



# **Resource Management (National Environmental Standards for Commercial Forestry) Regulations 2017**

NES-PF User Guide Addendum on  
Amendments since 3 November 2023

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# Version Control Table – Updates Added

Version	Date	Change description
1.0	17 May 2024	Original document
1.1	17 January 2025	<p><b>Added guidance to the following sections:</b></p> <ul style="list-style-type: none"> <li>• 2.1 Afforestation: <ul style="list-style-type: none"> <li>– General guidance: wilding tree risk assessments (Regulation 11)</li> <li>– Regional council – restricted discretionary consent (Regulation 17(3)(d))</li> </ul> </li> <li>• 2.2 Earthworks: <ul style="list-style-type: none"> <li>– Regional council – restricted discretionary consent (Regulation 35(3)(k))</li> </ul> </li> <li>• 2.3 River Crossings <ul style="list-style-type: none"> <li>– Regional council conditions (Regulation 37)</li> <li>– Regional council conditions (Regulation 37(1))</li> <li>– Passage of fish (Regulation 40(1)(a)(b))</li> <li>– Flow calculations (Regulation 45(1)(a) / Schedule 2)</li> <li>– Conditions specific to various classes of river crossings (Regulation 46)</li> <li>– Regional council – controlled activity consent (Regulation 47)</li> <li>– Regional council – restricted discretionary activity consent (Regulation 48(1))</li> <li>– Regional council – restricted discretionary activity consent (Regulation 48(2)(f))</li> <li>– Regional council – discretionary activity consent (Regulation 49)</li> </ul> </li> <li>• 2.5 Harvesting: <ul style="list-style-type: none"> <li>– General guidance: interpretation of ‘slash’</li> <li>– General guidance: ‘unless to do so would be unsafe’ and ‘unless it is unsafe to do so’ (Regulation 69(4), and (5))</li> <li>– Regional council – restricted discretionary activity consent (Regulation 71(2)(h))</li> <li>– Exotic continuous-cover forest harvesting as a permitted activity (Regulation 71A)</li> <li>– Exotic continuous-cover forest harvesting as a controlled activity (Regulation 71B)</li> <li>– Exotic continuous-cover forest harvesting as a discretionary activity (Regulation 71C)</li> </ul> </li> <li>• 2.6 Mechanical Land Preparation: <ul style="list-style-type: none"> <li>– Regional council – restricted discretionary consent (Regulation 75(2)(i))</li> </ul> </li> <li>• 2.7 Replanting: <ul style="list-style-type: none"> <li>– General guidance: wilding tree risk assessments (Regulation 79)</li> <li>– Regional council – restricted discretionary consent (Regulation 81(4)(f))</li> </ul> </li> <li>• 2.8 General Provisions: <ul style="list-style-type: none"> <li>– Disturbance of wetlands (Regulation 97(2A))</li> <li>– Disturbance of the bed or vegetation in the bed of a perennial river (Regulation 97(6)(a))</li> <li>– Regional council – restricted discretionary consent (Regulation 105(2)(g))</li> </ul> </li> <li>• 2.9 Part 3 Local Authority Charges for Monitoring Permitted Activities <ul style="list-style-type: none"> <li>– Local authority may charge for monitoring permitted activities (Regulation 106(aaa))</li> </ul> </li> </ul> <p><b>Extended guidance in the following sections:</b></p> <ul style="list-style-type: none"> <li>• 1.3.3: Added definitions of ‘exotic forest species’ and ‘indigenous forest species’ for clarity</li> <li>• 1.5: Clarified council control of exotic continuous-cover forests prior to amendments</li> <li>• 2.5: Added intent for the definition of ‘cutover’</li> </ul>

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# 1 Introduction

## 1.1 PURPOSE OF THIS DOCUMENT

This document is a user guide to the changes in the National Environmental Standards for Commercial Forestry (**NES-CF**) that came into force on 3 November 2023. This version of the NES-PF User Guide addendum (version 1.1) covers the main changes in the NES-CF. Further updates to this guidance to incorporate the remaining changes (as noted in the tables in Section 2 Changes in the NES-CF by forestry activity), and to address any feedback received on the guidance within this document, will be provided at a later date. Amendments to this document will be highlighted in the version control table.

The NES-CF are regulations made under the Resource Management Act 1991 (**RMA**). The NES-CF policy objective is to:

- Maintain or improve the environmental outcomes associated with *commercial forestry activities*.
- Increase the efficiency and certainty of managing *commercial forestry activities*.

The intent of the NES-CF is for *exotic continuous-cover forests* to meet the same environmental controls as *plantation forests*, where the environmental effects are substantially the same.

The addendum focuses on the changes made by the NES-CF to the (formerly named) Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017. This addendum does not replace the NES-PF User Guide ([NES-PF User Guide](#)). Rather, this guidance should be used alongside the NES-PF User Guide. The addendum refers to relevant sections in the [NES-PF User Guide](#), that haven't been affected by the NES-CF amendments, to highlight where additional information can be found.

Terms that are defined in Regulation 3 of the NES-CF or in specific regulations are in *italics*.

## 1.2 REGULATION TITLE CHANGE TO COVER *EXOTIC CONTINUOUS-COVER FORESTS*

The title of the National Environmental Standards for Plantation Forestry (**NES-PF**) was changed to the NES-CF to cover both *plantation forests* (exotic and indigenous) and *exotic continuous-cover forests* (commonly referred to as carbon forests), as *commercial forests*.

## 1.3 NEW FORESTRY TYPE DEFINITIONS (REGULATION 3)

NES-CF Regulation 3 (Interpretation) includes new forestry definitions to support the regulation title change from *plantation forestry* to *commercial forestry* and the inclusion of *exotic continuous-cover forests* in the NES-CF. These new definitions are outlined below.

### 1.3.1 *Commercial forest or commercial forestry*

*Commercial forest or commercial forestry* is defined as follows:

***commercial forest or commercial forestry*** means *exotic continuous-cover forestry or plantation forestry*.

This definition reflects that the environmental effects of commercial forests planted principally for wood, timber and/or carbon income are covered by the NES-CF. Forests established for alternative purposes are not within the scope of the NES-CF (e.g., indigenous continuous-cover forests, trees grown for fruit or nuts) but may come within the scope of the Forests Act 1949 or council plan rules.

### 1.3.2 Commercial forestry activity

To align with this new definition, the definition 'plantation forestry activity' has been replaced with the definition *commercial forestry activity* which, is defined as follows:

***commercial forestry activity*** means any activity regulated under subparts 1 to 9 of Part 2 of these regulations that is conducted in *commercial forestry*.

The *commercial forestry activities* in subparts 1 to 9 of Part 2 of the NES-CF include: *afforestation, pruning and thinning to waste, earthworks, river crossings, forestry quarrying, harvesting, mechanical land preparation* and ancillary activities (*slash traps, indigenous vegetation clearance, non-indigenous vegetation clearance*).<sup>1</sup>

### 1.3.3 Exotic continuous-cover forest or exotic continuous-cover forestry

*Exotic continuous-cover forestry* is the new type of forestry that is covered by the NES-CF. These forests are often called 'carbon forests' because they are planted for permanent carbon storage and participation in the New Zealand Emissions Trading Scheme (NZ ETS).

*Exotic continuous-cover forest* or *exotic continuous-cover forestry* is defined as follows:

***exotic continuous-cover forest* or *exotic continuous-cover forestry*—**

(a) means a forest that is deliberately established for commercial purposes, being at least 1 ha of continuous forest cover of *exotic forest species* that has been planted and—

- (i) will not be harvested or replanted; or
- (ii) is intended to be *low intensity harvested* or replanted; and

(b) includes all associated *forestry infrastructure*; but

(c) 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 m; or
- (ii) *forest species* in urban areas; or
- (iii) nurseries and seed orchards; or
- (iv) trees grown for fruit or nuts; or
- (v) long-term ecological restoration planting of *indigenous forest species*; or
- (vi) willows and poplars space planted for soil conservation purposes.

*Exotic forest species* is defined in regulation 3 and means a forest species that is not an *indigenous forest species*.

*Indigenous forest species* is defined in regulation 3 and means a forests species that occurs naturally in New Zealand or has arrived in New Zealand without human assistance.

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<sup>1</sup> The forestry activities covered by the NES-CF are the same as those in the NES-PF at section 2.2 of the [NES-PF User Guide](#).

### 1.3.4 Plantation forest or plantation forestry

The definition of a *plantation forest* or *plantation forestry* has not changed, but has been included here for comparative purposes:

**Plantation forest** or **plantation forestry** means a forest deliberately established for commercial purposes, being—

- (a) at least 1 ha of continuous forest cover of *forest species* that has been planted and has or will be harvested or replanted; and
- (b) includes all associated *forestry infrastructure*; but
- (c) 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 m; or
  - (ii) *forest species* in urban areas; or
  - (iii) nurseries and seed orchards; or
  - (iv) trees grown for fruit or nuts; or
  - (v) long-term ecological restoration planting of *forest species*; or
  - (vi) willows and poplars space planted for soil conservation purposes.

