

# **The Legality of New Zealand's Forest Products**

**A report prepared by the  
Ministry for Primary Industries  
and the New Zealand Forestry Industry**

**2013**

## Executive summary

Internationally New Zealand is a strong advocate for environmental issues and is held in high regard as a country with comprehensive legislation governing the sustainable management of our natural and physical resources. New Zealand's commitment to sustainability recognises that resource use must be based on sustainability; economic growth and protecting the environment must go hand in hand. Sustainability is a policy priority for the government, particularly given the significant role that the primary industries play in our economy.

Sustainability cannot be achieved in the absence of legality and without the enforcement of laws ensuring their adherence.

The legality of New Zealand produced timber and timber products is assured by the regulatory environment under which forestry owners operate where property rights are upheld, corruption is the lowest in the world, taxes are levied, laws are enforced and prosecutions are made.

New Zealand's forestry profile is unique in that the majority of our forestry production and exports come from privately-owned forests, planted with exotic species. These forests have been grown specifically for the purpose of being harvested. The bulk of New Zealand's indigenous forests have been set aside for conservation purposes and are protected, while the low levels of harvesting of privately owned indigenous forests are strictly monitored.

All forestry activities, including harvesting, are undertaken in accordance with the Resource Management Act 1991 which provides for the environmental sustainability of such activities. Complementing government regulations are initiatives taken by the forestry industry to promote sustainable and legal forest management including the New Zealand Environmental Code of Practice for Plantation Forestry and the National Industry Standard for Sustainable Forest Management.

Independent confirmation of New Zealand's status as a source of reputable forest products comes from international research including a DAFF-commissioned Poyry report.

This report was developed by the New Zealand Ministry for Primary Industries (MPI) in conjunction with the following groups representing New Zealand's forestry industry and professional foresters:

**NZ Forest Owners Association** – representing the owners of more than 80% of New Zealand's plantation forests

**Wood Processors Association of New Zealand** – representing companies responsible for the processing of between 75-80% of New Zealand's wood including paper and pulp manufacturers.

**NZ Pine Manufacturers' Association** – members are small to medium size and corporate businesses engaged in the manufacture of solid wood items and fixtures and exterior products.

**NZ Farm Foresters Association** – the 3000 members own or manage up to 100,000 ha of forest and influence the management of a similar area.

**NZ Timber Industry Federation** – represents 80% of sawmills producing over 5000 m<sup>3</sup> of timber per annum.

**NZ Institute of Forestry** – provides a forum for those involved in all aspects of forestry to exchange ideas and information and keep up to date with industry trends.

## Contents

<b>Executive summary</b>	<b>2</b>
<b>Contents</b>	<b>3</b>
<b>The legality of New Zealand's forest products</b>	<b>4</b>
<b>Forestry in New Zealand</b>	<b>8</b>
Exotic planted forests	8
Natural indigenous forests	8
Forest ownership in New Zealand	9
Wood processing	9
<b>Corruption and how New Zealand is perceived</b>	<b>10</b>
<b>Property rights and land tenure arrangements</b>	<b>10</b>
<b>Maori and forestry</b>	<b>11</b>
<b>Taxation</b>	<b>11</b>
<b>Legislation affecting forestry</b>	<b>12</b>
The Crimes Act 1961	12
Resource Management Act 1991	12
Harvesting requirements under the RMA	13
Forests Act 1949	14
Harvesting indigenous timber under the Forests Act	14
Controls on the export of indigenous timber	15
Conservation Act 1987 & Reserves Act 1977	15
<b>Enforcement of Laws and Regulation and Prosecutions</b>	<b>16</b>
<b>Forestry industry initiatives and legality</b>	<b>18</b>
<b>New Zealand's illegal logging import policy</b>	<b>20</b>
<b>Annex 1 Further information on property rights legislation</b>	<b>21</b>
<b>Annex 2 International research recognising New Zealand's low risk status</b>	<b>23</b>

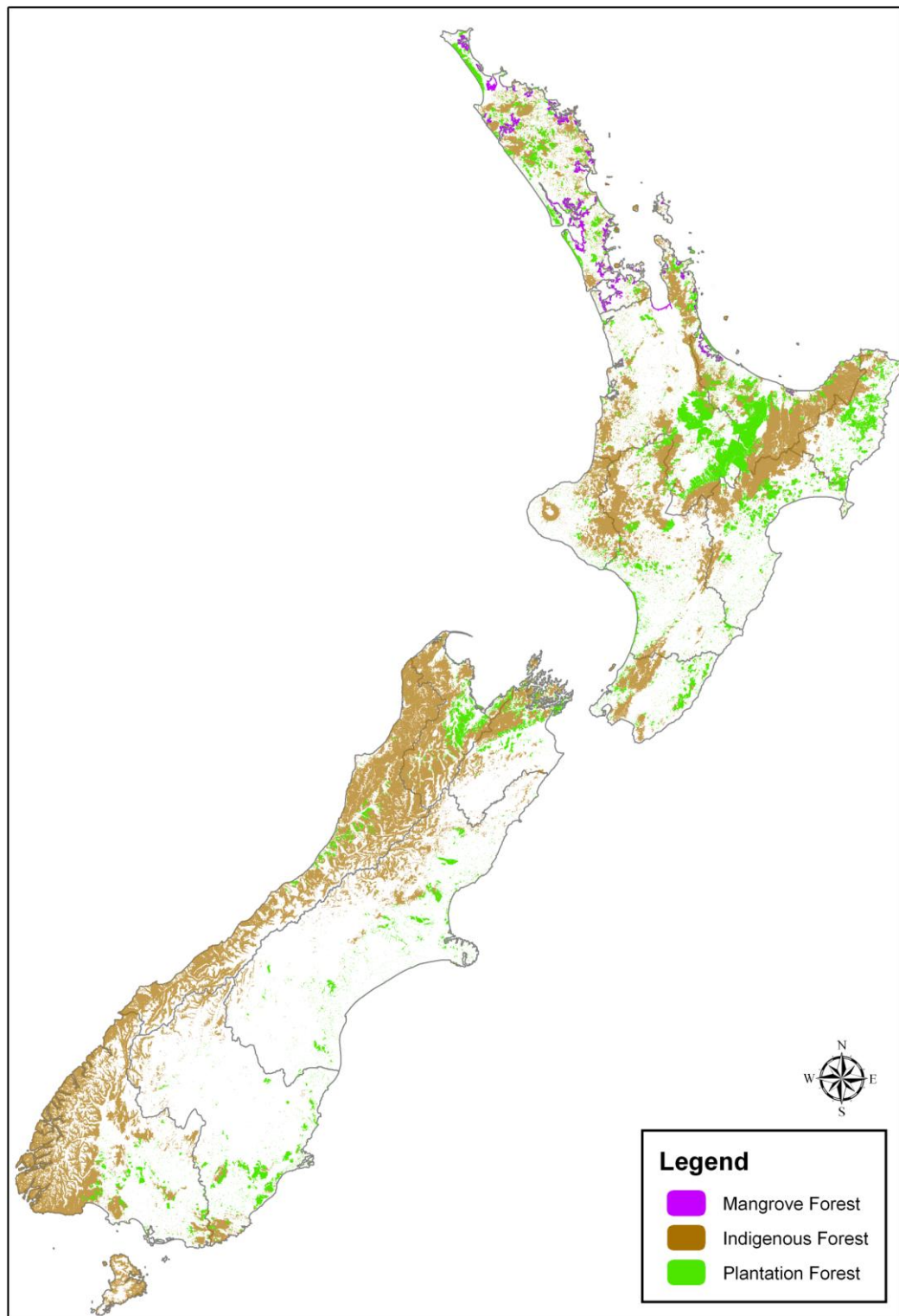
## The legality of New Zealand's forest products

