposed wharf extensions in Auckland. The provisions of the NES-PF will therefore need to take any relevant aspects of this case into consideration.

Q.7 – Is the NES - PF the best option to meet the assessment criteria in Box 13?
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In terms of the "first order" criteria on Page 27, Council staff are not convinced that the NES-PF, in the form outlined, would deliver consistency for the forestry sector by removing unwarranted variation between council planning controls. It would not improve certainty of RMA processes or environmental outcomes. The best option is likely to be the second generation RMA plans that have recently been implemented, or are being developed.

The "second order" criteria would more clearly not be met by the proposed NES-PF. To deal with each in turn:

- Ease and effectiveness of implementation. There are significant complexities in implementation. It is difficult to monitor compliance with the NES option. It could not be properly enforced unless its standards were made sufficiently clear and legally certain.
- Efficiency. The benefits of having an NES-PF are unlikely in our opinion to exceed the costs to foresters, councils and the community.
- Ability to monitor the effects. It would not be easy or straightforward to monitor the impact of the standards.

Q.8 – Have the expected costs and benefits of the NES-PF been adequately identified in section 4.3?

The research done by the NZ Institute for Economic Research (NZIER) and Scion Ltd, as summarised on Pages 29-33, is probably correct within the assumptions that the researchers were operating under. It appears to Council staff that these assumptions were incorrect or incomplete in a number of regards. For example:

- The council regulations that constituted the status quo for the purpose of comparison would have been those in force in 2014, which would have largely been "first generation" plans. The merits of a NES-PF need instead to be compared against the level of council regulation that is likely to be emerging in late 2016 which is the earliest date and NES-PF could have effect.
- The options considered did not recognise the ability and willingness for councils to work together on aligning plan provisions relating to forestry. This has the potential to significantly improve national consistency, without introducing another layer of regulation. The councils in the Waikato region have a particularly strong track record of working together, through the Waikato Mayoral Forum, the Future Proof Growth Strategy, Local Authority Shared Services and other initiatives.

The Consultation Document states that "it is now considered that, across the board, the NES is slightly more stringent than the status quo" (Page 99). If this is the case, it is unclear how the extra obligations for foresters to obtain consents stacks up against MPI's overall conclusion that the NES-PF has a net benefit excluding quantification of environmental effects.

The NZIER report was probably correct in identifying Ministerially-directed Plan Changes, NPSs and mandatory National Planning Templates as inferior options to an NES.

Q.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 often?

Yes. Council considers that, as restricted discretionary applications for afforestation of "red zones" can be refused, it may deter applicants from proposing to plant these areas. Controlled activity status would be more appropriate. Planting is usually the most suitable use for erodible land, as long as care is taken with the harvest phase. Conditions can still be imposed on controlled activities to make sure harvesting methods are appropriate.

The conditions for permitted activities need to not only manage the adverse environmental effects of plantation forestry, they need to avoid creating an unduly liberal "permitted baseline" for other businesses in rural areas. The Act's requirement for consent authorities, when considering applications, to disregard any effects that are permitted by a Plan or NES could be problematic in relation to the plantation forestry proposals. If 200m<sup>3</sup> of excavation is permitted in association with forestry, for example, this then becomes the de facto amount that is acceptable in connection with any other land use. Council cannot however offer any solution to this problem, other than to urge that the flow-on effect be considered when setting thresholds in any new Standard that is proceeded with.

SWDC previously expressed concern that setting back re-plantings to comply with the NES-PF would affect the Emissions Trading Scheme liabilities of the forester, who is being obliged to plant a smaller area in trees than was previously the case. Council staff are now pleased to note that the Climate Change Response Act 2002 has been amended to make it clear that the forester is not liable in such cases (Page 100).

Q.10 – Please describe any risks or opportunities that you consider have not been identified or addressed by the proposal?

Bridges of the size proposed to be permitted by the NES-PF would also require a building consent under the Building Act 2004. As Council would be involved with these proposals anyway, there may be a case for Building Code compliance and perhaps other safety aspects to be a potential District condition.

Q.11 – Will the proposed NES-PF support regional councils to implement the NPS - FM?

Regional councils are best placed to answer this question.

Q.12 – What resources or other implementation activities would help you to prepare for and comply with the proposed NES-PF?

The draft NES rules envisage that foresters in areas where endangered indigenous bird species are known to nest have procedures to manage impacts on those birds. This important matter is under district jurisdiction. Presumably Council will therefore need to check that foresters have these procedures and abide by them, and that the procedures are ecologically

sound. A template procedure manual prepared by the Ministry or DoC for at least the most common species would be essential to help Councils to know whether a particular forester's suggested processes constitute anything near "best practice". Plantation forest areas in the South Waikato provide useful habitat for the NZ falcon and native bats.

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

Only by way of the summary below.

### Summary

Overall the SWDC supports the concept of trying to improve consistency for the forestry operations that form such an important part of the South Waikato. It is not yet convinced, however, that a lack of consistency, at least in District rules, is a significant problem or more than a temporary one. A National Environmental Standard may therefore in part be seeking a solution to a problem that does not exist. Many of the proposals in the Document mirror changes that Council has already incorporated in the just-completed review of the South Waikato District Plan.

If the Ministry does decide to proceed with an NES, the challenge is to make the new regulations as clear as possible, and not to impose an unreasonable administration or monitoring burden upon local authorities. Some of the new regulations suggested are not legally certain enough, and appear to be ultra vires, as set out in detail in the LGNZ submission.

It is also essential that any new NES comes with the appropriate guidance material from the Ministry. Council and its communities have a limited capability to fund further monitoring of nationally-imposed standards or to initiate Plan changes to bring the new District Plan into line with a NES-PF. This is especially true when it is far from clear that the National Standard will make it less complicated for foresters to operate within the district, or will result in demonstrated environmental improvements.

Council understands that some parties will be submitting that the Standard should not include the ability for replanting to be carried out with genetically-modified tree stock. Council considers that the standard on Page 80 comprises the correct approach. The effects of genetic modification need to be managed at a national level, the Environmental Protection Agency is tasked with vetting applications, and there is no reason why approved products should not be planted in this District or any other. The RMA is after all an effects-based piece of legislation.

The South Waikato District Council would welcome the opportunity to be heard in support of this submission if the Minister decided to hear from concerned parties.



Patrick McHardy

**SENIOR PLANNER**

South Waikato District Council

## **ATTACHMENT ONE: HNZPT ARCHAEOLOGICAL DISCOVERY PROTOCOL**

(Advice Note from Section 8.5 of the South Waikato District Plan)

### **"8.5 Heritage NZ Pouhere Taonga Archaeological Discovery Protocol (Advisory Note)**

*In the event that an unidentified archaeological site is located during works, the following applies:*

- a) Work shall cease immediately at that place and within 20m around the site.*
- b) The contractor must shut down all machinery, secure the area, and advise the Site Manager.*
- c) The Site Manager shall secure the site and notify the Heritage NZ Regional Archaeologist. Further assessment by an archaeologist may be required.*
- d) If the site is of Māori origin, the Site Manager shall notify the Heritage NZ Regional Archaeologist and the appropriate iwi groups or kaitiaki representative of the discovery, and ensure site access to enable appropriate cultural procedures and tikanga to be undertaken, as long as all statutory requirements under legislation are met. (Heritage NZ Pouhere Taonga Act 2014, Protected Objects Act 1975).*
- e) If human remains (koiwi tangata) are uncovered the Site Manager shall advise the Heritage NZ Regional Archaeologist, NZ Police and the appropriate iwi groups or kaitiaki representative, and the process under d) above shall apply. Remains are not to be moved until such time as iwi and Heritage NZ have responded.*
- f) Works affecting the archaeological site and any human remains (koiwi tangata) shall not resume until Heritage NZ gives written approval for work to continue. Further assessment by an archaeologist may be required.*
- g) Where iwi so request, any information recorded as a result of the find, such as a description of location and content, is to be provided for their records.*
- h) Heritage NZ will determine if an archaeological authority under the Heritage NZ Pouhere Taonga Act 2014 is required for works to continue.*

*It is an offence under s 87 of the Heritage NZ Pouhere Taonga Act 2014 to modify or destroy an archaeological site without an authority from Heritage NZ, irrespective of whether the works are permitted or a consent has been issued under the RMA".*



## **Proposed National Environmental Standard for Plantation Forestry**

### **Submission from Southland District Council**

Dear Sir/Madam

Thank you for the opportunity to make a submission on the Proposed National Environmental Standard for Plantation Forestry (NES-PF).

Southland District Council (Council) is both a regulatory authority and a forest owner. This submission has been prepared by the Resource Management Team with input from the Council's Forest Managers (IFS). Council owns approximately 1,510 hectares of mixed age mixed species plantation forests. In addition there are a number of commercial plantation forests and smaller farm forestry plots established within the District.

Council notified its Proposed District Plan in November 2012. A number of submissions were made to the proposed rules relating to forestry activities. Decisions on the Proposed Southland District Plan 2012 were released in October 2014.

The Proposed District Plan contains rules relating to plantation forestry and wilding trees. One of the appeals lodged with the Environment Court was from a forestry company regarding the earthworks provisions and how they related to forestry activities. As a result of this the Council has been in ongoing dialogue with a number of forestry companies (as parties to that appeal) regarding planning provisions that affect their activities.

The Proposed District Plan introduced forestry provisions relating to:

- Setbacks for planting
- Shading
- Historic Heritage
- Clearance of Indigenous Biodiversity
- Landscapes
- Harvesting
- Specific species prone to wilding

District Plan provisions relating to gravel extraction, earthworks and earthworks within riparian margins also apply to forestry activities in the Southland District.

### **General Comments**

Council agrees in principle that National Environmental Standards can remove unwarranted variation between different councils' planning controls, improve certainty for all stakeholders and assist with the cost effectiveness of the resource management system. A National Environmental Standard can, however, override local controls that have been imposed for very good local reasons that are considered to be accepted by industry because they have not submitted on, or appealed them (please refer to comments further on regarding wilding trees).

Council made a submission on the proposed NES-PF in 2010. Council acknowledges that a number of the concerns raised at that time have been considered and in some cases addressed in this latest proposal.

### **“Cherry Picking”**

Council, however, remains in a neutral position on the National Environmental Standard for Plantation Forestry 2105 (NES-PF). It is Council’s impression that the NES-PF is an industry led proposal driven by industry for the benefit of industry. This creates a regulatory tool that appears to be cherry picking and enabling specific parts of the forestry activity, whilst it leaves the more controversial matters as “out of scope” or as matters that District or Regional Plans may be more stringent on. The Council has concerns as to whether certainty or cost effectiveness for all parties will be achieved by this approach.

### **The Current Proposal Creates The Potential For Confusion**

If the proposed NES-PF is confirmed it will not be the only resource management tool for addressing and managing forestry activities and their effects. The forest operators will be required to confirm whether they comply with the NES-PF, the District Plan and any relevant Regional Plan. The NES-PF creates an additional layer of planning control to navigate. This may not be clear to forest operators and has the potential to create situations where not all relevant planning provisions are considered because they are concentrating solely on the NES-PF.

### **The Cost Of Monitoring Should Be Borne By Those Who Create The Need**

Further, the NES-PF is reliant on the Council undertaking monitoring to determine if the performance conditions are being complied with. This would require in some cases highly specialised expert assessments being undertaken. Typically district councils do not have in-house experts and therefore that work would have to be undertaken by consultants at the ratepayers’ cost.