### 1.3.5 Key differences between exotic continuous-cover forestry and plantation forestry

The key differences between *exotic continuous-cover forestry* and *plantation forestry* are:

	What type of <i>forest species</i> are planted?	Will it be harvested?	Are long term planted ecological restoration forests included?
<b>Plantation forests</b>	<i>Exotic forest species</i> and <i>indigenous forest species</i>	Yes, it will be harvested or replanted	No
<b>Exotic continuous-cover forests</b>	Only <i>exotic forest species</i>	No <i>harvesting</i> , or only intended for <i>low-intensity harvesting</i> or <i>replanting</i>	Only planted <i>exotic forest species</i> for ecological restoration

It is important to note that *commercial forestry activities* within *exotic continuous-cover forests* that are planted with *indigenous forest species* are not covered by the NES-CF. Any relevant council plan rules will apply for managing activities in these forests.

This flowchart provides further information and guidance on the differences between the forest types covered by the NES-CF – <https://www.mpi.govt.nz/dmsdocument/59911-Is-your-forest-covered-by-the-NES-CF>

Note: there are other new definitions in Regulation 3 (Interpretation). These are covered under guidance in Section 2 ‘Changes in the NES-CF by forestry activity’.

## 1.4 THE ACTIVITIES THE NES-CF APPLIES TO (REGULATION 5)

The *commercial forestry activities* covered by the NES-CF are, *afforestation, pruning and thinning to waste, earthworks, river crossings, forestry quarrying, harvesting, mechanical land preparation, replanting*, and ancillary activities. The NES-CF also sets out the general provisions and conditions that must be complied with.

A new clause (5) recognises that councils may make rules in regional or district plans for in relation to the effects of *afforestation* where the NES-CF does not apply.

## **1.5 MORE STRINGENT OR LENIENT RULES FOR AFFORESTATION (REGULATION 6)**

The NES-CF generally takes precedence over rules in a regional or district plan to achieve a nationally consistent approach to the management of *commercial forestry activities*. However, there are some limited circumstances when councils may introduce a rule in a plan which may be more stringent or more lenient than the NES-CF and these conditions are outlined in regulation 6.

For *afforestation*, regional or district plan rules may now be more stringent or lenient than the NES-CF under clause (4A). *Afforestation* is the only forestry activity where rules in a plan can be more lenient than the NES-CF.

Councils now have control over the location of both new *exotic continuous-cover forests* and *plantation forests (commercial forests)* to manage social, cultural, and economic effects if they make new plan rules to give effect to this. Prior to the amendments, the location of *exotic continuous-cover forests* was outside the scope of the NES-PF and were regulated by councils within the scope of the RMA. To do this, councils must follow the evaluation report requirements outlined in section 32(4) of the RMA, including public consultation, and demonstrating why the proposed more stringent or lenient *afforestation* rule is justified for their region or district.

## **1.6 PERMITTING JOINT NOTICE OF COMMERCIAL FORESTRY ACTIVITIES (REGULATION 7A)**

Forestry managers must provide notice to councils when undertaking certain forestry activities (i.e., *afforestation, earthworks, river crossings, forestry quarrying, harvesting, replanting*). This informs councils of these activities.

The new regulation 7A allows forest managers to provide a joint notice for more than one *commercial forestry activity* at the same time. This reduces the administrative burden for both foresters and councils.



## 2 Changes in the NES-CF by forestry activity

Changes to the requirements of the NES-CF are outlined below by activity and follow the same order as in the NES-CF. We have noted those changes where guidance will be provided in a later update.

### 2.1 AFFORESTATION

Afforestation as a permitted activity (Regulations 10, 10A, and 11)	
Notice of afforestation (Regulation 10)	<a href="#">NES-PF User Guide</a> – p38, Table 7 / p40, section 5.1.5
<u>Extension of the maximum timeframe</u> – Notice of <i>afforestation</i> must be provided to the relevant regional council and territorial authority within the maximum timeframe of eight months. Previously the maximum timeframe was no more than 60 working days. The minimum notice time of 20 working days has not changed.	
Afforestation management plan (Regulation 10A / (Schedule 3))	<a href="#">NES-PF User Guide</a> – p38, section 5.1.3
<u>New afforestation management plan</u> – A management plan (that meets the specifications of Schedule 3) is required for all <i>afforestation</i> activities. <i>Commercial forestry activities</i> must be carried out in line with the management plan. The management plan must be provided to councils if they request it in writing and the forestry manager must advise the council if any amendments are made to the management plan.  The requirement for an <i>afforestation</i> plan has been included in the NES-CF to better manage the potential risks and improve the environmental outcomes associated with not just the <i>afforestation</i> activity, but from other potential future risks during the forest rotation cycle. For example, future <i>harvesting</i> activities. While the <i>afforestation</i> management plan will need to include some information on the activities that pose a potential future risk, it does not replace the requirement to undertake the detailed management plan for that activity as required in Schedules 3 to 6.	
Wilding tree risk calculator score submission (Regulation 11(1)(c))	<a href="#">NES-PF User Guide</a> – p38, Table 7 / p41, section 5.1.6
<u>Extension of the maximum timeframe</u> – The <i>wilding tree risk calculator</i> score must be completed and submitted up to eight months before the date <i>afforestation</i> is planned to begin. Previously the maximum timeframe was six months.  This extended maximum time frame gives foresters the opportunity to:	

- Submit the *wilding tree risk calculator* scores and assessments to council in sufficient time where *wilding conifer* spread risk is potentially high for early discussion to resolve any concerns or issues between the parties.
- Plan for any resource consent conditions to address *wilding conifer* spread risk should a resource consent be required, before committing significantly to planting resources.

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**Wilding tree risk assessment** (Regulation 11(4))

[NES-PF User Guide](#) – p38, Table 7 / p41, section 5.1.6

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Additional information to be provided – An assessment of each element of wilding tree risk for each relevant area of forest following the [wilding tree risk calculator guidelines](#) and an explanation of how the assessments were made, must be provided to councils. This information must be submitted at the same time the *wilding tree risk calculator* score and calculation sheet is provided to the relevant regional council and territorial authority.

- The ‘elements of wilding tree risk’ are the five indicators used to calculate the overall score – refer pages 10-14 of the [wilding tree risk guidelines](#).
- The ‘relevant areas of forest’ are the distinct units that have different topographical features within the area to be afforested or replanted. A *wilding tree risk calculator* score must be applied to each of these distinct units – refer pages 15-17 of the [wilding tree risk guidelines](#).
- An ‘explanation of how the assessments were made’ is any supporting documentation demonstrating how each ‘element of wilding tree risk’ was assessed and scored for each of the ‘relevant areas of forest’. This should include:
  - A map at the relevant scale showing the topographical features used to identify the ‘relevant areas of forest’, surrounding land use, vegetation cover, and the locations of species to be planted.
  - Supporting photographic evidence – aerial or ground based.
  - The calculation sheet for each ‘relevant area of forest’.

This requirement came into force on 3 April 2024.

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**General guidance: wilding tree risk assessments** (Regulation 11)

[NES-PF User Guide](#) – p38, Table 7 / p41, section 5.1.6

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The role of a *suitably competent person* – The *suitably competent person*<sup>2</sup> requirements are set to ensure that the person undertaking the assessment has the suitable level of qualifications (a tertiary qualification in silviculture and forest ecology and at least 2 years’ experience in the field of silviculture) and/or experience (at least 5 years’ experience in silviculture that includes forest establishment) to understand and perform the *wilding tree risk calculator* calculation. This is regardless of whether they are external or internal to the forestry company undertaking the planting.

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<sup>2</sup> As defined in regulation 11(2).

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What a *suitably competent person* must do – For the activity to meet the permitted activity requirements, a *suitably competent person* must follow the permitted activity conditions in the NES-CF when performing a *wilding tree risk calculator* calculation. The NES-CF states that a *wilding tree risk calculator* score must be:<sup>3</sup>

- Applied to the land which *afforestation* with a *conifer species* is proposed; and
- Calculated in accordance with the *wilding tree risk guidelines*; and
- Calculated no more than 8 months before notice is given for *afforestation*.

If the *suitably competent person* does not follow these conditions, the activity is no longer a permitted activity, and a resource consent is required.

What can councils do if they believe the submitted *wilding tree risk calculator* assessment is incorrect – In situations where a council believes it has been provided an incorrect *wilding tree risk calculator* assessment, it has options available should it wish to investigate whether the permitted activity conditions have been met. It is important to note that for an activity to be permitted as a permitted activity, the permitted activity conditions must be met.