This report describes New Zealand's forestry profile and the sustainable forest management of New Zealand's forests and has been put together to explain how the statutory framework and regulatory requirements under which commercial forestry companies operate, ensures the legality of all New Zealand produced timber and timber products.

In terms of New Zealand's forestry profile, key points for importers are the following:

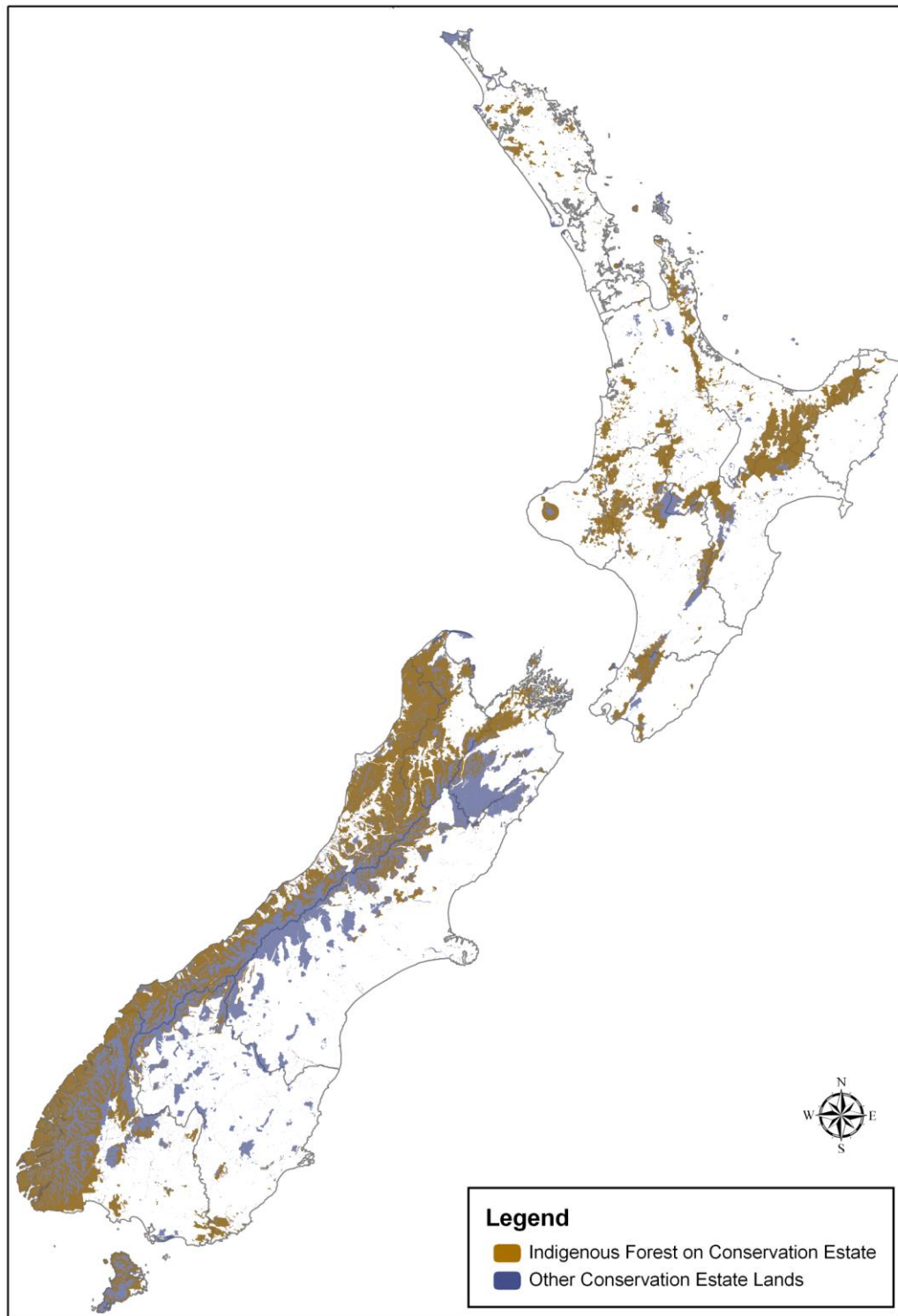
- New Zealand's comprehensive regulatory framework provides assurances for the legality of New Zealand produced forestry products and maintains our internationally recognised low risk status for illegal logging.
- Property rights and land tenure arrangements are well established and protected via an effective judicial system and there are low levels of corruption in New Zealand.
- Determination of the legality of timber sourced from New Zealand's forests comes from compliance with the provisions of the Resource Management Act 1991. The purpose of the Resource Management Act is to promote the sustainable management of all natural and physical resources, including forests.
- The Resource Management Act creates a system for controlling land use and other activities through national, regional and district planning processes. If a rule in a regional or district plan states that a particular land use activity (such as harvesting trees) requires a resource consent, then a resource consent must be obtained (issued by the local government entity) in order to lawfully carry out the activity.
- When harvesting trees, forest owners are required to comply with conditions of the resource consent and relevant environmental provisions and standards, implemented by local government entities in accordance with the Resource Management Act.
- The illegal harvesting of trees is covered by section 219 of the Crimes Act 1961 which relates to crimes against rights of property, such as theft. Theft is punishable by a maximum term of 7 years imprisonment.
- The indigenous people of New Zealand, the Maori, are significant land and forestry owners and their rights, and the rights of all New Zealanders, are upheld through statute.
- The majority of New Zealand's indigenous forests are owned by the Government and are managed by the Department of Conservation (DOC) for conservation protection purposes.
- As well as the requirements of the Resource Management Act, the harvesting, processing and exporting of timber from the small proportion of privately owned indigenous forests is permitted under strict conditions established and administered by the New Zealand Ministry for Primary Industries (MPI). For example, where any land is specified in a sustainable forest management plan or permit issued under the Forests Act 1949, indigenous timber on that land cannot be harvested except in accordance with that plan or permit.
- Forestry and resource management legislation is enforced by specialist staff from central and local government with the relevant Acts including penalties for offences such as fines and imprisonment.