Council considers that those who create the need for the monitoring work to be undertaken should bear the cost of that work.

### **Decision Requested:**

It is requested that a general performance condition be inserted stating that three months prior to any forestry activity commencing relevant baseline information demonstrating compliance shall be supplied to the territorial authority. Such information should be compiled or endorsed by appropriately qualified persons and cover for example:

- Wilding Tree Risk Assessments
- Heritage Site Statements
- Biodiversity (Clearance) Assessments
- Nesting times and procedures
- Statements about setbacks from boundaries and dwellings.

This would align the NES-PF with other similar approaches such as the NES on Contaminated Land 2011 where a Preliminary Site Investigation is required to be undertaken by a suitably qualified practitioner.

It is also requested that performance conditions be included that require ongoing monitoring by forest owners including submission of reports by appropriately qualified persons to Council. This would enable forest owners to demonstrate that the forest activity continues to meet the requirements of the permitted activity.



### Decision Requested:

If the proposed NES-PF is confirmed the Council requests that a statement be made within the NES directing that councils may amend their plans without undue process and be exempt from having to comply with the first schedule process.

## **Assessment Tools**

Council has reviewed the proposed NES-PF rules including the specific tools from a territorial authority perspective and note that these have been refined to address specific concerns raised by submitters in 2010. Council also recognises that there has been a refinement of the Erosion Susceptibility Tool and the introduction of a "Wilding Spread Risk Calculator" which is of specific relevance to the Council.

## **Wilding Trees - Southland Context**

The District Plan identifies the areas of the district most at risk of wilding (and is referred to as the Mountains Overlay). This overlay seeks to manage those activities that would have a significant effect on the natural character and wilderness values of that landscape. This includes the spread of conifer species. The Proposed Southland District Plan has a list of wilding trees that are prohibited, or require consent as a Restricted Discretionary Activity.

Those plan provisions were established in response to significant concerns from many stakeholders regarding the potential effects of wilding trees on the Southland mountainous landscape, particularly in the Northern Southland area. The Wilding Trees plan change in 2007 was initiated after specific examples of wilding were observed.

This example of wilding occurring has and will continue to cost the communities of Southland significantly. An example provided by Southland Regional Council (brand name is Environment Southland) attached as **Appendix One** demonstrates the rate of spread of wilding trees and the associated cost to date of attempting to manage that situation. The latest estimate of cost undertaken in 2014 by Scion for the Ministry of Primary Industries indicated that it would cost in excess of \$8 million with an expected time to achieve eradication of 2024.

The costs of addressing infestation of wilding tree species has fallen to communities rather than forest owners as those trees were originally planted as a permitted activity. Given central government seeks to reintroduce the ability to plant any species of tree as permitted (subject to meeting specific criteria) and the potential for continued legacy wilding is this going to mean that the costs of controlling wilding is going to be borne by central government? It is not appropriate to shift those costs on to ratepayers.

The Proposed NES-PF seeks to manage such effects through the inclusion of a calculator and rating system. Council has concerns regarding the use of such a tool. The wilding spread assessment relies solely upon the forest operators to determine whether the species proposed complies with the NES-PF afforestation permitted activity rule. If the forestry owner considers it is a Permitted Activity and starts planting, councils will not have a chance to consider validity of the assessment and will be left to determine whether the planting does comply only after the activity has started. This does not provide certainty for any party in the process and may create additional legal challenges.

The Council is concerned that if the calculator is applied incorrectly there is no regulatory "back stop" for addressing this issue. This would result in the costs of addressing the externalities of the forestry activity being borne by the general ratepayer rather than by the potential exacerbator.

### Decision Requested:

It is recommended that the overall score to enable planting as a permitted activity (whether afforestation or replanting) should be lowered to 8 or less. It is considered that this would provide a greater level of comfort regarding the high level of discretion involved in the calculation of risk that this tool incorporates.

Alternatively, if the NES-PF proceeds as drafted, it is requested that this tool be complemented with a regulatory tool for addressing the effects of wilding. Ultimately this would involve the industry accepting liability for the consequences of the self-assessment of likely wilding risk. The cost of rectifying potential wilding should be accepted by industry as their responsibility.

To achieve this regulatory aspect it is requested that an additional performance condition be included in the permitted activity rule for planting and replanting that states:

*“All wildings associated with the plantation are controlled within a 2 kilometre radius from the boundary of the property prior to them becoming a separate viable seed source.”*

This would ensure that if forest owners do not address the effect of wilding as it occurs then they are in breach of the permitted activity rule which enables Council to manage the effects through compliance by the forest owners or potentially through enforcement action.

In addition to the above, the Council makes the following specific comments on each activity area below.

## **Forestry Activities - Rules**

### **Afforestation**

#### **Setbacks**

The Council supports the concept of standardisation of setbacks nationally. The proposed Southland District Plan has incorporated setbacks for planting of new forests which are similar to those proposed in the NES-PF. The proposed setbacks, however, do not take into account consented dwellings or approved building platforms. These form part of the “existing environment” and potential effects on these approved future dwellings and site have a legal right to be considered.

The proposed setbacks do not account for the greater degree of shading that occurs from land to the south of plantations, nor do they consider the potential effects on existing farm buildings like wool sheds or milking sheds. Increasing the setback is still only providing a minimum because the extent of the shading effect is also dependent on the topography. There are examples in Southland of wool sheds and pastoral land being permanently shaded by existing plantations resulting in loss of productive land area and subsequent economic return for adjacent land uses.

Although an attractive and practical seeming approach the use of neighbour approvals within the permitted activity rule is considered to be ultra vires and should be removed from the performance condition. The ability to breach a rule without requiring resource consent is not consistent with Section 9 of the Resource Management Act 1991 (RMA) which specifies how land may be used. The reliance upon a third party within a permitted activity performance condition takes the NES-PF outside of the legislative powers conferred to it through the RMA. In addition this creates ambiguity for the Council with regard to monitoring compliance with performance conditions and security for forestry owners that approval has been given in perpetuity.

#### Decision Requested:

A greater setback is required from southern boundaries to ensure that shading of adjacent land use (such as pastoral farming) is not significant. The proposed Southland District Plan sets a 20 metre setback from southern boundaries and it is recommended that this is incorporated in the NES-PF.

Shading also creates adverse effects on unsealed roads that need to be managed. This includes the creation of unsafe driving conditions and increased costs of maintenance and management on councils. These effects are particularly prevalent during the winter months. It is requested that the performance condition be amended to include all public roads, not just "paved" roads.

If neighbours' approval have been given it should be processed as a Controlled Activity provided the planting complies with all remaining performance conditions.

#### **Wilding**

Specific species are listed in the Proposed Southland District Plan as either being prohibited or requiring resource consent as a restricted discretionary activity. Council is concerned that the use of the wilding calculator as proposed does not provide the certainty required to manage the risks associated with particular species.

#### Decision Requested:

If this tool is to be retained as the only control of risk it is requested that the risk score be lowered to 8 or less. Further as discussed previously in this submission consideration of a regulatory tool to address wilding after the fact should be incorporated into the tool set of the NES-PF.

#### **Replanting**

Council notes replanting does not have to comply with the same standards as afforestation. Replanting and afforestation have the potential to create the same environmental effects and so should be subject to similar requirements. Council acknowledges that these forests have an element of existing use rights and therefore form part of the existing environment. This NES-PF, however, provides an opportunity for the adverse effects currently created by existing forests to be addressed in the same manner that a new forest will be. This approach to requiring increasing levels of compliance from existing activities has also been utilised in other areas of regulation for example the Building Act. For example, new building work on structures that complied with previous versions of this legislation are required to meet any new standards applicable at the time they are altered.

#### Decision Requested:

It is therefore recommended that the permitted activity rule be amended to require all planting to meet the same performance conditions relating to setbacks and wilding tree risk.

#### **Earthworks, Mechanical Land Preparation, Thinning to Waste**

Council has no specific comments on these rules.

#### **Harvesting**

Roading and traffic effects are listed as being out of scope for the NES-PF. Therefore if a council considers it is necessary to manage the potential effects of harvesting, these rules will need to be retained within the District Plan. Southland's roading network is comprised of a high proportion of gravel roads.

Those areas where forestry has been planted are accessed by gravel roads built for low volume traffic many years prior to the land use changing to production forestry. At times harvesting has caused significant damage to the network. This damage has required unplanned and unbudgeted reconstruction works, the cost often borne by the general ratepayer.

The Proposed Southland District Plan 2012 contains a performance condition requiring notice to be given to the relevant Road Controlling Authority (Southland District Council or NZTA) 12 months prior to harvesting. This was included as a result of submissions to the plan requesting that harvesting be a permitted activity rather than a controlled activity as originally notified. It is Council's opinion that this performance clause manages effects outside of the scope of the NES-PF and so will remain. To provide a level of national consistency it would be appropriate to include this as baseline performance condition in the NES-PF.

**Decision Requested:**

That a performance condition be included in the Harvesting Permitted Activity rule that requires notice to be given in writing to the relevant Road Controlling Authority 12 months prior to harvesting occurring.

**Forest Quarrying**

The setting of limits and setbacks in the NES-PF creates a permitted baseline argument for other non-forestry quarrying or gravel extraction. Council acknowledges that this is a discretionary decision, however, it will be difficult to separate out the effects of forestry type quarrying (with regard to limits and setbacks) from other types of quarrying.

Council notes that the scope of this rule does not include performance conditions to manage the effects of noise, vibration, dust and vehicle issues associated with quarrying. Therefore the forest owners would also have to assess the gravel extraction and noise provisions of the Proposed Southland District Plan and any relevant Regional Plan provisions. These contain restrictions around transportation on roads and noise matters.

Relying on written approvals within a permitted activity performance condition is concerning; Council notes that these are also within the afforestation performance conditions. As previously commented in this submission this is considered not only to be ultra vires but also extremely hard to monitor from Council's perspective.

**Decision Requested:**

Remove the ability to breach the setbacks from dwellings with written approval of the owner and/or occupier as a permitted activity.

In addition the setbacks should apply to consented dwellings (not yet built) and building platforms as these form part of the existing environment and would be considered to be affected by the forestry quarrying activity.

**River Crossings**

Council has no specific comments on these provisions.

## **General Standards**

### **Nesting Times**

The NES-PF has incorporated a general condition that relates to managing the effects of forestry activities on the breeding success of specific birds. Compliance with this performance condition is achieved by forest owners demonstrating they have procedures to identify and protect specific types of birds. This has been allocated as being a district council jurisdiction. Confirmation that the procedures comply with the intention of the performance condition will require expertise that district councils do not generally have in-house.

#### **Decision Requested:**

That a general performance condition be inserted stating that three months prior to any forestry activity commencing relevant baseline information demonstrating compliance shall be supplied to the territorial authority. Such information should be compiled and endorsed by an appropriately qualified person.

That performance conditions be included requiring ongoing monitoring on an annual basis by forest owners including submission of reports by appropriately qualified persons to Council. This would enable forest owners to demonstrate that the forest activity continues to meet the requirements of the permitted activity.

### **Matters Out Of Scope For The Proposed NES-PF**

As previously commented the proposed NES-PF appears to address only those effects that are less controversial and already treated in a relatively uniform manner nationally. From a district council perspective matters relating to nuisance issues and infrastructure could have a baseline performance condition (for example traffic effects and effects on roading infrastructure) inserted in the NES and be listed as one of the matters that Council could be more stringent on. This would bring such effects which are specific to forestry into the scope of a NES.