The use of both the *wilding tree risk calculator* and the *wilding tree risk guidelines* are referred to in the NES-CF under the permitted activity conditions for *afforestation*. When performing the *wilding tree risk calculator* calculation, the *suitably competent person* (irrespective of whether it is a forest employee or an external consultant doing this on behalf of the forestry company) is required to do so in accordance with the *wilding tree risk guidelines*. Additional information providing evidence of how the *wilding tree risk calculator* score has been calculated must now be provided to councils under Regulation 11(4). If the score has not been calculated with the *wilding tree risk calculator* in accordance with the *wilding tree risk guidelines*:

- The permitted activity conditions will not have been met.
- *Afforestation* becomes a restricted discretionary activity under regulation 16.

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#### **Afforestation as a restricted discretionary activity (Regulation 17)**

**Regional council – restricted discretionary consent** (Regulation 17(3)(d))

[NES-PF User Guide](#) – p15, section 2.9.2; p40, Figure 5

New matter for which council discretion is restricted to – If the *afforestation* activity is unable to meet the *setback* requirements under regulation 14(3) and is in any *green zone*, *yellow zone*, or *orange zone* land, or it is in *red zone* land where the proposed *afforestation* is 2 ha or less in any calendar year, then *afforestation* becomes a restricted discretionary activity and a consent is required (regulation 16(2)(a)).

Regulation 17(3) lists the matters of discretion that the council can consider when processing the consent application. This list has been extended to include:

- (d) the effects on the values of an *outstanding freshwater body* where a Treaty of Waitangi Settlement Act includes a statutory acknowledgement in relation to that *outstanding freshwater body*.

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<sup>3</sup> Set out in regulation 11(1).

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This additional matter of discretion applies where *afforestation* is occurring within the *setback* limits of an *outstanding freshwater body* which is subject to a Treaty of Waitangi Settlement Act. Regional councils will need to consider the settlement legislation and values so they can apply Part 2 of the Resource Management Act 1991 when assessing any potential effects of the *afforestation* activity on the *outstanding freshwater body*.

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<b>Red zone land of Land Use Capability Class 8e, and undefined ESC – restricted discretionary consent</b> (Regulation 17(4)(d)-(h))
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<a href="#">NES-PF User Guide</a> – p40, Figure 5
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New matters for which council discretion is restricted to – If the *afforestation* activity is on any *red zone* land where more than 2 ha of *afforestation* is occurring in any calendar year, or the land proposed for *afforestation* is undefined in the *erosion susceptibility classification*, then *afforestation* becomes a restricted discretionary activity and a consent is required (regulation 16(2)(b), or (c)).

Regulation 17(4) lists the matters of discretion that the council can consider when processing the consent application. This list has been extended (sub-clauses (d) to (h)) to include:

- (d) the planting location and species, including planting density and establishment practice.
- (e) future *harvesting* and *earthworks* effects.
- (f) the level of risk to communities and *infrastructure* that may be adversely affected by *slash* or *sediment*.
- (g) the forest type (*plantation forest* or *exotic continuous-cover forest*).
- (h) management requirements to avoid adverse effects on ecosystems, fresh water, the coastal marine area, communities, and *infrastructure*.

Some of new matters in clauses (d) to (h) were previously matters of discretion, but only in relation to managing the effects of *sediment* and erosion as required in regulation 17(4)(a). The intent of these additions is to enable councils to set conditions in restricted discretionary resource consents to manage a wider range of potential environmental effects of a future forest than just the effects relating to erosion and sedimentation. This applies to both forest types now covered in the NES-CF (*plantation forest* and *exotic continuous-cover forest*).

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## 2.2 EARTHWORKS

### Earthworks as a restricted discretionary activity (Regulation 35)

#### Regional council – restricted discretionary consent (Regulation 35(3)(k))

[NES-PF User Guide](#) – p54, Figure 7

New matter for which council discretion is restricted to – If the *earthworks* activity exceeds the regulatory requirements as detailed in regulation 35(2) or is on land that is undefined in the *erosion susceptibility classification*, then *earthworks* become a restricted discretionary activity and a consent is required (regulation 35(2)).

Regulation 35(3) lists the matters of discretion that the council can consider when processing the consent application. This list has been extended to include:

- (k) the effects on the values of an *outstanding freshwater body* where a Treaty of Waitangi Settlement Act includes a statutory acknowledgement in relation to that *outstanding freshwater body*.

This additional matter of discretion applies where *earthworks* are occurring near an *outstanding freshwater body* which is subject to a Treaty of Waitangi Settlement Act. Regional councils will need to consider the settlement legislation and values so they can apply Part 2 of the Resource Management Act 1991 when assessing any potential effects on the *outstanding freshwater body* from *earthworks* activity which exceed the listed regulatory requirements under regulation 35(2), or from *earthworks* activity that occurs on land that is undefined in the *erosion susceptibility classification*.

### Transitional provisions (Schedule 1, Part 2)

#### Forestry earthworks activity transition to the NES-CF (Schedule 1, Part 2, clause 4)

New requirement

Forestry *earthworks* plan requirements – Forestry *earthworks* activities being undertaken in accordance with a forestry *earthworks* plan that met the requirements of the previous regulations (NES-PF) may continue if:

- the plan was submitted before the new regulations (NES-CF) commenced on 3 November 2023.
- the expiry date of the notice for the activity (under regulation 25(2)) is less than five months after the commencement date of these regulations.

This means that foresters may continue to operate under an existing *earthworks* plan that was in place prior to 3 November 2023, until the date on which the activity is completed, as long as it occurs within five months of the new regulations coming into force. That five-month period has now passed, but where a renewal of the notice has been submitted under regulation 25(2)<sup>4</sup> those *earthworks* may continue until the expiry date of the renewed notice.

<sup>4</sup> Schedule 1, Part 2, clause 4(2) allows for notices that were operational prior to 3 November 2023 to be renewed once under regulation 25(2).

## 2.3 RIVER CROSSINGS

### River crossings as a permitted activity (Regulations 37, 40, 45, and 46)

#### Regional council conditions (Regulation 37)

[NES-PF User Guide](#) – p63, section 5.4.3

Clarifying a *ford* is a *river crossing* – The definitions of a *river crossing* and an *existing river crossing* (regulation 3) have been amended to include a *ford* as a *river crossing* activity.

This was not clear in the original definition and the amendment clarifies this intent. There is no change in regulatory responsibilities or requirements from this amendment.

#### Regional council conditions (Regulation 37(1))

[NES-PF User Guide](#) – p63, section 5.4.3

Extending the classes of *river crossing* structures – The types of *river crossing* structures included in regulation 37 has been extended to include *double culverts* and *removable in-stream structures* (regulation 37(1)).

*Double culvert* is a new definition (regulation 3) and means a *river crossing* structure that—

- (a) is made by using 2 *culverts* to carry the water flow; and
- (b) creates a surface on top of the *culverts* to cross a *water body*.

*Removable in-stream structure* is a new definition (regulation 3) and means a removable *river crossing* that—

- (a) has been designed with the structural integrity to withstand its intended loading without failure due to fracture, deformation, or fatigue for at least 2 years in its location; and
- (b) is designed to pass low flows through the structure and allow high flows and debris to flow over the top of the entire structure.

The intent of including these new classes of *river crossing* is to increase the options available to forestry engineers to select the most appropriate *river crossing* type for a site.

#### Passage of fish (Regulation 40(1)(a)(b))

[NES-PF User Guide](#) – p64, Table 13

Restricting the passage of fish species – Although *river crossings* must provide for the upstream and downstream passage of fish, regulation 40(1) has been amended to include two new subclauses to permit the restriction of fish passage in certain circumstances:

- (a) the relevant statutory fisheries manager advises the relevant regional council in writing that to provide for the passage of fish would have an adverse effect on the fish population upstream of the river crossing; or
- (b) the relevant regional council has determined that fish passage must be restricted.

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This amendment aligns with the National Policy Statement for Freshwater Management (2020) requirement for regional councils to identify any waterways where fish passage for undesirable fish species is to be impaired to protect desired fish species, their life stages, or their habitats, and to change their plans accordingly. If you are planning a new *river crossing*, you will need to check with the relevant regional council to identify whether the *river crossing* may need to restrict the passage of fish species.

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<b>Flow calculations</b> (Regulation 45(1)(a) / Schedule 2)
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<a href="#">NES-PF User Guide</a> – p64, Table 13
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Updating the methods for calculating flood flows – The methodology in regulation 45(1)(a) and Schedule 2 has been updated with the document ‘Regional Flood Estimation Tool for New Zealand Part 2’.

Regulation 45(1) sets out the methods that must be used when calculating flood flows for all *river crossings*, except *fords*. The new methodology replaces ‘Flood Estimation – A Revised Design Procedure’. The intent in updating this method is to ensure engineers calculating flood flows can use commonly used up-to-date methods.