- In addition to regulation the forestry industry has developed and agreed industry initiatives promoting the sustainable and legal management of planted forests.
- In terms of timber imports New Zealand is a small market for potentially illegally logged timber imports and as such the New Zealand government's policy approach to address the trade in illegally logged timber centres on encouraging voluntary industry initiatives to address illegally logged imports.



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**Figure 1: Map of New Zealand showing the distribution of different types of forest.**

(The thin lines mark administrative regions.)



**Figure 2: Map of New Zealand showing the distribution of conservation land.**

The majority of the conservation land is found in the central North Island, and west of the mountain range traversing the South Island that catches much rainfall in the prevailing winds. (The thin lines mark administrative regions.)

## Forestry in New Zealand

Just over 30% of New Zealand's total land area is covered in forests of which there are two types – natural indigenous forests and exotic planted forests.

Indigenous natural forests cover 6.5 million hectares (or 24% of New Zealand's total land area) and around 80% of these forests are protected for conservation purposes.

New Zealand has a unique forestry profile internationally with 99.95% of New Zealand's forestry exports coming from the 1.7 million hectares of privately-owned production forests planted in exotics and specifically established to be harvested.

### Exotic planted forests

New Zealand's 1.7 million hectares (ha) of planted forests are:

- dominated by one species – radiata pine (*Pinus radiata*) which accounts for 90% of the planted area;
- predominantly (52%) 16 years old or younger;
- fast growing – the average time to harvest for radiata pine is 28 years;
- 92.6% privately owned with the principal management objective being the commercial production of timber.
- mostly intensively tended – 61% of the radiata pine resource has been pruned to produce knot-free timber;
- mostly managed under the industry-developed New Zealand Environmental Code of Practice for Plantation Forestry with 55% of the total area third party certified by the Forest Stewardship Council (FSC);
- The total annual harvest from the planted forests is greater than 27.5million m<sup>3</sup> per annum.

### Natural indigenous forests

Of the 6.5 million hectares of indigenous forests:

- 5 million ha are managed by the New Zealand Department of Conservation (DOC) for conservation protection purposes and timber harvesting is not permitted.
- 1 million ha of indigenous forests are privately owned.
- 50,000 ha of the privately owned indigenous forests are covered under sustainable forest management plans or permits administered by the New Zealand Ministry for Primary Industries (MPI).
- The annual harvest of indigenous timber is very small (approximately 16,000 m<sup>3</sup>) most of which is consumed domestically and not traded.



## **Forest ownership in New Zealand**

Since 1987 the Government-owned production forests, largely comprising planted exotic forests, have been progressively sold to private companies or returned to Iwi under the Treaty of Waitangi settlements. Currently, New Zealand planted forest ownership is dominated by the private sector, with substantial areas owned by international companies and organisations.

The New Zealand government is supportive of foreign investment. Investment regimes applying to commercial forestry have generally been stable over the past 20 years and investment in the forest-growing and wood processing industries can be made in a number of ways including:

- direct investment, such as through the purchase of land, forestry cutting rights or processing facilities;
- joint ventures facilitated through the Forestry Rights Registration Act 1983;
- shares in forestry companies;
- investment companies;
- partnerships.

It is estimated that over 70% of the total area of planted forestry is in foreign ownership. 23 forest owners (with considerable offshore investment) individually own net stocked forest areas in excess of 10,000 ha, and account for about 57% of the total forest resource.

A wide variety of small companies, local government, partnerships, joint ventures and thousands of small-scale forest owners own the remaining forests. With holders of less than 100 ha accounting for about 17% of the total planted area.

The ownership of trees is not necessarily the same as the ownership of land and some trees are on leasehold or forest-licence land.