#### **Decision Requested:**

- That a performance condition be included in the Harvesting Permitted Activity rule that requires notice to be given in writing to the relevant Road Controlling Authority 12 months prior to harvesting occurring.
- Allow councils to be more stringent on these matters within their District Plans by amending the scope of NES-PF to include traffic and roading effects.

### **Matters Councils May Be Stringent On**

It is noted that if the general condition relating to vegetation clearance is breached the activity will default to a discretionary activity. Councils are able to have more stringent rules where a significant natural area is designated (mapped) and identified in a Regional Policy Statement, Regional Plan or District Plan pursuant to Section 6(c) of the RMA 1991. This would mean therefore that a non-complying activity status could be attributed to any such indigenous vegetation clearance or indigenous habitat disturbance.

Council has not undertaken a comprehensive significant natural areas identification project. The proposed District Plan continues the approach of all clearance requiring consent, with exceptions. The proposed NES-PF specifies that councils may only be more stringent where Significant Natural Areas (SNAs) have been identified and mapped; this creates a limitation on the Proposed Southland District Plan approach.

Decision Requested:

That the reference to designated (mapped) SNA's be deleted. This would mean that indigenous vegetation that meets the Permitted Activity is authorised and anything beyond that requires consent as a discretionary activity.

**Conclusion**

Council remains neutral on the proposed NES-PF 2015. There are a number of specific matters that need to be addressed to ensure that the implementation of the NES-PF, if confirmed, achieves the stated purpose. The Ministry of Primary Industries is encouraged to consider carefully the matters raised by Council.

The NES-PF has been developed by a specific industry for their specific purposes, under the RMA 1991. The RMA purpose and principles include the philosophy that those creating the effects or "externalities" should be responsible for accepting and addressing those externalities. With regard to forestry, this would include addressing the effects of wilding trees both from new plantations but also those related to existing or legacy planting. This does not appear to have been considered in the proposed NES-PF. Further, the costs of monitoring appear to have been shifted on to the general ratepayer rather than borne by the exacerbator.

With regard to wider matters, the Council wishes to highlight that the Ministry of Primary Industries needs to consider the context that the NES-PF will operate in. This includes other responsibilities and commitments that the industry has made under the draft National Wilding Conifer Management Strategy 2015-2030 and Accreditation to the National Stewardship Council.

Thank you for the opportunity to comment on the proposed NES-PF 2015.



Simon Moran  
**MANAGER - RESOURCE MANAGEMENT**  
**SOUTHLAND DISTRICT COUNCIL**

## Mid Dome Wilding Tree Spread - Case Study

Mid Dome in northern Southland is an example of how wilding trees can spread from planted sources and threaten vast areas of vulnerable land over a time frame of a few decades.

Lodgepole pines (*Pinus contorta*) were planted by the government on 250 ha of Mid Dome between the 1950s and 1980s for erosion control. Strong prevailing nor-westerly winds make Mid Dome a perfect take off point for the up to 1.5 million seeds these wildings produce per hectare every year. Offspring from these very light, winged seeds have been found 40 kilometres downwind of Mid Dome and up to altitudes of 1400 metres. The shade and chemicals wilding pines produce allows only their own species to survive beneath them.

As a result at over 68,000 hectares of land has been affected. Of this 360 ha is very dense (closed canopy) and a further 1,990 ha is high to medium density infestations. The remainder varies from medium to very light. However it is known that wilding trees increase their areal extent at 6% per annum and can progress from light infestations to closed canopy within 60 years (see Figure 2).

Wilding exotic conifer spread impacts heavily on vulnerable hill and high country including grassland under low levels of economic use such as pastoral grazing as well as, shrub land and wetland. Some low light tolerant species such as Douglas fir can also colonise native forests such as beech. Up to 20% of New Zealand's land area is at risk.

The impact of wilding conifer from Mid Dome threaten an area of at least 215,000 ha to the downwind the east of the seed sources (see Figure 1).

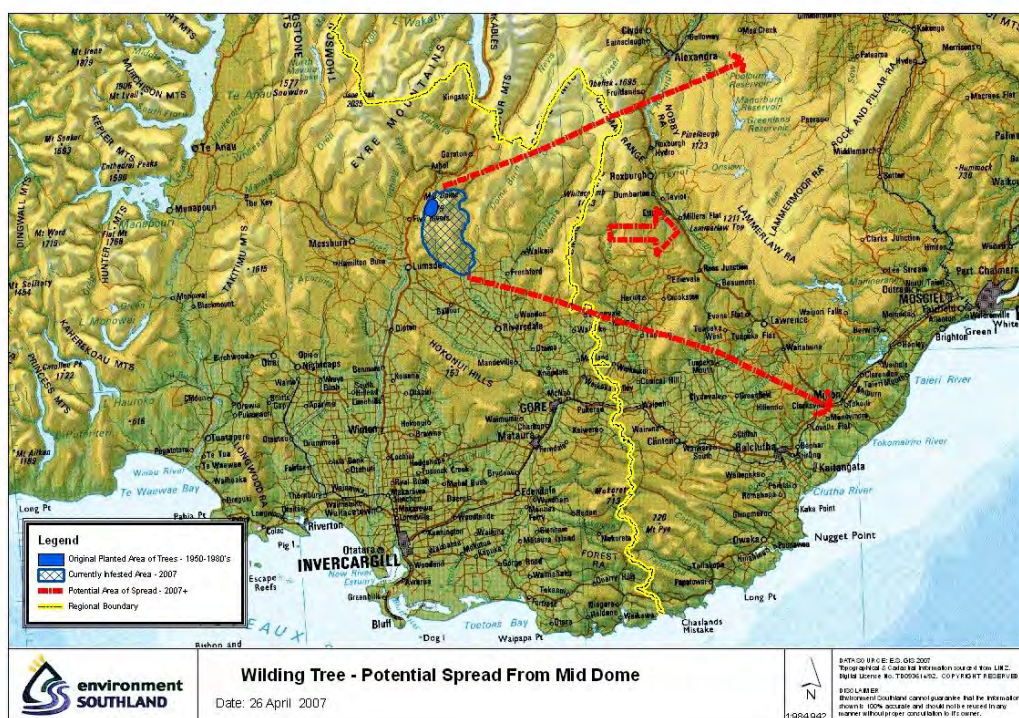


Figure 1: Wilding Tree - Potential Spread From Mid Dome

### **The Loss of Values Caused by Wilding Tree Spread**

1. Native biodiversity displaced including tussock grassland, shrub land and wetland on a landscape scale.
2. Loss of economic production from pastoral grazing.
3. The presence of undesirable tree species would impose costs on production forestry.
4. Reduction in water yield from important water source catchments.
5. Reduction of nature tourism opportunities.
6. Loss of recreational values i.e., tramping, mountain biking, fishing, hunting, etc.
7. Land scape change from indigenous New Zealand grassland to northern hemisphere exotic conifer forest.

### **The Increasing Costs of Wilding Tree Control at Mid Dome**

Date	Study	Estimated Total Cost	Time to achieve the eradication goal
1999	Ledgard	\$1.0M	
2008	Mid Dome Trust/DOC	\$8.56M	2018/2019
2014	Mid Dome Trust Strategy Review	\$8M+?	2024

Recent cost benefit analysis work done by Scion for the Ministry of Primary Industries indicate that the cost of wilding tree control may increase at 30% per annum in the absence of any control work.

### **Conclusions**

The situation at Mid Dome clearly illustrates the unintended externality impacts of planting exotic conifers at sites where they can spread onto adjacent land.

Obviously no serious consideration was given to offsite spread effects at the time of planting by the Government agencies responsible in the 1950s. However at the time this issue was raised by a number of concerned local land owners whose predictions have come to reality some 40 years later. Recent studies have also shown that the erosion benefits of tree planting at Mid Dome were negligible.

The Southland community and the Government are now faced with a major environmental problem at Mid Dome which is likely to cost in excess of \$10M to resolve over at least another 10 years. This cost will increase exponentially unless sufficient funding is secured to eliminate the wilding pine seed sources there within this period.

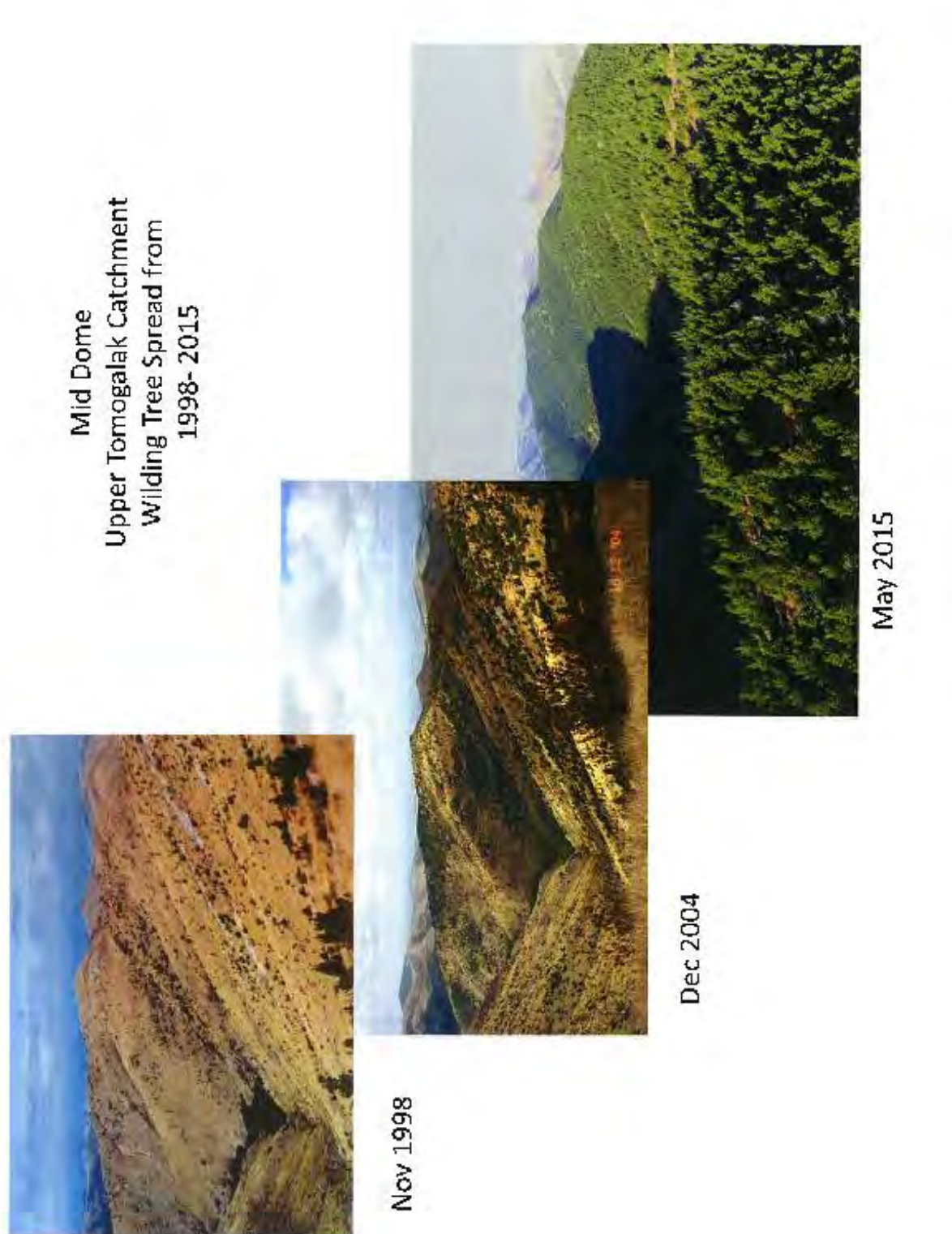
It is essential that effective planning measures exist to prevent planting of exotic species in sites from which they will cause unwanted spread. In addition it is critical that these are backed up by effective regulatory tools to deal with any externality issues caused by the failure to predict unwanted spread.