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<b>Conditions specific to various classes of river crossings</b> (Regulation 46)
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<a href="#">NES-PF User Guide</a> – p69, sections 5.4.8 to 5.4.15
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Permitted activity conditions for *double culverts* and *removable in-stream structures* – Regulation 46 has been amended to incorporate the permitted activity conditions for *double culverts* (regulation 46(1) and *removable in-stream structures* (regulation 46(8)).

*Double culverts* have been incorporated into regulation 46(1) alongside *single culverts* with additional variations to specific *culvert* requirements in the following subclauses:

- (a) the calculated 5% EAP storm flow from the catchment above the *river crossing* point for a *double culvert* has been included.
- (c) the description of *culvert* size has been clarified to refer to the internal diameter.
- (f) the embedment depth for all *culverts* has been increased from 20% embedment to 25% embedment to align with the National Environmental Standard for Freshwater. The amendment recognises that in some instances this may be impossible to achieve, so includes the condition that best endeavours must be made to achieve it.

The inclusion of *double culverts* within the permitted activity conditions means they no longer require a resource consent where their effects are similar to those of a *single culvert*.

The new regulation 46(8) sets the permitted activity conditions for *removable in-stream structures*. The inclusion of permitted activity conditions for *removable in-stream structures* will increase the options available to foresters when assessing the environmental impact of *river crossings*.

## River crossings as a controlled activity (Regulation 47)

### Regional council – controlled activity consent (Regulation 47)

[NES-PF User Guide](#) – p66, Figure 9

Double culverts added to the controlled activity conditions – Minor amendments have been made to incorporate *double culverts* into the controlled activity conditions for *river crossings* in regulation 47(1) and (3).

## River crossings as a restricted discretionary activity (Regulation 48)

### Regional council – restricted discretionary activity consent (Regulation 48(1))

[NES-PF User Guide](#) – p66, Figure 9

Double culverts added to the restricted discretionary activity conditions – A minor amendment has been made to incorporate *double culverts* into the restricted discretionary activity conditions for *river crossings* in regulation 48(1).

### Regional council – restricted discretionary activity consent (Regulation 48(2)(f))

[NES-PF User Guide](#) – p66, Figure 9

New matter for which council discretion is restricted to – If the construction, use, maintenance, or removal of any *single culvert*, *double culvert*, or *battery culvert*, *drift deck*, single-span bridge or *temporary single-span bridge*, *ford*, or *temporary river crossing* is unable to comply with any provisions in regulations 38 to 46 and the activity is not classified as a controlled activity, or if the use or maintenance of an *existing river crossing* is unable to comply with any provisions in regulations 39 to 42, then the *river crossing* activity becomes a restricted discretionary activity, and a consent is required (regulations 48(1) and (1A)).

Regulation 48(2) lists the matters of discretion that the council can consider when processing the consent application. This list has been extended to include:

- (f) the effects on the values of an *outstanding freshwater body* where a Treaty of Waitangi Settlement Act includes a statutory acknowledgement in relation to that *outstanding freshwater body*.

This additional matter of discretion applies where *river crossings* are occurring near an *outstanding freshwater body* which is subject to a Treaty of Waitangi Settlement Act. Regional councils will need to consider the settlement legislation and values so they can apply Part 2 of the Resource Management Act 1991 when assessing any potential effects on the *outstanding freshwater body* from *river crossings* activities listed in regulation 48(1) which exceed the listed regulatory requirements under regulations 38 to 46 and the *river crossings* is not classified as a controlled activity, or the use or maintenance of existing *river crossings* exceed the listed requirements under regulations 39 to 42.



<b>River crossings as a Discretionary activity</b> (Regulation 49)	
<b>Regional council – discretionary activity consent</b> (Regulation 49)	<a href="#">NES-PF User Guide</a> – p66, Figure 9
<u>Double culverts</u> have been incorporated into the discretionary activity regulation for <i>river crossings</i> – This minor amendment aligns <i>double culverts</i> with the other <i>river crossings</i> classes in the discretionary activity requirements.	

## 2.4 FORESTRY QUARRYING

### Forestry quarrying as a permitted activity (Regulation 57)

#### Traffic management (Regulation 57)

[NES-PF User Guide](#) – p78, Table 14 / p82, section 5.5.10

Revoked – There are no transitional provisions relating to regulation 57. Where *forestry quarrying* material is being transported on a public road any relevant district plan rules about road use will apply.

### Transitional provisions (Schedule 1, Part 2)

#### Forestry quarrying activity transition to the NES-CF (Schedule 1, Part 2, clause 6)

New requirement

Forestry quarrying plan requirements – *Forestry quarrying* activities being undertaken in accordance with a quarry erosion and sediment management plan that met the requirements of the previous regulations (NES-PF) may continue if:

- The plan was submitted before the new regulations (NES-CF) commenced on 3 November 2023.
- The expiry date of the notice for the activity (under regulation 52(2)) is less than five months after the commencement date of these regulations.

This means that foresters may continue to operate under an existing *forestry quarrying* plan that was in place prior to 3 November 2023, until the date on which the activity is completed, as long as it occurs within five months of the new regulations coming into force. That five-month period has now passed, but where a renewal of the notice has been submitted under regulation 52(2)<sup>5</sup> those *forestry quarrying* activities may continue until the expiry date of the renewed notice.

<sup>5</sup> Schedule 1, Part 2, clause 4(2) allows for notices that were operational prior to 3 November 2023 to be renewed once under regulation 52(2).

## 2.5 HARVESTING

### Harvesting as a permitted activity (Regulation 69)

#### Slash and debris management (Regulation 69(1), and (2))

[NES-PF User Guide](#) – p86, Table 15 / p93, section 5.6.12

Clarification – Regulation 69(1) has been amended to clarify that only '*slash* from *harvesting* that is produced at or on a *landing* must be placed onto stable ground'. Regulation 69(2) has been amended to clarify that only '*slash* from *harvesting* that is at or on a *landing* must be managed to avoid the collapse of a *slash* pile or the ground under a *slash* pile.'

Without these clarifying words, this provision could be interpreted to refer to any *slash* on the forest land. *Slash* is sometimes managed through the use of benches (either natural or engineered) below the *landing*. Where such benches are being used to store *slash* they must be managed to avoid the collapse of a *slash* pile or the ground under the *slash* pile.

#### Slash and debris management (Regulation 69(5), and (7))

[NES-PF User Guide](#) – p86, Table 15 / p93, section 5.6.12

New requirement to remove *slash* – *Slash* from *harvesting* that is *sound wood* of at least 2 m in length with a large-end diameter of over 10 cm must be removed from the *cutover*, of land that is *orange zone land* and *red zone land* (that is not of *Land Use Capability Class 8e*, where it involves no more than 2 ha of *harvesting* in any three month period) unless it is unsafe<sup>6</sup> to do so. This will remove *slash* from areas which poses a risk of mobilisation into waterways.

- *Sound wood* in regulation 69 is 'wood that can be safely lifted using *harvesting* equipment and transferred to a *landing* without degrading or breaking up' – refer regulation 69(7).
- *Cutover* in the NES-CF is 'the land area that has been harvested, and any adjacent land between the harvested area and any land that would be covered by water during a 5% *AEP* event but does not include *water bodies* or land that would be covered by water during a 5% *AEP* event'.
- Adjacent is explained in section 4.5 [NES-PF User Guide](#).

The intent in extending the definition of *cutover* to include adjacent areas between the harvested area and a *water body* is to ensure that *slash* in these areas which poses a risk of mobilisation into a *water body* is removed unless it is unsafe to do so. *Slash* may roll or be swept below the harvested area and is at risk of mobilisation if a slope fails. Such areas may be difficult to access with harvest machinery so an assessment should be carried out to determine the risk of *slash* mobilising balanced against any risks to safety and the additional environmental effects of moving machinery.

In determining adjacency, a risk assessment is required. For example, areas adjacent to the harvested area and within sight of a *water body* but on a long easy slope may pose no risk of mobilisation.

<sup>6</sup> It is important to note that there are requirements under the [Health and Safety at Work Act 2015](#) that must be complied with.