## **Wood processing**

Ownership of the sawmilling industry is largely New Zealand-based, with a small number of the larger operations owned by overseas investors. However, the rest of the wood processing industries are dominated by overseas owners, with some exceptions, such as in the wood products, pulp and paper businesses where there are substantial privately owned New Zealand companies.

## Corruption and how New Zealand is perceived

New Zealand has been consistently ranked as having the lowest levels of corruption in the world (Transparency International Secretariat's Global Corruption Perceptions Index from December 2012).

New Zealand's low levels of corruption stem from a number of interrelated factors:

- No historical culture of informal payments or bribery;
- An independent judicial system and police forces, which have stringent audit and complaint procedures;
- A relatively well-paid civil service that does not depend on secondary sources of income;
- Freedom of the press, which allows cases of corruption to be readily identified; and
- A strong public commitment to the rule of law.

## Property rights and land tenure arrangements

New Zealand has established property rights legislation, provides for appropriate land tenure arrangement, recognises the customary and traditional rights of indigenous people, provides the means for resolving property disputes by due process and has a record for upholding these rights. This framework promotes the legality and sustainability of New Zealand's forests.

Important legislation for forestry-related property rights includes the Te Ture Whenua Māori Act 1993, the Resource Management Act 1991, the Property Law Act 1952, the Forestry Rights Registration Act 1983 and Forests Act 1949. For more information on the property rights legislation see Annex 1.

Property disputes, as with other disagreements, are resolved through a variety of formal and informal means. Contractual disputes may follow a formal process through the Small Claims Tribunal or through District or High Courts, depending on the financial value of the dispute and the legislation under which the dispute arises. Arbitration and mediation are also well-established processes.

The Environment Court determines disputes under the Resource Management Act that are not settled through consultation, negotiation or mediation procedures set out in that Act. Appeals against Environment Court decisions on questions of law can be taken on to the High Court and the Court of Appeal.

Internationally New Zealand is seen as having a stable system of property rights that is supported by a fair and efficient judicial system which upholds individual ownership and the enforcement of contractual arrangements and prevents the misuse of discretionary powers by individuals or institutions. The number of lease and management agreements signed over the past 20 years is a clear indication that international investors are confident in the legal and property rights framework in New Zealand.

## Maori and forestry

Maori people, the indigenous people of New Zealand, are major forest and land owners in New Zealand. Maori freehold land comprises around 6% of the total land in New Zealand and a few small areas of land held in Maori tenure, known as Maori customary land, also exist.

The foundation legal document that recognises the rights of Māori people is the Treaty of Waitangi, signed in 1840. The principles of the Treaty are provided for in many pieces of domestic legislation. The Waitangi Tribunal established in 1975 is a permanent commission of inquiry charged with making recommendations on claims by Māori relating to actions or omissions of the Government that breach promises made in the Treaty.

Significant areas of forests have been returned to Maori through the Treaty of Waitangi settlement process over the past twenty years. Government forestry leases of Maori land are also being shortened and the land is being returned to Maori control.

In addition, substantial areas of land are managed by Maori through different governance and commercial structures. Maori are also involved in other forestry projects by way of leases, forestry rights and joint ventures of Maori land administered by many Maori trusts and incorporations.

## Taxation

Taxation regimes applying to commercial forestry have generally been stable since 1991, when significant changes were made to the income tax legislation applying to forestry.

The main forms of taxation that affect forestry are income tax and goods and services tax (GST). For taxation purposes, expenditure by a forestry business falls within three categories:

- costs of a capital nature where the value added is reflected in the asset, for example land purchase; these costs are neither deductible nor depreciable;
- costs of a capital nature expended on an asset with a limited life, for example construction of fences, roads and firebreaks; these can be depreciated against income from any source;
- costs directly related to the tree crop or incurred in the maintenance of the forestry business, for example for planting, tending, pest control and overheads; these are deductible in the year incurred from income from any source.

The income tax rate for all companies and other businesses in New Zealand was reduced from 33% to 30% in 2008, and again to 28% from April 2011 and applies to the net income after allowable deductions. GST is a value added tax of 15% that applies to goods and services supplied by GST-registered persons.

## **Legislation affecting forestry**

The Government's policy approach to resource management is cross-sectoral. It seeks to manage adverse effects on the environment and establish legislative and economic frameworks within which investment decisions can be largely market-driven.

New Zealand does not have a single national forestry policy but a suite of legislation in place that collectively contributes the necessary elements for proof-of-legality for New Zealand produced forestry products.

Determination of the legality of timber sourced from New Zealand's planted forests rests primarily on the compliance of forestry operations with the Resource Management Act, which provides the comprehensive statutory framework for environmental and resource management in New Zealand based on the sustainable management of all natural physical resources (including forests). This is achieved through a series of national policy statements and standards, regional policy statements and plans, and district plans. These instruments set out the legal framework within which resource users can operate.

With regards to the legality of indigenous forestry the Forests Act 1949, requires the sustainable management of indigenous forests where timber is being harvested. Indigenous forest on land included in a sustainable forest management plan or permit issued by MPI under the Forests Act, cannot be harvested except in accordance with that plan or permit. The very small volumes of indigenous timber harvested per year and even smaller volumes traded, would therefore be required to be harvested in accordance with an approved sustainable forest management plan or permit.

The 5 million ha of indigenous forests which form part of the conservation estate administered by DOC are legislated for under the Conservation Act 1987. These forests are protected and harvesting is not permitted under this Act.

### **The Crimes Act 1961**

In addition to other offences, the crime of theft can often occur in matters where there has been a dishonest taking or dishonestly using or dealing with property (which can include trees) of which some other person is an owner.

Charges for other types of crime may also be brought under the Crimes Act in some situations, for example the forging of documents in cases where there has been falsification of milling records.

