

Te Uru Rākau



New Zealand Forest Service



A code of ethics for registered forestry advisers

A summary of submissions from consultation on the proposed code of ethics for registered forestry advisers under the Forests Act 1949

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1 Introduction

1.1 Document purpose

This document summarises and analyses feedback that was received in submissions to Te Uru Rākau – New Zealand Forest Service (a business unit of the Ministry for Primary Industries (MPI)), during consultation on the proposed code of ethics (the Code) for registered forestry advisers.

In August 2020, the Forests (Regulation of Log Traders and Forestry Advisers) Amendment Act 2020 (the Act) was passed into law. When it commenced on 6 August 2022, it established a Forestry Authority and registration system for log traders and forestry advisers. The Act empowers the Forestry Authority to make rules for the Code for forestry advisers.

The Code will mandate how forestry advisers conduct themselves and their business.

1.2 Overall themes from consultation

The vast majority of submissions supported the need for the Code and the intent of the proposed ethics. The feedback received in submissions tended to focus on suggested changes to specific wording in some of the ethics, as well as requests for further guidance to help forestry advisers understand their obligations. Feedback on the Code is detailed below in response to each consultation question.

1.3 Consultation process

Public consultation on the proposed Code began on 13 June 2022 and ended on 11 July 2022.

The consultation document was published on the MPI website. Te Uru Rākau – New Zealand Forest Service used forestry and wood processing sector publications, and direct contact with sector members to promote consultation and seek feedback. Over 250 emails were sent out to the forestry and wood processing sector, and iwi/hapū groups, advising them consultation was open and inviting submissions.

Te Uru Rākau – New Zealand Forest Service sent the discussion document out to interested persons before consultation began.

Te Uru Rākau – New Zealand Forest Service received and analysed all submissions, which this document has summarised. Te Uru Rākau – New Zealand Forest will use the feedback gathered to inform a final Code of Ethics.

1.4 Document structure

This summary of submissions is divided into feedback on the following 12 questions:

1. Why should registered forestry advisers have to comply with a code of ethics?
2. Do you agree with ethic 1: “To comply with all relevant law, rules, and regulations. Respect the principles of the Treaty of Waitangi/Te Tiriti o Waitangi and any obligations arising from it”?
3. Do you agree with ethic 2: “To provide forestry advice according to sound ecological, environmental, economic, cultural, and wellbeing principles”?
4. Do you agree with ethic 3: “To treat everyone fairly, with courtesy and politeness. Respect cultural sensitivities and foster diversity”?
5. Do you agree with ethic 4: “To be open and transparent. Provide information and advice that is plain and intelligible”?

6. Do you agree with ethic 5: “To avoid harming people’s health, safety, and/or wellbeing”?
7. Do you agree with ethic 6: “To provide a high standard of service. Maintain confidentiality, exercise diligence, objectivity, and care”?
8. Do you agree with ethic 7: “To recognise, disclose, and actively manage conflicts of interest with the client”?
9. Do you agree with ethic 8: “To promote trust in the profession. Demonstrate and encourage ethical behaviour and high professional standards amongst colleagues”?
10. Do you agree with ethic 9: “To keep informed of changes affecting the profession and broader developments, and keep knowledge, skills, and techniques up to date”?
11. Do you agree with ethic 10: “To act only within your areas of expertise and competency”?
12. Is there anything else that should be included in the code of ethics?

1.5 Number of submissions

A total of 19 submissions were made to Te Uru Rākau – New Zealand Forest Service.

Note that some submitters did not respond to every question in the consultation.

1.6 List of submitters

Submitter type	Count
Individual	9
Forestry Organisation/Association	10

2 Summary of submission on the proposed code of ethics for registered forestry advisers

2.1 Numbers of submissions supporting/not supporting the Te Uru Rākau – New Zealand Forest Service proposed ethics

Consultation Questions		Response					Total
		Agree with the proposed ethic	Disagree with the proposed ethic	Not sure	No Answer	Other answer	
Question 2	Ethic 1	12	4	0	2	1	19
Question 3	Ethic 2	13	3	0	3	0	19
Question 4	Ethic 3	14	3	0	2	0	19
Question 5	Ethic 4	16	1	0	2	0	19
Question 6	Ethic 5	13	2	0	3	1	19
Question 7	Ethic 6	14	1	0	4	0	19
Question 8	Ethic 7	15	1	0	3	0	19
Question 9	Ethic 8	13	2	0	3	1	19
Question 10	Ethic 9	15	2	0	2	0	19
Question 11	Ethic 10	14	2	0	2	1	19

2.2 Analysis of comments received for each question

2.2.1 Question 1. “Why should registered forestry advisers have to comply with a code of ethics?”

The majority of submitters agreed that there should be a Code of Ethics that registered forestry advisers must follow.