<b>Residual slash</b> (Regulation 69(6), and (7))	<a href="#">NES-PF User Guide</a> – p86, Table 15 / p93, section 5.6.12
<p><u>Clarification</u> – <i>Residual slash</i> may be left on the cutover.</p> <ul style="list-style-type: none"> <li>Under regulation 69(6), <i>residual slash</i> may be left on the <i>cutover</i>.</li> <li><i>Residual slash</i> in regulation 69 is defined in clause (7) and means a quantity of <i>slash</i> required to be removed under clause (5) not exceeding 15 m<sup>3</sup> per hectare of the <i>cutover</i>. This means that a maximum of 15 m<sup>3</sup> per hectare of harvest <i>slash</i> per hectare can be left on the <i>cutover</i>.</li> </ul>	
<b>General guidance: interpretation of ‘slash’</b>	<a href="#">NES-PF User Guide</a> – throughout
<p><i>Slash</i> is tree waste from <i>commercial forestry activities</i> – Regulation 3 sets out the definitions to interpret <i>slash</i> as follows:</p> <ul style="list-style-type: none"> <li><i>Slash</i> means any tree waste left behind after <i>commercial forestry activities</i>.</li> <li><i>Commercial forestry activities</i> means any activity regulated under subparts 1 to 9 of Part 2 of the NES-CF that is conducted in <i>commercial forestry</i>.</li> </ul> <p><i>Commercial forestry activities</i> that commonly create <i>slash</i> are <i>pruning and thinning to waste</i> and <i>harvesting</i>. Where <i>harvesting</i> is occurring as a result of a <i>salvage operation</i>, <i>slash</i> can be created in the salvaging of trees that have been damaged.</p> <p><i>Slash</i> is woody debris that has been created as a result of <i>commercial forestry activities</i>. However, not all woody debris is <i>slash</i>. Examples of natural non-<i>slash</i> woody debris may include, but are not limited to, natural fallen deadwood, toppled and fallen trees, branches, twigs, bark, leaves/needles, and cones.</p>	
<b>General guidance: ‘unless to do so would be unsafe’ and ‘unless it is unsafe to do so’</b> (Regulation 69(4), and (5))	<a href="#">NES-PF User Guide</a> – p86, Table 15 / p93, section 5.6.12
<p><u>Every site is different, and safe recovery of <i>slash</i> in one instance may not be safe in another</u> – Even where conditions look very similar to another site, conditions on the same site will change seasonally or under different weather conditions. Safety may depend on the availability of experienced staff for the job and suitable machinery for the conditions. Planning for safe recovery can anticipate many situations that arise, but not necessarily all. Some, though not all, of the common risk factors are:</p> <ul style="list-style-type: none"> <li>Wet and slippery areas.</li> <li>Steep or slippery slopes.</li> <li>Slopes with downhill hazards or terrain traps such as bluffs and gullies.</li> <li>Confined spaces such as gullies and narrow waterways.</li> </ul> <p>The Forest Industry Safety Council’s <a href="#">Safetree</a> website has information and resources on managing risk. ‘How to... manage forestry risks’<sup>7</sup> provides a general overview.</p>	

<sup>7</sup> Safetree. 2017. *How to... manage forestry risks*. Forest Industry Safety Council – <https://www.safetree.nz/resources/managing-risk-in-forestry-operations>

The New Zealand [Slash Risk Management Handbook](#) provides information on health and safety risk requirements associated with *slash* management, and how to identify health and safety risks, particularly when working on high-risk *cutovers* and near waterways.

Who have responsibilities to make a judgement over whether a situation is safe or unsafe? – All people working on a forestry site have responsibilities under the [Health and Safety at Work Act 2015](#). The Health and Safety at Work Act sets out particular responsibilities for people designated as persons conducting a business or undertaking (PCBUs) who manage others on a site. It also sets out responsibilities of other people on a worksite, including workers and others who are on site.

Where a worker considers a *slash* retrieval situation unsafe, they should take reasonable care for their own (and others) health and safety and bring the safety concern to the attention of the PCBU (or PCBUs) who has responsibility for the site. The PCBU/PCBUs can carry out a risk assessment and identify options to ensure health and safety and compliance with the Health and Safety at Work Act. In assessing such options, it will be important to assess the risk of *slash* being able to mobilise from the location if it is left in situ.

Discussing the situation and the various factors at play with council compliance, monitoring and enforcement staff will create a shared understanding of the safety risks, both to workers and to downstream communities if material is able to mobilise.

#### Harvesting as a controlled activity (Regulation 70)

##### Slash removal – controlled activity consent (Regulation 70(4)(f))

[NES-PF User Guide](#) – p88, section 5.6.4, Figure 13

Amendment to the matters for which council control is reserved to – If *harvesting* is a controlled activity under regulation 70(3), then regulation 70(4) lists the matters over which regional council control is reserved. The matter of control referring to *slash* removal (regulation 70(4)(f)) has been amended to include minimum requirements for the removal of *slash* from the *cutover*.

Alongside the existing measures to contain and remove *slash*, regional councils can now also consider minimum requirements for the removal of *slash* from the *cutover*. This control incorporates the new requirements under regulation 69(5) that specify maximum *slash* piece dimensions, *slash* quality (*sound wood*), and permitted quantities that can be left on the *cutover*.

#### Harvesting as a restricted discretionary activity (Regulation 71)

##### Red zone land of Land Use Capability Class 8e, and undefined ESC – restricted discretionary activity consent (Regulation 71(2)(f))

[NES-PF User Guide](#) – p88, section 5.6.4, Figure 13

Amendment to the matters for which council discretion is restricted to – If *harvesting* is a restricted discretionary activity under regulation 71(1), the matter referring to *slash* removal for which the regional council discretion is restricted has been amended to include minimum requirements for the removal of *slash* from the *cutover*.

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Alongside the existing measures to contain and remove *slash*, regional councils can now also consider minimum requirements for the removal of *slash* from the *cutover*. This incorporates the new requirements under regulation 69(5) that specify maximum *slash* piece dimensions, *slash* quality (*sound wood*), and permitted quantities that can be left on the *cutover*.

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<b>Regional council – restricted discretionary activity consent</b> (Regulation 71(2)(h))
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<a href="#">NES-PF User Guide</a> – p89, Figure 13
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New matter for which council discretion is restricted to – If *harvesting* occurs in any *red zone* of *Land Use Capability Class 8e* or any land that is undefined in the *erosion susceptibility classification*, *harvesting* becomes a restricted discretionary activity, and a consent is required (regulation 71(1)).

Regulation 71(2) lists the matters of discretion that the council can consider when processing the consent application. This list has been extended to include:

- (h) the effects on the values of an *outstanding freshwater body* where a Treaty of Waitangi Settlement Act includes a statutory acknowledgement in relation to that *outstanding freshwater body*.

This additional matter of discretion applies where *harvesting* is occurring near an *outstanding freshwater body* which is subject to a Treaty of Waitangi Settlement. Regional councils will need to consider the settlement legislation and values so they can apply Part 2 of the Resource Management Act 1991 when assessing any potential effects on the *outstanding freshwater body* from *harvesting* in any *red zone* of *Land Use Capability Class 8e*, or from *harvesting* that occurs on land that is undefined in the *erosion susceptibility classification*.

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<b>Exotic continuous-cover forest harvesting as a permitted activity</b> (Regulation 71A)
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<b>Exotic continuous-cover forest harvesting</b>
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<a href="#">NES-PF User Guide</a> – p 85, section 5.6
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New permitted activity regulations – Under regulation 71A *low-intensity harvesting* within *exotic continuous-cover forests* is a permitted activity in all *erosion susceptibility classification* zones in relation to both territorial authority and regional council functions if regulations 64 to 69 are complied with, and any relevant *forest planning requirement* (requirements set out in Schedules 3, 4, 5 and 6) is not complied with.

*Low-intensity harvesting* and *forest planning requirements* are new definitions under regulation 3.

- *Low-intensity harvesting* means *harvesting* where a minimum of 75% canopy cover is maintained at all times for any given hectare of forest land.
- *Forest planning requirements* means the requirements set out in Schedules 3, 4, 5 and 6.

This means that *low-intensity harvesting* in *exotic continuous-cover forests* comes under the same *harvesting* permitted activity requirements as *plantation forests*.

The word ‘not’ in regulation 71A(b) ‘any relevant *forest planning requirement* is not complied with’, is a drafting error but still stands until this regulation is amended.

Local authority with functions in relation to *harvesting exotic-continuous cover forests* – Territorial authorities have functions under regulation 64(1) and (2). Regional councils have functions under regulations 64 to 69.

#### Exotic continuous-cover forest harvesting as a controlled activity (Regulation 71B)

##### Exotic continuous-cover forest harvesting – controlled activity consent

[NES-PF User Guide](#) – p 85, section 5.6

New controlled activity regulation to cover *exotic continuous-cover forests* – Under regulation 71B, *low-intensity harvesting* is a controlled activity in all *erosion susceptibility classification* zones, if the permitted activity conditions in regulation 71A can't be complied with.

Regulation 71B(2) lists the matters over which council control is reserved. These are the same matters as those for which control is reserved over for *plantation forestry*, but also includes '(h) any other forest planning requirements.'

As with *plantation forests*, regional councils are the primary local authority with functions under this regulation.

#### Exotic continuous-cover forest harvesting as a discretionary activity (Regulation 71C)

##### Exotic continuous-cover forest harvesting – discretionary activity consent

[NES-PF User Guide](#) – p 85, section 5.6

New discretionary activity regulation to cover *exotic continuous-cover forests* – Under regulation 71C, *harvesting* (other than *low-intensity harvesting*) in all *erosion susceptibility classification* zones is a discretionary activity.