### **Resource Management Act 1991**

The Resource Management Act (RMA) 1991, administered by the Ministry for the Environment (MfE), is the primary legislation for statutory resource management planning bringing together laws governing land, air and water resources. The purpose of the RMA is "to promote the sustainable management of natural and physical resources". The RMA is largely implemented by local government (regional and district/city councils) through the preparation and implementation of regional policy statements and regional and district plans.

Any forest management (or other) activities, whether concerning planted forests or indigenous forests that would result in adverse environmental effects, including the disturbance to soil resources, must meet the requirements of the appropriate local authority plan.

Forest owners are required, when harvesting trees, to comply with the relevant environmental provisions and standards implemented by local government councils, in accordance with the Resource Management Act. Resource consent for a forestry operation from local government should be considered as a demonstration of the legality of the harvest of timber products.

### **Harvesting requirements under the RMA**

A forest owner wanting to harvest trees will make contact with the planning officer in the district or regional council to discuss what is needed to be submitted to comply with the Resource Management Act requirements. The council will be able to inform the forest owner of the relevant requirements under the local plan. The procedure varies from council to council depending on the level of compliance needed or what activities the existing local plan may permit as a right.

For example in order for a planted forest owner to harvest trees they may need to build access roads and landings for logging and transport. So the owner has to check with the local council about the resource consent required for these activities.

The owner submits a consent application to the council stating how the roads and landings, meet the local plan's requirements. This transaction would usually involve an inspection of the site by a council officer and a check against the district or regional plan. It is usual during the process of reviewing the consent application that the council will seek land title information. In some cases the council may notify the lodging of a resource consent application to affected parties (neighbours and other affected persons).

The council may impose certain other requirements as part of granting the consent for harvest which are also provided for in the district/regional plan. These could include noise-level limits, retaining tree-screens, special set asides for biodiversity protection or for cultural or historic sites special erosion works and road engineering specifications.

All this information is provided to the forest owner when the consent is granted.

Forestry companies must have resource consents to harvest trees in New Zealand. Compliance with the consent constitutes legality, and territorial local authorities enforce compliance. However, in some instances local authorities recognise "preferred operator" status where certain contractors can operate without resource consents in some locations.

In other cases timber harvesting may be a continuous and an ongoing activity with all necessary infrastructure is already in place. In these instances the consent process may be quite simple, but contact between the owner and the council will generally still be required.

The consent process under the Resource Management Act as described above may be streamlined by a Government-proposed National Environmental Standard for Plantation Forestry (NES). The purpose of the NES is to improve the national consistency of the rules applying to planted forestry creating more certainty for those involved in the management of planted forests. While the local government will still be responsible for approving timber harvesting activity, the aim under the NES is that some conditions for compliance will be standardised nationally. This will reduce the time consents take to be considered and improve certainty in the process for all parties.

## **Forests Act 1949**

In addition to the Resource Management Act requirements, restrictions apply to indigenous forests under Part 3A of the Forests Act 1949, introduced in 1993. The purpose of Part 3A is to promote the sustainable forest management of indigenous forest land. This is achieved through controls on harvesting, processing and export of indigenous timber. This system gives assurance that timber is not coming from indigenous forests protected under the conservation estate.

### **Harvesting indigenous timber under the Forests Act**

The annual volume of indigenous timber harvested is estimated as being 16,000 m<sup>3</sup> most of which is consumed domestically.

Generally, indigenous forests can only be harvested under a sustainable forest management plan. These plans describe management processes and ecological safeguards that are to be undertaken. The Forests Act's provisions enable sustainable timber production from an area of indigenous forest land provided that "... the forest growing on that land continues to provide a full range of products and amenities in perpetuity while retaining the forest's natural values". Prescriptions in the Second Schedule to that Act detail how certain species groups shall be harvested, especially with regard to harvest impacts, maintenance of forest structure and composition, maximum group size and the requirements for their replacement.

The provisions of the Forests Act control the manner in which the harvesting activities in any indigenous forest are undertaken, in particular with regard to the specific character of the forest concerned, for example the topography, riparian areas and areas of special biological significance. Approved harvest volumes take these specific characteristics of the forest into account, along with the growth rates of the forest species being harvested. Annual logging plans, which must be submitted and approved before any forest operations may commence, stipulate the area the trees shall come from, the approved volume by species to be harvested the proposed harvest methods, location of tracks and any requirements for specific actions, for example directional felling to protect any adjacent forest.

Sustainable forest management of indigenous forests is facilitated by approved sustainable forest management plans and permits. They describe the management processes and ecological safeguards to be taken. These are further reinforced through annual logging plans which must be approved for each year that harvesting is to be undertaken under an approved sustainable forest management plan or permit. The Department of Conservation and, in the case of Maori land, Te Puni Kōkiri (the Ministry of Māori Development) must be consulted and their opinions sought on the management of the forest concerned. Operations are monitored on the basis of approval of annual logging plans and post harvest inspections.

Sawmills milling indigenous timbers are registered with the Ministry for Primary Industries (MPI) under the Act to ensure that all indigenous timber milled is sourced only from sustainably managed forests. Indigenous timber may only be milled in registered mills and only milled after consent is granted by the Director-General of MPI. All sawmills must report quarterly on the volume of logs milled. MPI monitors and enforces compliance with the Forests Act.

The felling or harvesting of timber undertaken in accordance with the Forests Act does not permit the felling or harvesting of timber other than in accordance with the provisions of the Conservation Act or other listed Acts under which the land on which the timber is growing is held, managed, or administered.

## Controls on the export of indigenous timber

The Forests Act limits the exportation of indigenous species and the types of timber products that can be exported. For example, the Act prohibits the export of indigenous logs and wood chips but permits exports of manufactured indigenous timber products, such as furniture.

The legality of traded sawn timber indigenous to New Zealand is assured by a MPI certificate. MPI certifies exports of sawn rimu or beech timber sourced under a MPI registered sustainable forest management plan (exporting sawn timber of any other indigenous species is prohibited). MPI does not certify exports of manufactured indigenous timber products.