This example was provided by:

**Richard Bowman**  
**Biosecurity Manager**  
**Environment Southland**

14 July 2015





**Figure 2: Evidence of Rapid Increase in Spread and Density of Wilding Trees at Mid Dome**



# 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](mailto: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:**

Waikato District Council

**Postal address:**

s 9(2)(a)

**Phone number:**

s 9(2)(a)

**Email address:**

s 9(2)(a)

Are you submitting on behalf of an organisation? Yes [ ☒ ] No [ ☐ ]

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

Waikato District Council

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



### ***Privacy Act 1993***

Where you provide personal information in this consultation MPI will collect the information and will only use it for the purposes of the consultation. Under the Privacy Act 1993 you have the right to request access and correction of any personal information you have provided or that MPI holds on you.

### ***Official Information Act 1982***

All submissions are subject to the Official Information Act 1982 and may be released (along with the personal details of the submitter) under the Act. If you have specific reasons for wanting to have your submission or personal details withheld, please set out your reasons in the submission. MPI will consider those reasons when making any assessment for the release of submissions if requested under the Official Information Act.

*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?

Please provide comments to support your views.

Waikato District Council (WDC) generally agrees that these sections address the problems facing the foresters, forest owners and managers.

However WDC is concerned that the NES-PF does not address the range of resource management issues and adverse environmental effects associated with plantation forestry which directly impact on the natural and physical environment, public infrastructure (including roads) and communities. This is elaborated on elsewhere in the submission.



Please provide comments to support your views.

As noted above the range of adverse effects typically associated with forestry are not considered by the NES-PF. A primary concern of WDC is that the NES-PF has not considered impacts on the road network associated with harvesting, and has deemed them out of scope for the NES-PF.

WDC is further concerned about the reliance on a range of detailed assessments required to determine permitted activity status, and a number of unworkable rules, particularly in regards to monitoring and enforcement. Note other suggestions in regards to particular rules.

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?

Please provide comments to support your views.



The NES relies upon complex assessments and judgements to be made about compliance with activity status, the resulting determination of activity status will be open to interpretation and dispute, which has the potential for costly delays.

Not all conditions for permitted activities are useful for managing the effects of forestry and some conditions will be time consuming, complex and costly to monitor and enforce. Determining activity status is often open to interpretation and dispute which has a high potential for costly delays. The following illustrate that point:

- Replanting setback from SNA: What if the previous stumpline cannot be accurately identified to apply setback rules?
- Without the requirement for Harvesting Plans or Management Plans to be submitted to District Council, this leaves the monitoring of permitted activities difficult.
- Furthermore 20 Day notification of harvest would give little time for roading authorities to ensure roads are able to cope with the concentrated impact of heavy vehicle movements. Notification at least a year before harvesting would provide time for council to consider the impact on road networks and necessary mitigation.
- Wording such as “incidental damage” is very open to interpretation and hence such provisions are difficult to monitor and enforce.
- The noise rules should address hours of operation at the very least. The exemption for machinery seemingly undermines the purpose of the rule. Relying on Section 16 of the RMA to address noise from heavy machinery is very problematic in regards to monitoring and enforcement.
- Nesting times rule is not enforceable without evidence in the form of an ecological report to determine the actual or likely presence of nesting birds.

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)?

Please provide comments to support your views.



**Table 2: Matters where councils may apply more stringent rule**

WDC supports the the allowance for more stringent rules. WDC seeks that these be retained, and the following added:

- Explicit provision for TLAs to manage the adverse effects of forest harvesting on road networks.
- Explicit provision for TLAs to manage the adverse effects of forest harvesting in regards to other nuisance and amenity issues (e.g Vibration).

**Table 4: Matters out of scope for the NES-PF**

WDC recognises that there is the need to limit the scope of the NES-PF to production forestry as an activity, but does not agree that specific effects directly associated with production forestry be considered out of scope. By specifically exluding particular effects, the NES-PF does not consider the full range of resource management issues typically associated with plantation foresrty. Specifically vibration, hours of operation, and impacts on road networks (traffic and damage to networks) deserve further consideration under the NES-PF.



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 of the consultation document)?

Please provide comments to support your views.

WDC is concerned about the level of error potential in 1:50,000 LUC mapping relied on to determine the Erosion Susceptibility Classification (ESC). 1:10,000, at least, is typically used in both District and Regional Plans.

If the ESC is to function effectively, further refinement is needed in order to provide certainty about the anticipated environmental outcomes of permitting various plantation forestry activities. For instance, if plantation forestry is deemed to be permitted on land that is in fact at a high risk of soil erosion, then there could be significant adverse effects on the environment from carrying out certain aspects of activity associated with plantation forestry on such land.

This concern, or risk, is addressed in the assessment carried out by the Canterbury University Report (2011) prepared for MFE in preparing the NES-PF. A subsequent Landcare Research report (2015) provides recommendations on how to incorporate detailed mapping, yet these recommendations do not seem to carry across into NES-PF provisions.

WDC is concerned that the costs of this further mapping at a detailed level has not been fully considered. It is expected that MPI should provide funding to cover the costs of correcting mapping errors.

The matter of costs is even more germane should the NES-PF adopt the recommendations of the Landcare Research report (2015) and explicitly provide for a process to allow property based LUC mapping to confirm the risk classification zones where there is concern about mapping accuracy. This would allow for more detailed mapping (i.e. at a property level, 1:5,000 or 1:10,000 level) to then feed back into the mapping held by MPI for this data set to be updated.



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

Please include reference to the rule you are referring to.





## **A. Afforestation Rules**

### **Permitted Activity Conditions**

An additional permitted activity condition should be added requiring notification of afforestation to District and Regional Councils, similar to that required for harvesting. This would mean that the permitted activities associated with afforestation can be monitored, and further that the impacts on roading networks can be considered by TLAs.

Wilding Tree Risk – This should be the jurisdiction of Regional Councils not District Councils.

Setback (pg 62):

Setbacks – Table needs an extra row separating Regional and District jurisdiction on Page 63 between road setbacks (District) and waterway setbacks (Regional). This would make the setback rules consistent with the matters to which distriction is restricted to on page 64.

## **B:Earthworks**

### **Permitted Activity Conditions**

Jurisdiction for notice of commencement: Should be reworded to 'District & Regional'.

## **C: Harvesting Rules**

### **Harvest Planning:**

WDC is concerned about the general blanket approach in the use of permitted activities with a requirement to supply plans and reports which have no requirement to be developed to a currently known or agreed standard. WDC considers that the Harvest Plan templates are a key aspect which will determine how the majority of adverse effects of forestry will be managed and therefore should be publicly consulted on.

The proposed rule framework does not require at any point that Harvest Plans be provided to District Councils. This is inconsistent with Section 5 of the consultation document which indicates that both regional and district councils will be provided with Harvest Plans. Only with attaining the Harvest Plans could District councils have knowledge of the harvesting, thus allowing for more appropriate monitoring of the permitted activity controls which they have jurisdiction over (e.g. vegetation removal).

### **Replanting**

Jurisdiction should not be blank for the Permitted Activity Rule around the use of genetically modified tree stock. Recent Environment Court cases indicate that EPA, Regional Councils and District Councils have a function in this regard.



## **General Conditions**

### **Vegetation Clearance and Disturbance:**

The EIA prepared for the NES-PF does not address effects on terrestrial indigenous biodiversity, and more specifically, significant indigenous flora and significant habitat of fauna (SNAs). Following from this, the vegetation clearance rule fails to consider the cumulative effect of vegetation clearance and the potential that clearing an area of indigenous vegetation could compromise a SNA. Other permitted activities require reporting to consider the adverse effects of an activity and appropriate mitigation plans (e.g. through Harvesting Plans). In this vein, the rule should require the preparation of an ecological assessment to determine the effects on Significant Natural Area and its likelihood to recover in the stated period of 5 years.

### **Noise**

Exemption for machinery undermines the stated purpose of the rule. The majority of noise will be associated with machinery so this rule will likely serve no purpose.

### **Hours of Operation**

Hours of operation should also be considered as a measure to avoid undesirable impacts of forestry on communities and households, particularly given these are not considered in Table 2. WDC recommends that there should be rules for hours of operation and these should be considered in Harvest Plans.

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.

WDC does not agree that certainty of process and outcomes for stakeholders, councils or communities will be improved through the proposed NES-PF provisions. The primary reason for this is that there are a multitude of complex permitted activity standards which will require detailed investigation and reporting.

Monitoring the NES-PF provisions will likely be problematic, as elaborated elsewhere in this submission.



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.

WDC is concerned that the costs of monitoring permitted activities under the NES-PF have not been adequately quantified. WDC is further concerned that there is no mechanism in the NES-PF to recover the costs of monitoring the permitted activities, which at times would require particular expertise to monitor to ensure compliance. These costs would then fall on the ratepayer.

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.

Note comments in 13 on implications the use of permitted activity status. Note also above the comments above relating to issues of monitoring and enforcement.

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

WDC does not agree with the proposition in the consultation document that 'the wider public will experience indirect benefit from the great certainty about environmental effects'. This is because the NES-PF has not addressed the full spectrum of adverse effects associated with production forestry and for those effects that are considered, the provisions are complex and require specialist investigation to determine the relevant activity status.

WDC is primarily concerned that effects of heavy vehicle traffic movements associated with harvesting have not been considered.

Furthermore, the NES-PF is inconsistent in regards to how it would manage the adverse effects associated with forestry. A clear example of the above is how the NES-PF has considered matters of nuisance. Vibration is not considered under the NES-PF given it is deemed a nuisance, yet noise is considered in scope (note WDC's particular concerns regarding the noise rule).



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.

Regional Councils are best positioned to provide feedback on this matter.

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)?

WDC would prefer further training within the industry and councils. Online training and on site training around the country would be appropriate. Guidance and training on monitoring and Harvest Plans would assist Local Authorities to manage compliance.

Training on managing the effects of matters not considered by the NES should also be addressed in this training (impacts on road networks, vibration, noise).

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

WDC is concerned that the the Environmental Impact Assessment (EIA) prepared for the NES-PF does not consider the full range of environmental impacts associated with production forestry. This is evident in that:

- There is no social component to the EIA and as such matters such as noise and vibration are not assessed.
- The NES-PF does not consider impacts on public infrastructure (i.e. road networks) and deems these effects of forestry as out of scope.
- The EIA notes that the impacts on freshwater and terrestrial biodiversity are considered within scope. However, the report then remains silent on terrestrial biodiversity and does not consider any potential or likely impacts of the NES-PF on terrestrial biodiversity.



# 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](mailto: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:**

Contact person: Kevin Tiffen

**Postal address:**

s 9(2)(a)

**Phone number:**

s 9(2)(a)

**Email address:**

s 9(2)(a)

**Are you submitting on behalf of an organisation? Yes. If yes, which organisation are you submitting on behalf of?**

Waimate District Council

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

We are a territorial authority and also own/manage approximately 210ha of forest.