Regional councils will have full discretion as to whether the consent to harvest will be granted or declined and the conditions applicable to the consent if it is granted.

#### Transitional provisions (Schedule 1, Part 2)

##### Harvest activity transition to the NES-CF (Schedule 1, Part 2, clauses 3 and 5)

New requirement

Slash provisions under regulation 69 – Where an *existing activity*<sup>8</sup> was underway prior to the amendments made to regulation 69 commencing on 3 November 2023, the previous version of regulation 69 will apply. The previous version of regulation 69 will continue to apply until a new notice of activity (as required by regulation 64) is required.

Harvest plan requirements – *Harvesting* activities being undertaken in accordance with a harvest plan that met the requirements of the previous legislation (NES-PF) may continue if:

- The plan was submitted before the new regulations (NES-CF) commenced on 3 November 2023.

<sup>8</sup> For Schedule 1, Part 2, clause 3, *existing activity* is defined in Schedule 1, Part 2(3)(2) and means 'an activity that is undertaken in accordance with a notice given under regulation 64 or a harvest plan that was made in accordance with these regulations, and that is in effect immediately before the commencement date.'

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- The expiry date of the notice for the activity (under regulation 64(2)) is less than five months after the commencement date of these regulations.

This means that foresters may continue to operate under an existing harvest plan that was in place prior to 3 November 2023, until the date on which the activity is completed, as long as it occurs within five months of the new regulations coming into force. That five-month period has now passed, but where a renewal of the notice has been submitted under regulation 64(2)<sup>9</sup> those *harvesting* activities may continue until the expiry date of the renewed notice.

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<sup>9</sup> Schedule 1, Part 2, clause 5(2) allows for notices that were operational prior to 3 November 2023 to be renewed once under regulation 64(2).



## 2.6 MECHANICAL LAND PREPARATION

### Mechanical land preparation as a restricted discretionary activity (Regulation 75)

#### Regional council – restricted discretionary consent (Regulation 75(2)(i))

[NES-PF User Guide](#) – p97, Figure 14

New matter for which council discretion is restricted to – If the *mechanical land preparation* activity is undertaken in accordance with regulation 73(2) but is unable to comply with the provisions in regulation 74; or the activity is in an *orange* or a *red zone* where the land slope is 25 degrees or more, the subsoil is affected, and the area covered by the *mechanical land preparation* activity is more than 2 ha in any calendar year; or the land is undefined in the *erosion susceptibility classification*, then it becomes a restricted discretionary activity, and a consent is required (regulation 75(1)).

Regulation 75(2) lists the matters of discretion that the council can consider when processing the consent application. This list has been extended to include:

- (i) the effects on the values of an *outstanding freshwater body* where a Treaty of Waitangi Settlement Act includes a statutory acknowledgement in relation to that *outstanding freshwater body*.

This additional matter of discretion applies where *mechanical land preparation* is occurring near an *outstanding freshwater body* which is subject to a Treaty of Waitangi Settlement Act. Regional councils will need to consider the settlement legislation and values so they can apply Part 2 of the Resource Management Act 1991 when assessing any potential effects on the *outstanding freshwater body* from *mechanical land preparation* activity which:

- Exceed the listed regulatory requirements under regulations 73 and 74.
- Is in an *orange* or a *red zone* where the land slope is 25 degrees or more, the subsoil is affected, and the area covered by the *mechanical land preparation* activity is more than 2 ha in any calendar year.
- Where *mechanical land preparation* activity occurs on any land that is undefined in the *erosion susceptibility classification*.

## 2.7 REPLANTING

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### Replanting as a permitted activity (Regulations 77A, 78A, 79)

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#### Replanting management plan (Regulation 77A / Schedule 3))

[NES-PF User Guide](#) – p 100, section 5.8.3

New *replanting* management plan – The *replanting* management plan (that meets the specifications of Schedule 3) is a new requirement under the NES-CF for all *replanting* activities. *Commercial forestry activities* must be carried out in line with the management plan. The management plan must be provided to councils if they request it in writing and the forestry manager must advise the council if any amendments are made to the management plan.

The requirement for a *replanting* plan has been included in the NES-CF to better manage the potential risks and improve the environmental outcomes associated with *replanting* activity, including the wilding tree risk.

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#### Notice of replanting (Regulation 78A)

[NES-PF User Guide](#) – p 100, section 5.8.3

New requirement to provide notice of *replanting* – The relevant regional council and territorial authority must be provided with notice of *replanting* at least 20 working days and no more than eight months before *replanting* is planned to begin. This notice must be provided in writing and include the following information:

- Location of *replanting*: this should include a legal description of the land that *replanting* is to occur on, and/or a map showing the boundary of the area proposed to be replanted.
- Proposed *setbacks*: this must be accompanied by the description of how the *setbacks* were calculated. It should contain sufficient information to give the relevant councils confidence that the relevant *setback* conditions will be complied with (refer to section 4.3 of the [NES-PF User Guide](#) for general guidance on calculating *setbacks*).
- Timeframes for afforestation: dates that *replanting* is planned to begin and end on.

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#### Wilding tree risk calculator score (Regulation 79(1)(a))

[NES-PF User Guide](#) – p101, Table 17 / p103, section 5.8.6

New requirement to assess wilding tree risk – Before any *replanting*, a *wilding tree risk calculator* score must be applied to any land on which *replanting* with a *conifer species* is proposed. Previously a score was only required to be calculated if there was a change in *conifer species* being planted to those that were most recently harvested.

This requirement came into force on 3 January 2024.

<b>Wilding tree risk calculator score submission</b> (Regulation 79(1)(c))	<a href="#">NES-PF User Guide</a> – p101, Table 17 / p103, section 5.8.6
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Extension of the maximum timeframe – The *wilding tree risk calculator* score must be completed and submitted up to eight months before the date *replanting* is planned to begin. Previously the maximum timeframe was six months.

Aligning this time frame with the time frame for *afforestation* gives foresters the opportunity to:

- Submit the *wilding tree risk calculator* scores and assessments to council in sufficient time where *wilding conifer* spread risk is potentially high for early discussion to resolve any concerns or issues between the parties.
- Plan for any resource consent conditions to address *wilding conifer* spread risk should a resource consent be required, before committing significantly to planting resources.

This requirement came into force on 3 January 2024.

<b>Wilding tree risk assessment</b> (Regulation 79(5))	<a href="#">NES-PF User Guide</a> – p101, Table 17 / p103, section 5.8.6
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New requirement – The *wilding tree risk calculator* score and calculation sheet must be provided to the relevant regional council and territorial authority. Previously these were only required to be submitted to the councils on request.

Additional information to be provided – An assessment of each element of wilding tree risk for each relevant area of forest following the [wilding tree risk calculator guidelines](#) and an explanation of how the assessments were made, must be provided to councils. This information must be submitted at the same time the *wilding tree risk calculator* score and calculation sheet is provided to the relevant regional council and territorial authority.

- The ‘elements of wilding tree risk’ are the five indicators used to calculate the overall score – refer pages 10-14 of the [wilding tree risk calculator guidelines](#).
- The ‘relevant areas of forest’ are the distinct units that have different topography within the area to be afforested or replanted. A wilding tree risk calculator score must be applied to each of these distinct units – refer pages 15-17 of the [wilding tree risk calculator guidelines](#).
- An ‘explanation of how the assessments were made’ is any supporting documentation demonstrating how each ‘element of wilding tree risk’ was assessed and scored for each of the ‘relevant areas of forest’. This should include:
  - A map at the relevant scale showing the topographical features used to identify the ‘relevant areas of forest’, surrounding land use, vegetation cover, and the locations of species to be planted.
  - Supporting photographic evidence – aerial or ground based.
  - The calculation sheet for each ‘relevant area of forest’.

This requirement came into force on 3 April 2024.

<b>Wilding conifer control measures – replanting</b> (Regulation 79(6), and (7))	<a href="#">NES-PF User Guide</a> – p101, Table 17 / p103, section 5.8.6
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Clarification – Before *replanting* can begin (clause (6)), and at least every five years after *replanting* began (clause (7)), all *wilding conifers* resulting from the previous harvest and the subsequent *replanting* must be eradicated where they have established in *wetlands* or *significant natural areas*. Clauses (6) and (7) have been amended to clarify that this requirement only applies to those *wilding conifers* on the same property on which the *replanting* activity occurs on, and any adjacent properties under the same ownership or management.

This requirement came into force on 3 January 2024.

<b>General guidance: wilding tree risk assessments</b> (Regulation 79)	<a href="#">NES-PF User Guide</a> – p101, Table 17 / p103, section 5.8.6
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The role of a suitably competent person – The *suitably competent person*<sup>10</sup> requirements are set to ensure that the person undertaking the assessment has the suitable level of qualifications (a tertiary qualification in silviculture and forest ecology and at least 2 years' experience in the field of silviculture) and/or experience (at least 5 years' experience in silviculture that includes forest establishment) to understand and perform the *wilding tree risk calculator* calculation. This is regardless of whether they are external or internal to the forestry company undertaking the planting.