Export volumes can be assumed to be small given the low annual harvest of indigenous timber and the fact that most indigenous timber is consumed domestically. Furthermore it should be noted that the milling of the timber for such finished products must be done in accordance with milling controls laid down by the Forests Act.

For more information on the export requirements under the Forests Act and the indigenous timber products that can be exported see:

<http://www.legislation.govt.nz/act/public/1949/0019/latest/DLM256602.html>

## Conservation Act 1987 & Reserves Act 1977

The Department of Conservation (DOC) manages 5 million ha or 78% of New Zealand's indigenous forest resource for conservation purposes under the Conservation Act 1987 and other legislation such as the National Parks Act. The Conservation Act promotes the conservation of New Zealand's natural and historic resources. Conservation is defined under the act as:

*“...the preservation and protection of natural and historic resources for the purpose of maintaining their intrinsic values, providing for their appreciation and recreational enjoyment by the public, and safeguarding the options of future generations.”*

Harvesting of wood from indigenous species is not permitted for under the Act and can take place only in exceptional circumstances. In addition, the Reserves Act makes it an offence to remove or wilfully damage any wood, tree, shrub, fern, plant, etc, on any designated reserve.



## Enforcement of Laws and Regulation and Prosecutions

Forestry and resource management legislation and regulations are enforced by specialist staff from central and local government, as well as by rangers for the conservation forest estate. The legislative framework includes penalties for offences such as fines and imprisonment, while the RMA also provides for enforcement orders and abatement notices.

Illegal extractions of timber or other forest products are rare and prosecutions, when they do occur, receive extensive publicity and high penalties. The maximum penalty for offences against the various prohibitions and controls on felling, and the milling and export of indigenous timber in the Forests Act is a fine not exceeding NZ\$200,000.

### **Local government**

Local government (regional and district/city councils) are responsible for the implementation of the Resource Management Act 1991.

Enforcement orders under the Resource Management Act can be sought by a council or any person from the Environment Court that require works be prohibited from commencing should they contravene the Resource Management Act, local authority plan or resource consent or is likely to have an adverse effect on the environment. Enforcement orders can also require that certain actions are undertaken to ensure compliance with the Act or to avoid, remedy or mitigate adverse impacts on the environment.

An authorised enforcement officer can serve an abatement notice under the RMA on any person for a similar range of circumstances as outlined above. An abatement notice is a warning to the recipient that they are contravening the provisions of the RMA.

Penalties for offences vary depending on their nature. They extend to imprisonment for up to two years or a fine not exceeding NZ\$ 200,000; where the offence is a continuing one, a fine not exceeding NZ\$ 10,000 can be imposed for every day that the offence continues.

For information about prosecutions under the RMA see the following study *A Study into the use of Prosecutions under the RMA 1991 1 May 2005 - 30 June 2008* at <http://www.mfe.govt.nz/publications/rma/rma-prosecutions-2008/html/page1.html>

### **Ministry for Primary Industries (MPI)**

The Ministry for Primary Industries administers the Forests Act 1949. Enforcement of the Act includes bringing prosecutions against those who contravene the Act and regulations.

The number of prosecutions under this Act (generally brought for illegal harvesting of indigenous timber) is very low. This reflects an efficient control system of sawmill registration, understanding by forest owners of the provisions of the Act, and ongoing monitoring by MPI.

Prosecutions do occur, for instance in August 2011 MPI prosecuted the largest over-harvest of indigenous timber documented since Part 3A of the Forests Act was enacted. The defendant had a Sustainable Forest Management permit issued by MPI to harvest 372.567 m<sup>3</sup> but had harvested 587.695 m<sup>3</sup> (113 trees). In this case the sawmiller was fined NZ\$ 36,398 and his company was fined NZ\$ 97,797.



***Department of Conservation (DOC)***

DOC undertakes compliance and law enforcement activities for all the legislation it administers in the reserves, national parks and conservation estates.

DOC uses its powers to intervene to stop offending (and prevent further damage); to require personal particulars be provided; and to undertake searches. Warranted compliance and law enforcement staff with powers can deal with an offence they see occurring; or they can investigate and collect evidence about an offence that they believe, on reasonable grounds, has been committed. DOC also has an honorary ranger system for community involvement to assist DOC to carry out its national wide statutory functions.

## Forestry industry initiatives and legality

The New Zealand forestry industry also promotes sustainable forest management and legality in planted forests through its own initiatives, such as best practice guides. The New Zealand forestry sector has also negotiated a number of national environmental forestry initiatives with environmental groups, which help to ensure sustainable and legal forestry production. Larger-scale planted forest owners use these standards, codes of practice, principles of forest management and accords in managing their own estate and forest operations.

### **Codes of practice**

The *New Zealand Forest Code of Practice* was first published in 1990. This was subsequently revised to the *New Zealand Environmental Code of Practice for Plantation Forestry* 2007.

The code was developed by the New Zealand Forest Owners' Association and endorsed by other major forest industry and environmental organisations. It is based around 18 "Best environmental management practices" that are structured as practical decision-making and audit tools, supported by extensive background material.

These codes are useful tools for local government when developing plans and considering resource consents. Self-monitoring by the forestry industry through codes of practice is encouraged by many regional councils as it promotes "ownership" of potential adverse effects of activities and of resource consents. Codes also provide councils with a consistent and cost-effective base for gathering information to monitor the effects of forestry activities on the environment.

Most forestry companies also have in-house environmental management systems and codes of practice for environmental management and worker safety.

### **Standards**

A *National Industry Standard for Sustainable Forest Management* was developed by the New Zealand Forest Owners' Association in 2005. Compliance with the standard is voluntary. It provides forest managers with a framework for gaining community and market recognition that forest management practices are over and above the legal requirements, and may form the basis for independently audited assurance that wood products are from a well-managed designated area of forest.