### ***Privacy Act 1993***

Where you provide personal information in this consultation MPI will collect the information and will only use it for the purposes of the consultation. Under the Privacy Act 1993 you have the right to request access and correction of any personal information you have provided or that MPI holds on you.

### ***Official Information Act 1982***

All submissions are subject to the Official Information Act 1982 and may be released (along with the personal details of the submitter) under the Act. If you have specific reasons for wanting to have your submission or personal details withheld, please set out your reasons in the submission. MPI will consider those reasons when making any assessment for the release of submissions if requested under the Official Information Act.

*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?

Please provide comments to support your views.

Council supports the notion of removing uncertainty or unwarranted variations between Plans (or Councils) where the environmental, economic, social or cultural benefits are not justified and where unnecessary cost is imposed.

With our Council, all of our forestry activity is all located within the Waimate District, so we are not necessarily aware of the variation of planning controls that are highlighted in the document.

We do, however appreciate that variances will occur across different districts as districts are quite diverse in terms of topography, land use/ownership, climate (rainfall, snow, droughts), soil type, vegetation cover, irrigation, erosion, water catchments, and economic considerations. So it is considered that Councils will still need to manage some aspects of forestry activity, in particular sensitive areas.



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

Please provide comments to support your views.

It is considered the proposed NES-PF conditions for permitted activities will manage most phases of the forestry cycle however, because of the diversity between different districts, some localised effects needs to be managed at a local level, in particular sensitive areas in our district such as the hill and high country areas. Currently, these effects are managed through the resource consent process. It is noted that Tables 2 and 4 and Appendix 3 of the document attempt to summarise those matters over which Council can retain local decision making (see answer to question 4).

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?

Please provide comments to support your views.

The activity-specific rules, appear to be generally clear and measureable. However, additional interpretation, training or clarity may be required at the time of implementation. As mentioned in the answer to question 6, it needs to be clarified as to whether it is the tree trunk or the edge of the mature tree canopy where the setback dimensions for tree planting are measured from.

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)?

Please provide comments to support your views.

Currently in the Waimate District Plan, it is only the identified 'hill and high country' of the district where resource consent is specifically required. This recognises that the hill and high country is generally more sensitive to the environmental effects of forestry. It is impracticable for the District Plan to be so well detailed so as to capture individual site characteristics or levels of sensitivity. The blanket identification of the 'hill and high country' as currently identified in the District Plan is preferred as it gives Council the overall broad discretion in terms of the environmental effects of a forestry activity, particularly for fire risk areas and water catchment areas that extend beyond an individual site. Also, consideration to other relevant matters resulting from forestry activity such as 'cumulative' effects, or 'consequential' effects, or 'reverse sensitivity' issues, or even 'amenity values' are not possible with permitted activities.

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 of the consultation document)?

Please provide comments to support your views.

It is considered that these are effective assessment tools but the concern is who is doing the assessing (i.e. forest owner or Council), and where do the results go to and can the Council do a peer review. Since proposed forestry will be a permitted activity throughout the districts under the proposed NES-PF, there does not appear to be any requirement for the forest owner to actually inform the territorial authority of their new forest activity, even though Councils are expected to give effect to the proposed NES-PF in their district plans. It is obvious that Councils will have to do more monitoring of permitted activities where often the forests are planted in remote areas having limited accessibility.

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

Please include reference to the rule you are referring to.

In general, the activity-specific rules covering the whole life cycle of a plantation forest are supported, however it is considered that the one rule does not fit all. For example, the proposed NES-PF specifies a minimum setback of 5m from a wetland (that is 0.25ha in area or more). By comparison, the Waimate District Plan specifies a setback of 50m from a wetland. This 50m setback has been established taking into account the nature of our wetlands and their sensitivity to adjacent land uses. The level or extent of our typical wetland can fluctuate depending on a number of factors like the amount of rainfall, or period of drought, or effect from attached river systems, or effect of irrigation, or effect of adjacent farming practices, or the nature of existing vegetation/planting or even intrusion by seawater. Often, at any particular time, there are no hard edges to the wetland to actually determine where a wetland starts and finishes. Similarly, for other waterbodies such as for rivers/streams and for lakes, the Waimate District Plan specifies larger setbacks of 20m and 100m respectively. These larger setbacks allow for some discretion as to where a waterbody starts and finishes. With the proposed NES-PF containing minimal setbacks, there is little scope for discretion or interpretation. The 20m setback from rivers/streams coincides with the commonly recognised 20m width for esplanade reserves/strips.

IMPORTANT: It is assumed that the setbacks specified in the proposed NES-PF, in particular to tree planting are measured to the outer future edge of the mature tree canopy rather than to the tree trunk. If the setback relates to the trunk of the trees, then the 5m specified setback from rivers/streams and wetlands is totally inadequate. Rivers/streams of less than 3m in width would eventually become enclosed by the tree canopy and this would also affect the riparian areas of the other waterbodies, including wetlands.

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.

On the face of it, the proposed NES-PF appears to be the best option available at this present time. However, there needs to be a wider or overall discretion for Councils to manage the environmental effects of forestry in sensitive areas, in particular with regards to ‘cumulative’ effects, ‘consequential’ effects, ‘reverse sensitivity’ and ‘amenity values’.

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.

It is considered that the expected costs and benefits of the NES-PF have not been adequately identified in respect of the cost to the territorial authority to monitor permitted activities, particularly those in sensitive areas of the district which would otherwise require resource consent. In the user pay environment, consent holders of resource consents are expected to meet reasonable costs caused as a result of their particular activity, otherwise the general ratepayer is subsidizing the activity or private enterprise.

Permitted activities are determined where the environmental effects of those activities are acceptable to the public. Hence, it is difficult for Councils to extract individual costs for monitoring those permitted activities. For this reason, Council don't generally monitor individual permitted activities unless responding to a particular complaint. A resource consent application for forest activity in sensitive areas would enable closer scrutiny of the actual environmental effects being caused and associated cost recovery.

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.

As a permitted activity, there appears to be no requirement for the forest owner to actually consult/inform Council of a new forest activity. As with other National Environmental Standards that are in place, i.e. ‘electricity transmission activities’ and ‘telecommunication facilities’, it is essentially self policing by the utility operators and Council is seldom involved unless a Certificate of Compliance (as provided under the RMA) is sought for a particular project or resource consent is required. With the proposed NES-PF, it is assumed that the forest owner will self assess their own compliance with the conditions for permitted activities. If forest owners were required to obtain a Certificate of Compliance or a letter of acceptance for their permitted activity, then that would ensure the successful implementation of the NES-PF. This would likely mean some nominal cost to the forest owner but the cost would fairly lie where it belonged.



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

A particular concern the Council has (in addition to the smallish setbacks required for tree planting next to rivers/streams, lakes and wetlands) is where tree planting occurs near roads that can directly affect driver visibility especially at road intersections and bends, even if there is no shading being caused to the road. The varying geometry, widths and contours/topography of roads and adjacent land can make it difficult to absolutely manage the effects of forestry on driver visibility on roads through prescribed rules contained in the District Plan (or proposed NES-PF for that matter). Site by site assessment through the resource consent process is still preferred as the most difficult roads tend to be located in the 'hill and high country' areas of the district.

Roads (and boundary lines between properties) also tend to be wide open spaces between plantings where specific fire breaks may be required. This does not happen everywhere but a resource consent does allow consideration to be given to having larger setbacks than just for avoiding shading so as to accommodate fire risk assessments including provisions for locating storage ponds for fire fighting purposes.

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.

In general, it is considered the proposed NES-PF will assist regional councils to implement the NPS-FM through consistent planning controls for some phases of the life cycle of a forestry plantation.

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)?

Training, on-line modules and guidance material particularly relating to interpretation would be most helpful. In addition, forest owners should be required to obtain confirmation that their forestry is a permitted activity.

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

Council is of the opinion that the 1 hectare area threshold under the proposed NES-PF is relatively small in the rural environment and could at least be increased to 2 hectares which would match MAF's lower limit for deforestation relating to carbon credits. It is quite common for farms to have a small woodlot or plantation where the environmental effects are relatively minor.



## SUBMISSION ON NATIONAL ENVIRONMENTAL STANDARD FOR PLANTATION FORESTRY – CONSULTATION DOCUMENT

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### Introduction

1. Waipa District Council (Waipa) thanks the Ministry for Primary Industries for this opportunity to provide feedback on the National Environmental Standard for Plantation Forestry consultation document. Waipa is the owner of 237 ha of plantation forestry.
2. In the Waipa context land values and soil capability classes are such that woodlot rather than commercial forestry operations are the most likely form of forestry activity, and currently forestry represents a very small percentage of landuse. However Waipa recognises that forestry rather than pastoral farming of some areas of marginal hill country would potentially provide a benefit to land stability and water quality for a substantial part of the growth cycle.
3. The desirability of more nationally consistent resource consent requirements for forestry is acknowledged but the permissive one size fits all approach is not considered to reflect the complexities of site specific constraints and the variety of scale of forestry operations across New Zealand.
4. This submission represents the views of the Mayor and elected members of the Waipa District Council.

## Issues facing forestry

5. The National Environmental Standard – Production Forestry (NES-PF) asks:

***Q1 Do you think section 2.1 and 2.2 of the consultation document accurately describe the problem facing forestry?***

6. Waipa considers that these sections do address many of the issues facing forestry, however Waipa is concerned that some adverse effects are not adequately considered.
7. In particular, the adverse effects that forestry can have on public roading infrastructure has been left outside the scope of the document, but is a significant issue. In addition the issues associated with landscape effects are not adequately addressed.

## Permitted Activity Conditions and adverse effects

8. The NES-PF asks:

***Q2 Do you consider that the conditions for permitted activities will manage the adverse environmental effects of plantation forestry?***

9. Waipa notes that the NES-PF makes forestry a permitted activity over the majority of Waipa District subject to the provision of suitable site specific plans such as a Harvest Plan, a Forestry Quarry Management Plan, and an Erosion and Sediment Control Plan.
10. Permitted activity status is problematic when the activity standards require site specific management plans that require technical review to ensure their appropriateness. The range of scale and experience of forestry harvesting operators leads to potential variability in adequacy of harvesting plans, which in turn means careful reviews of these documents are required. There is no mechanism to recover the cost of such technical reviews without a resource consent process, which leads to an equity issue where the wider community ends up indirectly paying for these assessments.
11. Waipa considers that the NES-PF should provide for cost recovery for technical reviews of Plans and monitoring costs – either through a consent process or other equivalent process.

***Q6 Any comments on any particular activities or draft rules(appendix 3)?***

12. Mechanical land preparation, earthworks and quarrying all have potentially significant landscape effects depending on location, scale and design to address site specific constraints. The permitted activity status for mechanical land preparation and earthworks should be location, volume and extent based rather than given a blanket permitted activity status. In addition Erosion and Sediment Control Plans

need to be assessed for appropriateness to site specific issues, which permitted activity status does not provide a clear mechanism for. The adverse effects of mechanical land preparation and/or earthworks may occur months after planting or harvesting activities have ceased, creating enforcement difficulties.