What a suitably competent person must do – For the activity to meet the permitted activity requirements, a *suitably competent person* must follow the permitted activity conditions in the NES-CF when performing a *wilding tree risk calculator* calculation. The NES-CF states that a *wilding tree risk calculator* score must be:<sup>11</sup>

- Applied to the land which *replanting* with a *conifer species* is proposed; and
- Calculated in accordance with the *wilding tree risk guidelines*; and
- Calculated no more than 8 months before *replanting* begins.

If the *suitably competent person* does not follow these conditions, the activity is no longer a permitted activity, and a resource consent is required.

What can councils do if they believe the submitted *wilding tree risk calculator* assessment is incorrect – In situations where a council believes it has been provided an incorrect *wilding tree risk calculator* assessment, it has options available should it wish to investigate whether the permitted activity conditions have been met. It is important to note that for an activity to be permitted as a permitted activity, the permitted activity conditions must be met.

The use of both the *wilding tree risk calculator* and the *wilding tree risk guidelines* are referred to in the NES-CF under the permitted activity conditions for *replanting*. When performing the *wilding tree risk calculator* calculation, the *suitably competent person* (irrespective of whether it is a forest employee or an external consultant doing this on behalf of the forestry company) is required to do so in accordance with the *wilding tree risk guidelines*. Additional

<sup>10</sup> As defined in regulation 79(2).

<sup>11</sup> Set out in regulation 79(1).

information providing evidence of how the *wilding tree risk calculator* score has been calculated must now be provided to councils under regulation 79(5). If the score has not been calculated with the *wilding tree risk calculator* in accordance with the *wilding tree risk guidelines*:

- The permitted activity conditions will not have been met.
- *Replanting* becomes a restricted discretionary activity under regulation 81.

### Replanting as a controlled activity (Regulation 80)

**Replanting more than 2 ha on red zone land – controlled activity consent** (Regulation 80(1), and (2))

[NES-PF User Guide](#) – p102, Figure 15 / p104, section 5.8.7

New requirements – When *replanting* more than 2 ha on *red zone* land, *replanting* becomes a controlled activity under regulation 80(1). The new *replanting* notice requirement (regulation 78A) has been added to the list of regulations that must be complied with for *replanting* to be a controlled activity. Regional council control is reserved over the timing, location, and species (as described in the new regulation 80(2)).

**Wilding tree risk calculator score of 12 or more – controlled activity consent** (Regulation 80(3), and (4))

[NES-PF User Guide](#) – p102, Figure 15

New consent status – *Replanting* is a controlled activity under regulation 80(3) where a *wilding tree risk calculator* score of 12 or more is calculated for areas proposed to be replanted (regulation 79(3) is not complied with).

However, a proposed area may be replanted where a *wilding tree risk calculator* score of 12 or more is calculated (and therefore regulation 79(3) does not apply) if:

- The trees most recently harvested on the same land proposed for *replanting* had a *wilding tree risk calculator* score calculated in accordance with the *wilding tree risk guidelines* by a *suitably competent person* no more than eight months before *replanting* is carried out.
- The calculated score (for the trees most recently harvested on the same land proposed for *replanting*) is the same or higher than the that of the species proposed for *replanting*.

New matters for which council control is reserved to – Regional councils have the following matters under regulation 80(4) over which control is reserved:

- The level of wilding tree risk: how will wilding trees affect the surrounding environment managed under each council's separate functions under sections 30 and 31 of the RMA? Are there any particularly sensitive receiving environments that would be adversely affected by *wilding conifers*?
- The mitigation proposed to restrict *wilding conifer* spread, including the species to be planted: are the mitigation options proposed fit for purpose or are there other options to reduce the risk?
- The effects on the values of the *significant natural area* or an *outstanding natural feature or landscape*: ...[relevant where *replanting* is located in a *significant natural area* or *outstanding natural features or landscapes*]....
- Actual *wilding conifer* spread, including measures to mitigate that spread and proposed measures to mitigate that spread: is there any evidence of previous wilding tree spread, and if so, are the current management practices effective?

- The information and monitoring requirements: will these enable the potential adverse effects of *wilding conifers* to be monitored and addressed in the future?
- Timing, location, and species: mitigation measures to reduce the risk of spread include timing of replanting, location, and the species.

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### Replanting as a restricted discretionary activity (Regulation 81)

#### Notice of replanting – restricted discretionary consent (Regulation 81(1), and (3))

[NES-PF User Guide](#) – p102, Figure 15

New requirement – if the permitted activity conditions for notice of *replanting* (regulation 78A) are not met, *replanting* requires a restricted discretionary consent from the relevant territorial authority (regulation 81(1)) and regional council (regulation 81(3)).

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#### Regional council – restricted discretionary consent (Regulation 81(4)(f))

[NES-PF User Guide](#) – p102, Figure 15

New matter for which council discretion is restricted to – If the *replanting* activity is unable to meet the *setback* requirements under regulation 78(2) or (3), the notice requirements under 78A, or the wilding tree risk and control requirements under regulation 79 (other than regulation 79(3)), then *replanting* becomes a restricted discretionary activity and a consent is required (regulation 81(3)).

Regulation 81(4) lists the matters of discretion that the council can consider when processing the consent application. This list has been extended to include:

- (f) the effects on the values of an *outstanding freshwater body* where a Treaty of Waitangi Settlement Act includes a statutory acknowledgement in relation to that *outstanding freshwater body*.

This additional matter of discretion applies where *replanting* is occurring near an *outstanding freshwater body* which is subject to a Treaty of Waitangi Settlement Act. Regional councils will need to consider the settlement legislation and values so they can apply Part 2 of the Resource Management Act 1991 when assessing any potential effects of the *replanting* activity on the *outstanding freshwater body* which exceed the listed regulatory requirements under regulations 78(2) and (3), regulation 78A and regulation 79 (other than regulation 79(3)).

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## 2.8 GENERAL PROVISIONS

### Discharges, disturbances, and diversions as a permitted activity (Regulation 97)

#### Disturbance of wetlands (Regulation 97(2A))

[NES-PF User Guide](#) – p116, section 7.1

Direction on the use of machinery, vehicles, equipment, and construction materials around wetlands – Subclause 2A provides the permitted activity conditions for when disturbance of a *wetland* (as described in subclause 2) may occur through use of machinery, vehicles, equipment, and construction materials.

Disturbance of a *wetland* may occur only if:

- The machinery, vehicles, and equipment used for the activity are cleaned before entering the *wetland* (to avoid introducing pests, unwanted organisms, or exotic plants); and
- The machinery that is used for the activity sits outside the *wetland*, unless it is necessary for the machinery to enter it to achieve the purpose of the activity; and
- The machinery or vehicles that enter the *wetland* are modified or supported to prevent them from damaging the *wetland* (for example, by widening the tracks of track-driven vehicles or using platforms for machinery to sit on); and
- The mixing of construction materials, and the refuelling and maintenance of vehicles, machinery, and equipment, is done outside a 10 m *setback* from the *wetland*.

This amendment aligns with the National Environmental Standards for Freshwater (NES-F) regulation 55(12) and improves consistency between the NES-CF and the NES-F with regard to disturbance in *wetlands*.

Note that there are additional rules in the NES-CF relating to refuelling near a *wetland* under regulation 104(2).

#### Disturbance of the bed or vegetation in the bed of a perennial river (Regulation 97(6)(a))

[NES-PF User Guide](#) – p116, section 7.1

Clarifying vehicle movements across a wetted river bed – regulation 97(6)(a) has been amended to remove the words 'using a *ford*'.

This change to the wording is intended to clarify that it is the action of crossing a wetted *river* bed for up to 20 axle movements per day which should not be regarded as a disturbance of the bed or vegetation in the bed of a *perennial river*, not just when a *ford* is present.

### Fuel storage and refuelling as a restricted discretionary activity (Regulation 105)

#### Regional council – restricted discretionary consent (Regulation 105(2)(g))

[NES-PF User Guide](#) – p125, section 7.5

New matter for which council discretion is restricted to – If the *fuel* storage, refuelling, and oil changing activity is unable to comply with the requirements as detailed in regulation 104(2) or (3) then the activity becomes a restricted discretionary activity, and a consent is required (regulation 105(1)).

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Regulation 105(2) lists the matters of discretion that the council can consider when processing the consent application. This list has been extended to include:

- (g) the effects on the values of an *outstanding freshwater body* where a Treaty of Waitangi Settlement Act includes a statutory acknowledgement in relation to that *outstanding freshwater body*.