*Standards and Guidelines for Sustainable Management of Indigenous Forests* have been developed by MPI. They reflect the statutory requirements under Part 3A of the Forests Act 1949 and specify the structured indigenous forestry standards, for approval and administration of sustainable forest management plans and permits. Each criterion and subset of goals, indicators, and benchmarks provide guidance on how MPI will apply provisions of the Act. The objective of the MPI's *Standards and Guidelines* is to present detailed procedures and practice standards for sustainable forest management.

### **Accords**

The *New Zealand Forest Accord* was signed in 1991 by the New Zealand Forest Owners' Association and the main conservation groups. This was reaffirmed in 2007, when partners extended the Accord to include climate change and the mitigating roles of indigenous and planted forests.

The objectives of the Accord form the basis for the *Principles for Commercial Plantation Forest Management in New Zealand*, signed by the same parties in 1995. These principles commit the members of the Forest Owners' Association to meeting standards of environmental practice and social behaviour in excess of those required by law or international treaties.

### **Guidelines**

New Zealand contributed to the development of FAO's voluntary guidelines on *Responsible Management of Planted Forests*, completed in 2006.

### **Statements**

In 2008, a statement was issued jointly by the forest industry, the wood product sector and conservation groups entitled *Eliminating Illegal Forest Products in New Zealand* to highlight the group's opposition to the importation and use of illegally harvested forest products and request Government regulations requiring the verification of timber imports into New Zealand for their legality.

## New Zealand's illegal logging import policy

In global terms New Zealand is a small market for imported timber and wood products. In the year ending December 2012, imports of 39,000 m<sup>3</sup> represented only about 0.99% of New Zealand's domestic sawn timber consumption. MPI commissioned research in 2008 estimated that approximately 13% of this imported timber is of questionable legality (less than 0.13% of domestic consumption). The research also identified that 80% of this timber of questionable legality was imported kwila.

### New Zealand's imports of kwila

Table 1 Value of kwila imports for the calendar years 2007 - 2011

Kwila product (US\$ million)	2008	2009	2010	2011	2012	Main source of imports in 2012
Timber and Furniture	16.5	19.3	13.3	17.5	17.9	Indonesia (81%) China (11 %) Vietnam (2%) Solomon Islands (2%)

In the New Zealand context kwila is the main species of concern with regard to its legality. As an extremely durable hard wood kwila is mainly used in decking or imported as solid pre fabricated outdoor furniture. To monitor the volumes of kwila entering the country kwila specific tariff codes for timber and furniture were included in the Tariff of New Zealand.

From the import statistics above the value of kwila timber imports has fluctuated over the 4 years for which import data is available and is on average \$14.7 million while the average value of imports of kwila furniture for the 3 years 2008-11 is \$5.8 million. Indonesia is the largest source of imports for both kwila timber and furniture products.

At the end of 2009, the New Zealand Government developed an illegal logging policy, which consists of a package of domestic, bilateral and multilateral actions. The domestic actions included in the policy emphasis supporting a voluntary approach in the first instance.

From the 1<sup>st</sup> September 2011 members of the New Zealand Imported Tropical Timber Group (NZITTG), a group of major importers and retailers of tropical timber, voluntarily ceased importing or selling timber from Indonesia without credible third party verification of its legality. This is a significant move which targets kwila of which Indonesia is the main source. Members of the NZITTG account for over 80% of the imported tropical timber market in New Zealand. This initiative substantially reduces the risk that illegally logged timber will enter New Zealand.

## **Annex 1 Further information on property rights legislation**

### ***Treaty of Waitangi***

A foundation legal document recognising the rights of the Māori people in New Zealand is the Treaty of Waitangi, signed in 1840. Its principles (see [www.waitangi-tribunal.govt.nz/treaty/principles.asp](http://www.waitangi-tribunal.govt.nz/treaty/principles.asp)) are provided for in many pieces of domestic legislation.

The Waitangi Tribunal is the judicial body that considers claims from Māori who believe they are prejudiced by government action inconsistent with the Treaty of Waitangi. The Tribunal was established in 1975 by the Treaty of Waitangi Act (see <http://www.waitangi-tribunal.govt.nz/about/>). Many claims relate to the return of land held by the Government. Land subject to a claim has its title annotated accordingly so that the claim is not affected should the land be sold.

### ***Te Ture Whenua Māori Act 1993***

Te Ture Whenua Māori Act 1993 (Māori Land Act 1993) (the Act) recognizes Māori land as tāonga tuku iho (treasures passed down from ancestors) of special significance to Māori. The main principles of the Act (contained in the Preamble) are:

1. to promote the retention of land in the hands of Māori owners for their whānau (extended family), and their hapū (sub-tribe);
2. to protect wāhi tapu (places of special significance) according to tikānga Māori (Māori custom); and
3. to facilitate the occupation, development, and utilization of that land for the benefit of its owners, their whānau, and their hapū.

The Māori Land Court retains a key role in supervising dealings affecting Māori land promoting the retention of Māori land and assisting owners in the management of that land.

The Act has important implications for the way Māori land can be managed. By requiring a high threshold of support for sale of Maori land it makes it difficult to purchase such land. It also seeks to overcome the problem of fragmentation of titles among multiple owners by providing for various kinds of trusts under which Māori land can be managed.

<http://www.legislation.govt.nz/act/public/1993/0004/latest/DLM289882.html>

### ***Resource Management Act 1991***

The Resource Management Act 1991 is the principal statute for the management of land, subdivision, water, soil resources, the coast, air, and pollution control. The legislation is primarily implemented by local government authorities through regional and district plans that contain policies, rules and performance objectives associated with resource use.