13. Waipa request the NES:
  - a. set a maximum area for mechanical land preparation and
  - b. Set a maximum volume and cut and fill height for permitted activity earthworks dependent on erosive characteristics of soil types and whether or not the site is in a landscape area, and
  - c. reduce permitted activity quarrying volumes permitted on an annual basis, and require a consent and a management plan when volumes exceeded.
14. Waipa considers that harvesting as a permitted activity should not include damage to indigenous vegetation within an identified SNA, other than on existing vehicular access tracks. Evaluating whether or not vegetation is 'at the edge' or is 'likely to recover' is subjective and not suitable for a permitted activity standard.
15. Waipa has some concerns regarding the permitted activity setback standards. These are:
  - a. Proximity to railway lines and overhead power lines is not included in the afforestation setbacks, but is included in Waipa District Proposed Plan. In the Waipa context these utilities were considered to warrant a setback to ensure ongoing operations and supply were not compromised.
  - b. The afforestation setbacks refer to urban/residential zone setbacks. In the Waipa context there are also zones providing for rural residential living (Large Lot Residential Zone) and marae living (Marae Development Zone), which also warrant setback protection. This could be addressed by refining the definition of 'urban zone'.
  - c. The road setback refers only to shading risks where icing might occur, which is subject to change as trees grow. Shading and icing are not the only risks that forestry present to road function, and primary or strategic roads require greater setbacks for safety reasons such as visibility.

### **Enforceability of permitted activities**

16. The NES-PF asks:

***Q3: Are the conditions for permitted activities clear and enforceable? Can you suggest ways of making the rules clearer and more enforceable?***
17. Waipa is concerned that the activity standards require site specific management plans that require technical review to ensure their appropriateness. The range of scale and experience of forestry harvesting operators and the range of site specific factors leads to potential variability in adequacy of management and harvesting

plans, which in turn means careful reviews of these documents are required. Waipa is concerned that there is no mechanism to require reviews of inadequate plans or to recover the cost of such technical reviews without a resource consent process. Waipa is concerned that this leads to an equity issue where the wider community ends up paying for assessment and enforcement.

18. Waipa considers that, should a permitted activity status be pursued, far more detail is required about the contents and site specific criteria to be considered in the various plans. The alternative is to consider a Controlled activity status, where consent is assured provided that the matters of control are suitably addressed.

#### **Ability to be more stringent**

19. The NES-PF asks:

***Q4: Are the matters where local authorities can retain local decision making appropriate?***

20. Waipa agrees that it is appropriate for Councils to set more stringent rules in relation to Outstanding landscapes, areas of cultural value or heritage value, and SNA. Waipa is concerned however that 'incidental' damage to SNA is excluded, as this is a subjective assessment and could result in significant adverse effects.
21. Waipa considers that there are additional situations where an ability to be more stringent is appropriate as follows:
- a. In identified significant landscape areas (other than outstanding landscapes) where activities could compromise identified values
  - b. Where known habitat of at risk or threatened species that may not be an identified SNA is affected
  - c. Where harvesting activities are undertaken at a time, location or intensity that will affect public infrastructure
  - d. Where genetically modified tree stock is used to ensure potential adverse effects on areas of significant natural biodiversity are avoided, remedied or mitigated appropriately.
22. The NES-PF does not specifically enable Councils to be more stringent and address the matter of potential effects on roading infrastructure, although it does identify it as being outside the scope of the document. The permitted activity status does not reflect the scale of potential adverse effects of logging traffic on smaller roads when soils are water sensitive, and soil profile is saturated.

## Risk Assessment tools

23. The NES-PF has asked:

***Q5 Will the environmental risk assessment tools appropriately manage environmental effects as intended?***

24. Waipa considers that the risk assessment tools need to be clear and certain to enable prompt decisions to be made as to whether resource consents are required or not. In this regard Waipa are concerned that the Erosion Susceptibility Classification is not sufficiently detailed to enable such decisions to be made.

25. Waipa considers that the Wilding Spread Risk Calculator and its relationship to the National Policy Direction for Pest Management and Regional Pest Management Plans is also not sufficiently clear and certain to enable robust assessments of activity status to be made.

## Best option

26. The NES-PF has asked:

***Q7 Is the NES-PF the best option to meet the assessment criteria (Box 13)?***

27. Waipa is concerned that the NES-PF does not improve certainty of environmental outcomes as there are a number of permitted activities that require detailed investigation and reporting, and the quality of these may be variable. The monitoring of reports and performance will be potentially costly to the community.

## Costs and Benefits

28. The NES-PF has asked:

***Q8 Have the expected benefits and costs of the NES-PF been adequately identified (section 4.3)?***

29. Waipa considers that an NES-PF would potentially aid in consistency on a National basis. However the economic impacts of monitoring and enforcement of complex permitted activity standards have not been quantified or addressed.

30. The NES-PF does not specifically enable Councils to be more stringent and address the matter of potential effects on roading infrastructure. The permitted activity status does not reflect the scale of potential adverse effects of logging traffic on smaller roads when soils are water sensitive, and soil profile is saturated. The economic cost to ratepayers of fixing roads can exceed the contribution of forestry properties to roading via annual rates, when access to forestry is off low volume minor roads and/or when harvesting occurs when water tables are high.



## Implementation Issues

31. The NES-PF has asked:

***Q9 Are there any issues that may affect the successful implementation of the NES-PF?***

32. Waipa considers that the potential variability in quality of management plans required under permitted activity standards and cost of monitoring and enforcement will affect the successful implementation of the NES-PF. In addition the subjective assessments required in the permitted activity standards have the potential to not result in locally positive environmental outcomes.
33. Waipa also considers that the tight timeline for implementation of the NES will impose considerable financial burden on District Councils in respect of availability of resources to appropriately amend Planning documents and processes to comply.

## Risks and Opportunities

34. The NES-PF has asked:

***Q10 please describe any risks or opportunities not identified or addressed in the proposal?***

35. Waipa considers that the potential risks of environmental effects of management activities over the lifecycle of trees, such as spraying, potential effects on water catchments and adjacent SNA have not been clearly identified or addressed. In addition Waipa considers it would be more holistic to consider the effects of forestry over the life cycle of the trees rather than separating out planting from harvesting when determining consent status, to avoid trees being planted in areas that are too difficult to harvest.

## Resources Required

36. The NES-PF has asked:

***Q12 What resources or other implementation activities would help you prepare for and comply with the proposed NES-PF? (Section 7)***

37. Waipa considers that detailed management plan guidelines that address the range of site specific issues that may arise and the level of detail required to provide adequate information in various scenarios will be required.
38. Waipa considers that the NES needs to provide for a longer timeframe than 6 to 12 months for determination of where more stringent rules will apply and to amend the District Plan to comply with the NES.

**For enquiries regarding this submission please contact:**

Susan Brennan  
Senior Policy Planner





11 August 2015

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

Email: [NES-PFConsultation@mpi.govt.nz](mailto:NES-PFConsultation@mpi.govt.nz)

Dear Stuart,

**Submission - Proposed National Environmental Standard for Plantation Forestry**

Wanganui District Council would like to thank the Ministry for Primary Industries for the opportunity to contribute to the discussion on the proposed National Environmental Standard for Plantation Forestry (NES-PF). This submission addresses the questions provided in the consultation material. Comments have not been provided where questions relate more to the experience of industry or regional council functions.

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

No comments to provide.

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

To assist in the understanding of the applicable rule structure and how it relates to a specific forest proposal, it would be beneficial for both consent authorities and forest management to elevate many of the proposed permitted activities to controlled activity status. This would enable summary, assessment and consideration of a forest proposal through a resource consent application. The consent authority would be obliged to approve such a resource consent application, but this process would enable all of the relevant facts to be identified and presented through a formal process. This could avoid ambiguity in interpretation of the regulations and allow assessment of technical measures such as forestry shading drawings.

Approval of neighbouring land owners to the infringement of permitted activity performance conditions can be problematic to document, and further specifics (for example forms, level of detail viewed, documents signed) should be specified. Given the long term and progressive (trees growing) nature of forestry development, property title information should be provided to confirm that all appropriate parties have provided consent.

Infringement of a setback standard may result in effects being experienced by more than one neighbouring dwelling. The NES-PF provision for permitted performance conditions to be infringed with agreement of the neighbouring dwelling owner, could result in other affected property occupiers being adversely affected without opportunity for input. This provision should be amended requiring

assessment and consideration of all properties that would be affected by the infringed performance condition. Such revision to capture multiple affected parties would be better managed through a controlled activity status resource consent application.

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

Given the range of intended NES-PF users, provisions need to be clear and prescriptive. There should not be any requirement for subjective assessment of compliance or otherwise with provisions. Such provisions would introduce ambiguity in the NES-PF interpretation and potential conflict between NES-PF users.

The earthworks conditions are one such area where there is potential for difference in the interpretation of subjective matters.

**4. Are the matters where local authorities can retain local decision-making appropriate?**

The proposed provisions to enable consent authorities to impose stricter rules for forestry are important to enable effective planning to incorporate the protection of, or mitigation of effects on, local features. In particular, the Wanganui District Council is supportive of the ability to impose stricter rules relating to areas of outstanding natural features and landscapes and significant natural areas.

However, there is concern regarding the delay incurred in the required plan change process to incorporate such measures into a District Plan. Consideration should be given to provisions to delay the effect of the proposed NES in such areas to enable plan changes to be progressed as required.

**5. Will the environmental risk assessment tools appropriately manage environmental effects as intended?**

Without detailed experience using the risk assessment tools, it is difficult to evaluate their effectiveness.

Further clarification of the Erosion Susceptibility Classification reassessment system should be provided as part of the final proposed NES, confirming that initiators of the review mechanism would be required to fund the work.

**6. Do you have any comments about any particular activity or draft rule?**

**Wilding Tree Risk**

As Regional Councils are already working on control of this risk, and the potential effects should be considered at a regional scale, it would be more appropriate for control of this to rest with Regional Councils.

**Setbacks**

The term "Urban/residential zone" requires further clarification. For example, is urban zone intended to include commercial and industrial zones, where rules would protect working conditions rather than the living conditions of residential zones?

**Afforestation**

Restricted Discretionary matters – the rationale to the restricted discretionary matters lacks reference to the district council matters (road safety and neighbouring amenity).

The note “consents in Orange Zone to be non-notified” seems inconsistent with the potential effects of forestry on neighbouring properties, for example a consent required due to infringement of set back to a neighbouring property would be expected to provide for involvement of the affected party through the process.

#### Quarrying

##### Permitted Activity Conditions – Visibility

As a permitted activity condition, the limit of 5000m<sup>3</sup> of material quarried over a five year period would be difficult to assess and monitor.

##### Permitted Activity Conditions – Property Setbacks

This should relate to any not an existing dwelling, to ensure that all dwellings within 500m of a quarrying proposal are considered to be affected.

The related restricted discretionary matters should also provide specific allowance for consideration of amenity of neighbouring properties.

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

No comment.

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

There is potential for significant upfront and ongoing costs to be incurred by Council’s from the enactment of a NES-PF as currently proposed.

Plan change work would be required to ensure that outstanding areas within the District, which were of national significance, benefited from suitable exemption from the NES-PF.

The permitted activity status is likely to result in compliance assessment and monitoring costs not being captured by consent authorities. In this respect, a controlled activity status would be a preferable method of capturing all required information, such as shade drawings for reduced setbacks, at the outset of forestry planning and providing an opportunity for assessment within a formal structure.

#### **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)?**

Extensive training will be required to ensure that both industry and Councils are familiar with the NES provisions prior to enactment. It will also be necessary to draw industry user attention to the ability of Councils to adopt exclusion rules as provided in the NES-PF, and ensure that the NES-PF is not viewed as the sole relevant document.