Submitters who supported a Code of Ethics saw the benefits as including the following:

- The code of ethics would set a minimum standard for forestry advisors and also allow the sector to lift the professionalism across this group.
- It would help ensure minimum standards, credibility, and public confidence in the profession are maintained.
- It would help ensure that forest owners have access to competent and unbiased advice and promote client confidence.

Submitters who did not support of a Code of Ethics provided comments and explanation including the following:

- As NZIF requires registration and provides a Code of Ethics, Government duplication is not needed.
- This should be described as a Code of Conduct, not a Code of Ethics.
- This is missing considerable detail and detailed supporting explanatory text for each principle behind the ethic.

2.2.2 Question 2. “Do you agree with ethic 1: To comply with all relevant law, rules, and regulations. Respect the principles of the Treaty of Waitangi/Te Tiriti o Waitangi and any obligations arising from it”?

Of the submitters that responded to this question, 71% supported the proposed ethic. Two submitters wanted this ethic to be more specific about which Treaty principles should be complied with. Other suggestions were around changes to wording. One submitter wanted Treaty principles to be referenced in Ethic 3.

Responses to this question reflected overall agreement with the proposed ethic. Some submitters made suggestions to provide more detail and/or precision. Two submitters had the following suggestions and questions:

- It should be clearer which Te Tiriti o Waitangi principles are being referred to in this instance, and what these principles mean for forestry advisers.
- How can forestry advisers best align with the principles/obligations when dealing with Māori and the wider forestry industry?

One submitter stated that:

“We understand that the Treaty principles articulated by the Courts and the Waitangi Tribunal provide the basis for the relationship between the Crown and Māori. If a forestry advisor is working on behalf of the Crown when they deal with Māori, these principles will be of utmost importance.”

Two submitters suggested that forestry advisers should “acknowledge and respect the principles of the Treaty of Waitangi...”. It was also suggested that further guidance is needed: “In order to build more cultural competency in the forestry industry and strengthen the sector’s social licence to operate like the legislation aims to do, further guidance is needed in relation to this ethic.”

2.2.3 Question 3. “Do you agree with ethic 2: To provide forestry advice according to sound ecological, environmental, economic, cultural, and wellbeing principles”?

Of the submitters that responded to this question, 81% supported the proposed ethic. Several submitters recommended more detail be provided for the mentioned principles – an objective standard could be useful. Submissions suggested replacing “sound” with “accepted”, as this would better describe the principles that forestry advisers are required to meet.

Four submitters provided comments suggesting that further detail needs to be provided to ensure it is clear what these “principles” are and whether there is an objective standard or guidance to assess performance.

Three submitters suggested that the code of ethics pre-determines the outcome of the advisers conduct and does not place enough emphasis on what the client’s requirements are.

2.2.4 Question 4. “Do you agree with ethic 3: To treat everyone fairly, with courtesy and politeness. Respect cultural sensitivities and foster diversity”?

Of the submitters that responded to this question, 82% supported the proposed ethic. Comments from submitters consisted of suggestions for wording changes. One submitter wanted to see Treaty principles in this proposed ethic. Submissions suggested changing the wording from “Respect cultural sensitivities and foster diversity” to “Respect cultural sensitivities and diversity.”

Suggestions from submitters included removing the word “foster”, and replacing the words “courtesy and politeness” with “respectful, responsible and fair”.

One submitter suggested that references to Treaty of Waitangi principles should be included in ethic 3.

2.2.5 Question 5. “Do you agree with ethic 4: To be open and transparent. Provide information and advice that is plain and intelligible”?

The overall response from submitters was in support for this ethic. Comments from submitters were focused on the wording to ensure the intent is clear.

One submitter suggested that this ethic covers two different sets of obligations. They saw openness and transparency as relating to a professional's conduct and may arguably conflict to some degree with the ethic that requires forestry advisors to maintain confidentiality. Whereas advice that is 'plain and intelligible' may be viewed as a tangible output that generally reflects a professional's skill, care, competence, and diligence.

2.2.6 Question 6. "Do you agree with ethic 5: To avoid harming people's health, safety, and/or wellbeing"?

Of the submitters that responded to this question, 81% supported the proposed ethic. It was suggested that the wording of this ethic could be more positive – to protect rather than avoid harming. Submissions suggested changing the wording from "To avoid harming people's health..." to "To protect people's health..."

13 of the 16 submitters that responded to this question were in favour of this ethic, although some suggested that this ethic should be framed more positively so that it is to "protect" people's health, safety, and/or wellbeing rather than to "avoid harming" them.

2.2.7 Question 7. "Do you agree with ethic 6: To provide a high standard of service. Maintain confidentiality, exercise diligence, objectivity, and care"?

Of the submitters that responded to this question, 93% supported the proposed ethic. Some submitters believed that further guidance was required on confidential information.