<http://www.mfe.govt.nz/publications/rma/rma-guide-aug06/html/page2.html>

### ***Property Law Act 2007***

The Property Law Act 2007 sets out a general basis for property rights in New Zealand. Land tenure in New Zealand is based on a system of land survey and registration of title under the Land Transfer Act 1952. The State grants title to land through registration and guarantees the accuracy of that title. The register is a public “document” that records the status of any land, restrictions that might be placed on it and other facts including mortgages and leases.

<http://www.legislation.govt.nz/act/public/2007/0091/latest/DLM968962.html?src=qs>

### ***Forestry Rights Registration Act 1983***

The Forestry Rights Registration Act 1983 provides for the creation of forestry rights by the proprietor of land to establish, maintain and harvest a crop of trees on the land. Forestry rights are commonly used in joint-venture situations where a forestry investor establishes a forest on land owned by another party.

<http://www.legislation.govt.nz/act/public/1983/0042/latest/DLM72449.html?src=qs>

### ***Forests Act 1949***

The purpose of Part 3A of the Forests Act 1949 is to promote the sustainable management of indigenous forest land. It applies to most privately owned land. Part 3A requires the registration of sawmills milling indigenous timber, and that logs to be milled are sourced from government approved sustainable forest management plans or permits that are recorded against the certificate of title.

<http://mpi.govt.nz/forestry/forestry-in-nz/indigenous-forestry.aspx>

## Annex 2 International research recognising New Zealand's low risk status

The view that New Zealand is an extremely low-risk country for illegal logging and that traded forestry products originating from New Zealand pose a very low risk of being illegally harvested, is supported by the findings in a report by Poyry Forest Industry Pty Ltd entitled *“Legal forest products assurance – a risk assessment framework for assessing the legality of timber and wood products imported into Australia”* (12 February 2010)). This report was commissioned by the Australian Department of Agriculture, Fisheries and Forestry (DAFF) to inform the development of its illegal logging policy and is available on the DAFF website [www.daff.gov.au](http://www.daff.gov.au).

The research investigates Australia's main timber imports and evaluates the risk that illegally sourced timber is included in the trade.

Australia is New Zealand's second largest export market for forestry products with the trade worth US\$589 million in the year ending March 2013 so the report makes much mention of New Zealand. It should be noted that for each product category the Poyry research makes the assessment that New Zealand is low-risk supplier.

Product	Comment from the report
Tissue (HS4818)	"Tissue from New Zealand accounted for 33% of imports in 2008. The New Zealand supplier is SCA which can be considered a low-risk, reputable supplier. The pulp and wood fibre used in its tissue is thought to be sourced entirely from New Zealand." (page A2A-14)
Sawn timber (>6 mm)	"New Zealand timber accounted for almost 40% of all softwood timber imports [into Australia] in 2008. New Zealand supply is all plantation grown and domestically-sourced and is almost all radiata pine, and a small amount of Douglas fir. Softwood from the southern hemisphere is generally from plantations, and considered to be low risk." (page A2A-16)
Tongue and Groove Timber (HS4409)	"The majority of softwood flooring imports are supplied from New Zealand and Chile. Both of these countries have significant plantation resources and are classified as low risk." (page A2A-18)
Engineered Wood Products (HS4412)	"The New Zealand-sourced plywood (based on a review of the available data) appears to be limited to softwood plywood and LVL." (page A2A-20)
Composite Panels	"New Zealand is the dominant supplier of MDF to the Australian market, and has several MDF mills spread throughout the country. Output is manufactured almost entirely from radiata sawmill residues and round wood. This source of MDF is considered very low risk." (page A2A-23)
Particleboard	"New Zealand supplies all of the raw particleboard, and a portion of the surfaced. ... New Zealand and Western European countries are considered zero risk countries." (page A2A-24)

New Zealand's low risk status for illegal logging is also recognised by the Australian Institute of Criminology in its report from 2008 by Andreas Schloenhardt entitled *“The illegal trade in timber and timber products in the Asia-Pacific region”* Research and Public Policy Series Report no. 89.

Process	Comment from the report
Production	New Zealand has extensive forest resources on the North and South Islands. The country's forestry industry is heavily regulated by the Forests Act 1949 (NZ) and the sustainable management principles of the Resources Act 1991 (NZ). While New Zealand remains a significant producer of timber, large parts of New Zealand's forest cover are placed under protection (Asia-Pacific Forestry Commission 2001: 11). Illegal logging is a rare incident in New Zealand and does not occur on a large scale. The New Zealand Ministry of Agriculture and Forestry has reported that only about 15 investigations relating to illegal logging are carried out each year. Most prosecutions involve small quantities and only about two prosecutions each year involve quantities of more than 100 cubic metres of timber (Watson 2006: 4). (page 81)
Processing	New Zealand has a sizeable timber industry, mostly for domestic consumption. In 2007, New Zealand produced approximately 22 million cubic metres of logs and 4.7 million cubic metres of sawnwood. About 25 percent, or 5.8 million cubic metres, of logs were exported from New Zealand in 2007 in addition to 2.2 million cubic metres of sawnwood. Production and exports of veneer and plywood are small (ITTO 2007: 56–57). There are no reports about production or exports involving illegal timber or timber products from New Zealand. (page 109)

## The Legality of New Zealand's Forest Products

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Consumption	<p>New Zealand is a major consumer of timber and timber products in the region, but the country is largely self-sufficient; domestic consumption is almost exclusively satisfied by domestic production and New Zealand is a net exporter of timber and timber products. Imports into New Zealand are small in comparison and most timber imports into New Zealand arrive in the form of sawnwood; approximately 67,000 cubic metres in 2007 (ITTO 2007: 56). The ITTO projects that in 2007, New Zealand is consuming 16 million cubic metres of logs, 2.7 million cubic metres of sawn timber, 537,000 cubic metres of veneer and 324,000 cubic metres of plywood (ITTO 2007: 57). As domestic consumption largely involves domestic timber and timber products, there are no reports about suspicious volumes of timber consumption in New Zealand. (page 133)</p>
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