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

In the absence of a formal assessment procedure, the permitted activity structure could result in differences of NES-PF interpretation not being identified at an early stage, resulting in more costly subsequent resolution.

The format of the provision of adjoining land owner approval should be specified to avoid misinterpretation.

The relationship of forestry activity with any applicable development contribution policy (generally expected to relate to road impact) should be addressed in the NES-PF to clarify that a permitted activity could still be subject to development contributions.

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

Not applicable to Wanganui 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)?**

In addition to road show training forums, a user guide detailing multiple worked examples of each activity type, with examples of both small and large projects, would provide a useful reference.

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

No further issues.

Thank you again for the opportunity to comment on the proposed NES-PF. I look forward to seeing the results of the consultation exercise and the progression of the document.

Kind regards,

A handwritten signature in black ink, appearing to read 'JB/Kaye'.

Jason Kaye  
Resource Consents Team Leader



To: NES-PF Consultation  
Attn Stuart Miller  
Spatial, Forestry and Land Management  
Ministry for Primary Industries  
P O Box 2526  
Wellington 6140

From: Wellington City Council

Contact: Alison Newbald  
Senior Advisor District Plan, City Planning and Design

## 1. Wellington City Council Context

### 1.1 Forestry within Wellington City

Wellington City Council (WCC) own and manage a number of forests within its open space and recreation network. It is anticipated the proposed NES- PF could impact on about 130ha of Council owned forestry.

WCC's forests are zoned Rural and Open Space and occur in a range of rural and urban environments. WCC's forests are managed for a range of commercial, recreational and ecological purposes. In undertaking its forestry operations Council seeks to achieve good environmental outcomes and all forestry operations are carried out at or above industry best practice.

WCC has no data on the extent of private forestry within WCC boundaries. However, forestry does not make up a large portion of the land cover within our rural area and is not considered a significant rural industry within Wellington City.

WCC supports measures that will improve environmental outcomes from forestry operations but does not believe that the proposed NES-PF as currently worded will achieve this. WCC has a number of concerns relating to the enforcement, compliance, workability and cost to Council of the NES-PF. WCC is also concerned about the effect of the NES-PF in creating inequities between forestry and other rural activities when the effects on the rural environment of those activities are the same.

### 1.2 Existing District Plan Rules

WCC's Rural Area is located close to the City and is predominately hilly with narrow valley floors. Pasture is the predominant land cover. The rural area is characterised by a small number of narrow, windy roads.

The WCC district plan takes an effects based approach to rural activities within its Rural Area. Rural activities and rural buildings are permitted (with a few exceptions) and residential buildings require a resource consent. Permitted activities are subject to a range of permitted activity conditions that recognise the effects of activities rather than the activity itself. The effects of activities that are controlled by the district plan are those that are of most importance to the community of Wellington.

As a rural activity forestry is permitted in the Rural Area and is not subject to any specific conditions. Earthworks, site access and noise associated with rural activities are permitted but are subject to limits to control the specific effects of these activities. A resource consent would be required if the specified limits are exceeded. Any form of quarrying within the Rural Area is not permitted and would require a resource consent.

The district plan recognises the importance of the rural landscape to Wellington through the provision of a Ridgelines and Hilltops Overlay. The overlay does not restrict rural activities, such as forestry but does have a lower threshold for activities such as earthworks and requires additional assessment for the construction of buildings.

### **1.3 Effect of the NES Plantation Forestry – Wellington City District Plan**

The NES-PF will be more restrictive for forestry (afforestation) than WCC's district plan. Specifically the forestry setbacks and wilding risk calculator represent a greater degree of control and assessment than presently exists in WCC's district plan.

The introduction of setbacks for forestry activities is not opposed subject to the general comments below about the workability, measurability and certainty of permitted activity conditions. The use of the wilding risk calculator tool to determine activity status is not supported as it is not certain and Council does not have the relevant expertise to use it.

The NES-PF noise levels are similar to those found in the WCC district plan for the Rural Area and the difference for WCC's district plan is minimal. The noise provisions are not opposed subject to the comments below about where noise measurements should be made.

The NES-PF will be less restrictive for quarrying, earthworks and site access activities which will become permitted (subject to some limited conditions).

WCC has a number of concerns with the approach of the NES-PF within the Wellington context. In particular WCC has concerns about:

- Certainty, measurability and enforceability of permitted activity conditions (and the cost to Council)
- the extent to which earthworks and quarrying are permitted
- the creation of a permitted baseline for earthworks and quarrying activities associated with other permitted rural activities within the Rural Area;
- traffic safety and the lack of control on site access and truck movements;
- landscape effects from earthworks/quarrying.

WCC's general and specific concerns are outlined below. WCC also supports the submission made by Local Government New Zealand.

## **2. General Approach**



## 2.1 Permitted Activity Rules and Standards – Certainty

Permitted activity rules and conditions should be measurable and certain. Permitted activities should not require the exercise of discretion to determine if the activity is permitted and it should be possible to determine from reading the rule/condition whether the activity is permitted.

As currently drafted the NES-PF permitted activity rules and conditions contain many examples of where council's would be required to exercise discretion. For example, a number of the conditions require council to determine whether something is 'safe' or has a 'significant effect'. Both of these require Council to make a value judgement and are open to interpretation.

The permitted activity rules and conditions as currently drafted will require a significant amount of time and resources to determine whether an activity is permitted or whether a permitted condition has been breached. Pursuing enforcement is time consuming and expensive.

As currently worded the potential for there to be differences in interpretation of the rules/conditions between the Council and forestry operators/owners could result in disagreements and greater uncertainty. The outcome of certainty to forestry owners and operators will not be achieved.

The use of permitted activity rules and conditions that are not measureable or certain and which require council to make a value judgement are not supported.

### Outcome Sought

**Ensure** all permitted activity rules and conditions are measureable, certain and do not require the Council to exercise a level of discretion.

## 2.2 The requirement for Management Plans as a condition of Permitted Activities

The use of management plans as a permitted activity condition to control the effects of an activity will present significant enforcement, compliance and quality control issues for both territorial and regional authorities.

Management plans can be an effective tool to manage the effects of an activity when a resource consent is required. The process of applying for a resource consent provides the framework within which the adequacy and comprehensiveness of the management plan can be assessed.

Where management plans are to be used to manage the effects of forestry operations a resource consent should be required. It may be appropriate to use the controlled activity status (or restricted discretionary activity status) to provide certainty to forestry owners, but also provide Council's with a mechanism to approve and request modifications to management plans.

### Outcome sought:

**Require** a resource consent application for activities that require a management plan to control the effects of an activity (e.g. Erosion and Sediment Control Plans).

## 2.3 Setbacks and consent of adjoining owners within a permitted activity context

Setbacks from adjoining properties are a useful tool to manage the shading and other effects of forestry on adjoining property owners. Any reduction in the setback should require a resource consent application to enable the full effects of the reduction on the environment.

WCC accepts that the legal advice received by LGNZ indicates that these rules may be acceptable, however WCC believes that they do not represent best practise or good rule drafting.

**Outcome Sought:**

**Require** a resource consent where there is to be a reduction in any setback with an adjoining neighbour.

**2.4**

**Site access, traffic management and the roading network**

WCC's rural roads are narrow and windy with poor visibility. Access to and from Wellington's rural area is through urban and residential streets.

The WCC district plan currently contains minimum requirements for sightlines for new vehicle accesses and this is an important tool for managing safety on rural roads. It applies to all new vehicle accesses.

Traffic movements to and from a site can have significant adverse effects on the local and wider roading network. The WCC district plan limits the number of truck movements (to and from a site) when undertaking earthworks. Exceeding the number of truck movements requires a resource consent. A traffic management plan is required as part of the resource consent process and enables Council to consider matters such as the route, timing, number of movements per day and truck size.

Access to and from Wellington's rural area is through built up residential areas. Large number of truck movements has the potential to adversely affect the safety and functioning of the residential roading network and have major effects on the residential environment. The WCC district plan currently controls truck movements associated with earthworks but considers that forestry harvesting will have similar effects.

The district plan does not prevent the use of the roading network but seeks to ensure the transportation of materials is undertaken in a way that is safe and achieves the best overall outcome for the local roading environment.

The NES-PF does not currently address access to the roading network or road safety. WCC considers that these matters should be specifically addressed or specifically excluded from the NES-PF.

**Outcome sought:**

**Include** in the NES-PF provisions for safe site access or alternatively exclude site access provisions for forestry activities from the NES-PF.

**Include** in the NES-PF a mechanism that will allow traffic management plans to be required to manage the effects of truck movements (from harvesting and earthworks) on the local roading network.

**2.5**

**Earthworks - Significant Amenity Landscapes and sensitive receiving environments**



The NES-PF provides the opportunity to be more stringent within mapped outstanding natural features and landscapes (ONFL's). The threshold for identifying ONFL's is high and their identification will not represent the total valued characteristics of a district or region.

The WCC district identifies landscapes and amenity areas that do not meet the threshold for ONFL's but are still significant. WCC has a number of these landscapes within its Rural and Residential Area. These landscapes are considered Significant Amenity Landscapes (SAL), in terms of the Regional Policy Statement (for the Wellington Region). These landscapes are a significant and valued part of the district and have been through a public process to identify and recognise them.

The Ridgeline and Hilltops Overlay (R&HO) in the Rural Area is an example of a SAL. Rural activities, such as forestry are not restricted; rather the district plan seeks to manage the effects of activities on the particular values of the area. Lower thresholds for earthworks activities and buildings apply and where a resource consent is required a greater level of assessment of the effects on the landscape is necessary.

Earthworks and quarrying activities associated with forestry activities can be substantial (especially on hilly terrain) and result in adverse amenity and visual effects on the environment. The NES-PF provides no limits on the extent of these activities and no incentive for forestry operators to minimise the effects of those activities on landscape values. Existing landscape provisions of the district plan will be undermined and substantial landform modification will occur.

The threshold for Council to require more stringent provisions within ONFL's is considered too high. Consideration should be given to allowing more stringent conditions for earthworks and quarrying aspects of forestry operations within identified Significant Amenity landscapes (or similar).

#### **Outcome Sought**

**Allow** district plans to be more stringent for earthworks and quarrying activities associated with forestry within identified Significant Amenity Landscapes (or similar).

## **2.6**

### **Quarrying limits and setbacks**

Quarrying activities can significantly alter landforms and have significant adverse visual effects on the environment. Quarrying can adversely affect the surrounding landscape/landform and local amenity values. The effects will depend on a number of factors including; the type of landform; proximity to dwellings or other activities; maximum size, maximum depth and location of spoil. For these reasons quarrying is a discretionary unrestricted activity in the WCC district plan.

The NES-PF provisions relating to quarrying provide no incentive to minimise the size of the quarry or minimise landform modification or minimise adverse visual effects on the environment or adjoining property owners.

WCC is concerned that the provisions of the NES-PF are too permissive and the standards that are provided are uncertain. In particular there is no maximum size for a quarry; no maximum depth; and no maximum size of spoil area.

The size of a quarry or the area of spoil deposition has the potential to significantly alter landforms and have significant adverse amenity effects on adjoining neighbours. In addition, in a rural environment with hilly terrain it may not be the adjoining property owner that can see or who will be affected by the quarry. The effects of a quarry are numerous and the



number of variables required to be considered are complex. The permitted activity status is not appropriate for quarry activities.