Three submitters believed that requiring a "high standard of service" was too subjective and should be removed. Other submitters requested that further guidance on what confidential information is, when the requirement for confidentiality applies, and how forestry advisors should be handling confidential information should be provided.

One submitter stated that "the dividing line between confidential and non-confidential information is often unclear and as a result, we consider that confidential information should only be any information that the parties agreed is and should remain confidential."

Reference was made to the Real Estates Agents Authority rules and how confidential information is handled by the real estate agent profession.

2.2.8 Question 8. "Do you agree with ethic 7: To recognise, disclose, and actively manage conflicts of interest with the client"?

Of the submitters that responded to this question, 94% supported the proposed ethic. Three submitters would like to see further clarification on what a "conflict of interest" is and how advisers can manage any conflicts.

Three submitters stated that they would like to see more guidance/clarification on what a "conflict of interest" amounts to for a forestry adviser and how an adviser can actively manage these conflicts. One submitter highlighted that section 63ZZM of the Act states that the Code of Ethics will address conflicts of interest, but there is no detail in the draft Code of Ethics to clarify what a conflict is.

One submitter highlighted that the Real Estate Authority rules cover a well-articulated conflict of interest guideline.

2.2.9 Question 9. "Do you agree with ethic 8: To promote trust in the profession. Demonstrate and encourage ethical behaviour and high professional standards amongst colleagues"?

Of the submitters that responded to this question, 81% supported the proposed ethic. Submissions reflected that a change to the wording of this ethic is required. Submissions suggested removing "amongst colleagues" from the end of this proposed ethic.

Two submitters suggested that the wording of the ethic be changed to “demonstrate and encourage ethical behaviour and high work standards amongst Forest Advisors”, rather than “amongst colleagues”.

A submitter felt that the words “to promote trust” should be removed as the adviser needs the ability to voice disagreement.

One submitter thought it would be difficult to maintain this ethic if the Code of Ethics does not provide a complaints process.

2.2.10 Question 10. “Do you agree with ethic 9: To keep informed of changes affecting the profession and broader developments, and keep knowledge, skills, and techniques up to date”?

Of the submitters that responded to this question, 88% supported the proposed ethic. Four submitters requested more reference to Continuing Professional Development (CPD). One submitter requested a change of wording.

Four submitters suggested that Continuing Professional Development (CPD) is vital for professionalism and needs to be included in this ethic.

One submitter commented against the proposed ethic, that this must be changed to “To keep informed of changes affecting your activities and keep informed in matters of particular relevance to your area of work specialisation.”

One submitter recommended that the ethic is further developed and becomes similar to the standard in the Code of Professional Conduct for Financial Advice Services (FAS code) – particularly Standard 9:

“Individuals must, at least annually, plan for and progressively complete learning activities designed to ensure that they maintain:

- the competence, knowledge, and skill for the financial advice they give to the extent relevant to the financial advice they give, an up-to-date understanding of the regulatory framework for financial advice in New Zealand.
- Entities must, at least annually, review their procedures, systems and expertise to ensure that they maintain the capabilities for the financial advice they give.”

2.2.11 Question 11. “Do you agree with ethic 10: To act only within your areas of expertise and competency”?

Of the submitters that responded to this question, 82% supported the proposed ethic. It was also suggested that the draft code could be developed by reference to other regulated professions.

The majority of submitters were in favour of this draft ethic.

It was suggested that the current form of the code is less developed in comparison to the Real Estate Authority rules, the Financial Advice Services code, and the Financial Market Conduct Regulations. This submitter recommended alignment of the code of ethics with these other regulatory regimes.

2.2.12 Question 12: “Is there anything else that should be included in the code of ethics?”

Submitters provided feedback on this question and made some other general comments, which included the following:

- Some submitters suggested the Code needs to include a Continuing Professional Development requirement, including standards, delivery and facilitation.

- One submitter stated that the Code is insufficiently detailed, and they “do not consider that the draft code would meet the regime’s ultimate regulatory goal, which is to monitor that forest practitioners are “operating within their specialist operational and technical areas in accord with agreed standards”.”
- One submitter stated that the code of ethics should make it clear that forestry advisors have a level of responsibility across the supply chain, in particular when it comes to managing health, safety and wellbeing.
- Five submitters suggested the potential outcome(s) for breaching the Code should be included. For example, that the Forestry Authority “may cancel your registration, or take other appropriate actions, if there is a breach of this code of conduct.” They considered that: “The Code of Conduct must be enforceable, or it is a waste of effort. This implies an overhead in the setting up of a structure to manage the Code. There must be a hearing, appeal and penalty process.”
- Five submitters commented that the proposed Code of Ethics is a duplication of the existing NZIF Code of Ethics, suggesting all forest advisers should already be accredited members of NZIF.
- Some submitters queried the naming of the Code. They suggested the Code falls under the definition of a Code of Conduct; whereas they see a Code of Ethics as moral principles to guide decision making.