The resource consent pathway for a quarry that exceeds 5000m<sup>3</sup> in size and that is visible from a public road or adjoining property is not immediately clear from the proposed NES-PF rules. Failure to comply with the property setback requirements makes a quarry a restricted discretionary activity; however failure with the visibility rule appears to make a quarry a controlled activity. The controlled activity consent category is considered inappropriate for quarries as it cannot be turned down.

**Outcome sought**

**Require** restricted discretionary resource consent applications for forestry quarries. Retain discretion over (among other matters) visual amenity, landscape values (or similar), stability and remediation, distance from adjoining properties, erosion and sediment control.

## 2.7 Wilding Risk Calculator

The Wilding Risk Calculator is proposed to be used by the NES-PF to determine whether afforestation is a permitted activity. A fundamental principle of permitted activity rules is that they are certain and that permitted activity status can be determined from reading the rule. WCC considers that the use of the calculator meets neither of these principles.

WCC does not believe that it has the expertise or knowledge to use the calculator. In addition significant time and resources will be required to determine the activity status, resulting in a large cost to the Council.

The use of this calculator to determine whether afforestation is a permitted activity is not supported.

**Outcome Sought**

**Use** alternative methods to manage wilding risk. Alternative methods may be:

- Identifying particular districts/regions where wilding risk is an issue. Afforestation could be a controlled activity in these areas. The calculator could be used within the context of a controlled activity rule to determine the level of risk and management options.
- Make afforestation with particular species a controlled activity or restricted discretionary activity.

## 3. Specific Changes

### 3.1 Noise standard

The noise limits proposed by the NES-PF are similar to those in the WCC district plan. As currently worded the provision requires the noise measurements to be from the 'notional boundary of the nearest dwelling'.

Local conditions including wind and terrain can have a significant effect on where and when noise can be heard in a rural environment. Therefore the standard should apply at the notional boundary of any dwelling within the rural area, not just the 'nearest dwelling'.

Given that it may not be the 'adjoining property owner' who is most affected by the noise of forestry activities, requiring consent of the adjoining neighbour within the context of the rule is not considered appropriate.

**Outcomes sought:**

**Amend** the standard to read:



The noise from forestry activities at the notional boundary of the nearest any dwelling, where that dwelling is under different ownership, ~~except where the approval from the adjoining owner(s) has been obtained....~~

### 3.2 Definition of Plantation Forestry

The current definition of Plantation Forestry is ambiguous for the following reasons:

- It may be difficult to determine whether a forest is for 'commercial' purposes or not. In addition the commercial viability of a forest may change over its lifetime. The effects of harvesting/planting/quarrying /earthworks associated with a forest over 1 hectare in size are the same whether the operation is for commercial purposes or not. It is not clear what happens if a forest is planted for one purpose (e.g. conservation or erosion control) but due to a change in the economy/circumstances becomes commercially viable, or vice versa.
- It is unclear from the definition whether a non-commercial forest that exceeds 1 hectare in size falls within the definition of a 'Plantation Forest'. As mentioned above the effects of forestry activities are the same whether they are commercial or not.
- The definition of plantation forestry uses the term 'urban area' but the list of defined terms uses the term 'urban zone'.
- It is unclear what is meant by the term 'urban area'. Does this mean the area that is unclassified by the Erosion Control Classification?
- It is not immediately clear what 'forest species in urban areas' refers to – is it single species or could it refer to forested areas (that could exceed 1 hectare in size?).

#### Outcome Sought

**Reword** the definition of Plantation Forestry to make it simpler and less ambiguous.

Possible wording could be:

A forest (native or exotic) deliberately established ~~for commercial purposes. Under the proposed National Environmental Standard for Plantation Forestry, this is specifically defined as:~~ which will result in:

- (a) ~~At least 1 hectare of forest cover of forest species that has been planted and has been, or will be, harvested.~~
- (b) ~~Including all associated internal infrastructure; but:~~
- (c) But does not include:
  - i. A shelter belt of forest species, where the tree crown cover has or is likely to have an average width of less than 30 metres;
  - ii. ~~forest species in urban areas;~~
  - iii. nurseries and seed orchards;
  - iv. fruit and nut crops;
  - v. long term ecological restoration planting of forest species;
  - vi. willows and poplars space planted for soil conservation purposes

### 3.3 Definition of 'Urban Zone' and use of 'Urban Area'

'Urban zone' is defined in the NES-PF as land that is primarily for 'residential purposes'. However, urban zones include a range of residential, commercial, business, open space and recreation zones that then create an 'urban area'. It is unclear whether the NES-PF would apply to an 'urban area' 'that is not 'primarily for residential purposes' but was in fact commercial or open space.

**Outcome Sought:**

**Clarify** the terms 'urban area' and 'urban zone'.

3.4

**Areas undefined by the Erosion Susceptibility Classification (ESC)**

A portion of WCC is in the 'undefined' category of the ESC. Within WCC there are forestry areas within that unclassified area that may be logged commercially.

Clarification needs to be provided as to whether the NES-PF applies to areas undefined by the ESC, and if not what provisions do apply. If the NES-PF does not apply it will create a situation where forestry in one part of our district is subject to the NES-PF and forestry in another part of the district not being subject to the NES-PF, despite the areas having the same zone (within WCC this is generally an Open Space B zone).

**Outcome Sought:**

**Clarify** the status of areas that are undefined by the Erosion Susceptibility Classification

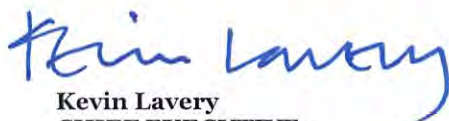
4.

**Conclusion**

The permitted activity rules and conditions provided in the NES-PF are uncertain and difficult to measure. They do not represent current best practise or meet the principles of good rule writing. As currently worded the permitted activity rules and conditions require Councils to exercise discretion in determining whether an activity is permitted and whether an activity is complying with the conditions. The lack of certainty will result in uncertainty for forestry owners and inconsistency of application across territorial authority boundaries.

Implementation will be difficult and enforcement and monitoring of the NES-PF expensive for Councils.

In particular WCC considers that the approach to earthworks and quarrying is too permissive as these activities can have significant adverse effects on the environment. Council's should have the ability to be more stringent in sensitive receiving environments.



**Kevin Lavery**  
**CHIEF EXECUTIVE**  
**Wellington City Council**

**Date:**

4/8/2011



# Memorandum

Absolutely Positively  
**Wellington** City Council  
Me Heke Ki Pōneke

Date: 4 August 2015 File ref: 1043 33 00

To: **Kevin Lavery – Chief Executive**

From: **Alison Newbald – Senior Policy Advisor District Plan**

Cc: **John McSweeney – District Plan Manager**

Subject: **Wellington City Council Submission on National Environmental Standard –  
Plantation Forestry**

Please find attached, for your signature, a copy of WCC's Submission on the National Environmental Standard for Plantation Forestry (NES-PF) prepared by the Ministry for Primary Industries.

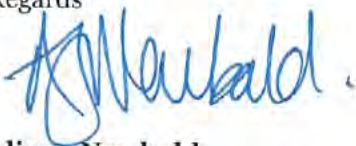
An NES (if enacted) replaces the provisions of the district plan and provides set of nationally consistent provisions that apply to every district and regional council.

Forestry is generally permitted by the Wellington City District Plan, however aspects of forestry such as earthworks and quarrying would currently require a resource consent.

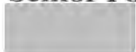
While support has been expressed for the concept of an NES for Plantation Forestry, a number of issues with the provisions have been identified. In particular, the NES-PF will permit earthworks and quarrying associated with forestry with no limits on the extent of the earthworks or quarry. This has the potential to result in significant landform modification and adverse amenity and landscape effects. In addition, the majority of the permitted activity rules as currently written are uncertain and unmeasurable, making enforcement and compliance (for which WCC will be responsible) difficult.

The submission is principally technical in nature and seeks a number of changes that are consistent with the policy approach in WCC's District Plan. WCC's submission is also consistent with the submission being made by Local Government New Zealand.

Regards



**Alison Newbald**  
**Senior Policy Advisor District Plan, City Planning and Design**







In reply please quote      NES Submission 15/73176  
Or ask for                      Paul Waanders

7 August 2015

Website: [www.wdc.govt.nz](http://www.wdc.govt.nz)

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

Att. Stuart Miller

Dear Sir

## Submission on the National Environmental Standard for Plantation Forestry

The Whangarei District Council has considered the Proposed National Standard for Plantation Forestry and its submission is attached using the Template for submitters.

This covering letter serves to explain some of the Whangarei specific aspects which might clarify some of the points in the submission

It is accepted that in Northland the NES on Plantation Forestry will have an influence on the Regional Plan rather than the District Plans as most of the core forestry activities covered by the NES are Regional functions which could cascade to districts as having 'regard to', 'not being inconsistent' or 'giving effect to'.

The Whangarei District Plan is a policy driven rather than a rule driven planning document whilst the Proposed NES introduces a plethora of new rules and activity status into the planning regime which will again put the emphasis on control rather than enabling which is the very reason of the importance of the Resource Management Act. The Whangarei District Plan aims to only use the 'permitted', 'discretionary' and 'non-complying / prohibited' activity status provision to increase certainty in the policy driven plan.

Plantation forestry in the Whangarei District Plan is considered to be Rural Production and no limitation are in place on its occurrence. It is therefore a permitted activity. However the effects, where more than minor, and in most cases because of reverse sensitivity reasons, necessitated a few conditions or activity status changes where plantation forestry is occurring.

From the outset it is clear that the Proposed NES on Plantation Forestry does not cover the milling of forestry as opposed to harvesting. Milling of harvested forestry is considered to be a rural industry (although most of these occur in the urban area as well) and should be dealt with separately from the harvesting activity due to the industrial reverse sensitivity effect of those activities.

The Whangarei District Plan has however included provisions for 'Limited duration events' to cater for some milling that is associated with the harvesting

### The District Plan defines forestry as

'the ongoing management of trees or stands of trees, for the production of timber or timber related products, and includes planting, pruning, felling, and removal of trees from the site but does not involve the processing of timber'. A production forest is considered to be forestry or plantation forestry' and

'Limited duration are events associated with agricultural, horticultural or forestry activities. Limited duration events are those activities normally associated with industry practice, of relatively short duration and where no reasonable alternative is available. The occupier of land on which the limited duration events are undertaken shall adopt the best practicable option to ensure that the emission of noise does not exceed a

reasonable level. This will require that the site is planned and managed according to best industry practice and the operation and maintenance of any machinery on the site is undertaken in accordance with both manufacturer's specifications and best industry practice.

- Horticulture/Agriculture  
Spraying and harvesting of crops; frost control but not including crop protection by bird scaring;
- Forestry  
Activities associated with forestry but not including milling or processing."

The effect of Fire risk to residential dwellings necessitated a setback requirement to houses from plantation forestry of 30m. During negotiations on an appeal in the Environment Court the forestry companies agreed that a reciprocal setback of 30m would be adhered to on the plantation forestry side of the boundary. There was however no scope in the appeal to enforce this requirement and the NES on Plantation Forestry should now impose that requirement

The NES will have some effect on the earthworks requirements in the District Plan mainly from an amenity point of view rather than from a pollution point of view which is covered by the Regional plans.

I trust that the submission would be useful in preparing the sec 32 report and final NES.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Paul Waanders', is written over a faint, circular official stamp.

Paul Waanders  
**Policy and Monitoring Manager**