This additional matter of discretion applies where *fuel* storage, refuelling, and oil changing is occurring near an *outstanding freshwater body* which is subject to a Treaty of Waitangi Settlement Act. Regional councils will need to consider the settlement legislation and values so they can apply Part 2 of the Resource Management Act 1991 when assessing any potential effects on the *outstanding freshwater body* from *fuel* storage, refuelling, and oil changing activity which exceed the listed regulatory requirements under regulations 104(2) and (3).

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## 2.9 PART 3 LOCAL AUTHORITY CHARGES FOR MONITORING PERMITTED ACTIVITIES

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### Local authorities may charge for monitoring permitted activities (Regulation 106)

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#### Local authority may charge for monitoring permitted activities (Regulation 106(aaa))

[NES-PF User Guide](#) – p19, section 3.1.3

Local authorities may charge to monitor *afforestation* permitted activities – Part 3 (regulation 106) of the NES-CF sets out the permitted activities local authorities may charge for if they are responsible for monitoring that activity. *Afforestation* has been added to these activities:

- (aaa) regulation 9 (*afforestation*).
- (a) regulation 24 (*earthworks*).
- (b) regulation 37 (*river crossings*).
- (c) regulation 51 (*forestry quarrying*).
- (d) regulation 63(2) (*harvesting*).

Some *commercial forestry activities* regulated under the NES-CF present a higher risk of adverse environmental effects where permitted activity conditions are not met. It is expected that these activities would be prioritised for compliance monitoring by councils. Councils are not required to fix charges for monitoring these five specified permitted activities under the NES-CF but may do so if they choose to. Section 3 of the [NES-PF Consenting and Compliance Guide](#) provides more guidance on setting charges for monitoring permitted activities under the NES-CF.

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## 2.10 MANAGEMENT PLANS (SCHEDULES 3-6)

<b>Afforestation and replanting plan specifications</b> (Schedule 3)	<a href="#">NES-PF User Guide</a> – p11, section 2.6; p 20, section 3.1.6; p23, section 3.2.4
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Guidance to be provided in a following update to this guidance document.

<b>Forestry earthworks management plan</b> (Schedule 4)	<a href="#">NES-PF User Guide</a> – p11, section 2.6; p 20, section 3.1.6; p23, section 3.2.4
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Guidance to be provided in a following update to this guidance document.

<b>Quarry erosion and sediment management plan specifications</b> (Schedule 5)	<a href="#">NES-PF User Guide</a> – p11, section 2.6; p 20, section 3.1.6; p23, section 3.2.4
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Guidance to be provided in a following update to this guidance document.

<b>Harvest plan</b> (Schedule 6)	<a href="#">NES-PF User Guide</a> – p11, section 2.6; p 20, section 3.1.6; p23, section 3.2.4
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Guidance to be provided in a following update to this guidance document.

### 3 Appendix 1 – Table of changes in the National Environmental Standards for Commercial Forestry (NES-CF) compared with the National Environmental Standards for Plantation Forestry (NES-PF)

The table of changes below follows the same order as in the NES-CF. New wording in the NES-CF is shown as underlined, wording that has been deleted has a ~~strike-through~~. If the only change to a regulation is from 'plantation' to 'commercial' forestry, it has not been included in the table, unless it was part of a title or definition change.

Please note that some changes included in Appendix 1 are not yet covered in guidance, these will be addressed in later versions.

NES-CF Regulation	NES-PF	NES-CF
1 Title and in numerous locations throughout the document	Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017	Resource Management (National Environmental Standards for <del>Plantation</del> <u>Commercial</u> Forestry) Regulations 2017. There are subsequent changes from plantation forestry to commercial forestry throughout the NES-CF to reflect the title change.
3 Interpretation: basal area	New definition – not in the NES-PF	<u>basal area</u> means the cross-sectional area of the stem of a tree measured over bark at a point that is 1.4 metres from ground level on the uphill side of the tree and expressed in square metres
commercial forest or commercial forestry	New definition – not in the NES-PF	<u>commercial forest</u> or <u>commercial forestry</u> means exotic continuous-cover forestry or plantation forestry
commercial forestry activity	New definition – not in the NES-PF	<u>commercial forestry activity</u> means any activity regulated under subparts 1 to 9 of Part 2 of these regulations that is conducted in commercial forestry
cutover	New definition – not in the NES-PF	<u>cutover</u> means the land area that has been harvested, and any adjacent land between the harvested area and any land that would be covered by water during a 5% AEP event, but does not include water bodies or land that would be covered by water during a 5% AEP event
double culvert	New definition – not in the NES-PF	<u>double culvert</u> means a river crossing structure that— (a) is made by using 2 culverts to carry the water flow; and (b) creates a surface on top of the culverts to cross a water body

earthflow terrain	<b>earthflow terrain</b> means land classified in the electronic tool referred to in item 1 of Schedule 2 ( <a href="http://www.mpi.govt.nz/growing-and-producing/forestry/overview/national-environmental-standards-for-plantation-forestry/erosion-susceptibility-classification/">http://www.mpi.govt.nz/growing-and-producing/forestry/overview/national-environmental-standards-for-plantation-forestry/erosion-susceptibility-classification/</a> ) and having the dominant erosion process of earthflows and the terrain grouping as follows: [...]	<b>earthflow terrain</b> means land classified in the electronic tool referred to in item 1 of Schedule 2 ( <del>http://www.mpi.govt.nz/growing-and-producing/forestry/overview/national-environmental-standards-for-plantation-forestry/erosion-susceptibility-classification/</del> ) ( <a href="http://www.mpi.govt.nz/growing-and-producing/forestry/overview/national-environmental-standards-for-plantation-forestry/erosion-susceptibility-classification/">http://www.mpi.govt.nz/growing-and-producing/forestry/overview/national-environmental-standards-for-plantation-forestry/erosion-susceptibility-classification/</a> ) and having the dominant erosion process of earthflows and the terrain grouping as follows: [...]
existing river crossing	<b>existing river crossing</b> — (a) means a river crossing that was operational and able to be used at the commencement of these regulations; and (b) includes a river crossing described in paragraph (a) that is used and maintained; but (c) does not include a river crossing— (i) that is described in paragraph (a) that is upgraded, removed, or replaced in accordance with these regulations; or (ii) that is a ford or a temporary river crossing	<b>existing river crossing</b> — (a) means a river crossing that was operational and able to be used at the commencement of these regulations; and (b) includes a river crossing described in paragraph (a) that is used and maintained; but (c) does not include a river crossing— (i) that is described in paragraph (a) that is upgraded, removed, or replaced in accordance with these regulations; or (ii) that is a <del>ford</del> or a temporary river crossing
erosion susceptibility classification	(b) is provided in the electronic tool referred to in item 1 of Schedule 2 ( <a href="http://www.mpi.govt.nz/growing-and-producing/forestry/overview/national-environmental-standards-for-plantation-forestry/erosion-susceptibility-classification/">http://www.mpi.govt.nz/growing-and-producing/forestry/overview/national-environmental-standards-for-plantation-forestry/erosion-susceptibility-classification/</a> )	(b) is provided in the electronic tool referred to in item 1 of Schedule 2 ( <del>http://www.mpi.govt.nz/growing-and-producing/forestry/overview/national-environmental-standards-for-plantation-forestry/erosion-susceptibility-classification/</del> ) ( <a href="http://www.mpi.govt.nz/growing-and-producing/forestry/overview/national-environmental-standards-for-plantation-forestry/erosion-susceptibility-classification/">http://www.mpi.govt.nz/growing-and-producing/forestry/overview/national-environmental-standards-for-plantation-forestry/erosion-susceptibility-classification/</a> )
exotic continuous-cover forest or exotic continuous-cover forestry	New definition – not in the NES-PF	<b>exotic continuous-cover forest</b> or <b>exotic continuous-cover forestry</b> — (a) means a forest that is deliberately established for commercial purposes, being at least 1 ha of continuous forest cover of exotic forest species that has been planted and— (i) will not be harvested or replanted; or (ii) is intended to be used for low-intensity harvesting or replanted; and (b) includes all associated forestry infrastructure; but (c) does not include—

		<p><u>(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 m;</u>  <u>or</u>  <u>(ii) forest species in urban areas; or</u>  <u>(iii) nurseries and seed orchards; or</u>  <u>(iv) trees grown for fruit or nuts; or</u>  <u>(v) long-term ecological restoration planting of indigenous forest species; or</u>  <u>(vi) willows and poplars space planted for soil conservation purposes</u></p>
exotic forest	New definition – not in the NES-PF	<b>exotic forest</b> means a forest that consists of 50% or more exotic forest species by basal area
exotic forest species	New definition – not in the NES-PF	<b>exotic forest species</b> means a forest species that is not an indigenous forest species
forest planning requirements	New definition – not in the NES-PF	<b>forest planning requirements</b> mean the requirements set out in Schedules 3, 4, 5, and 6
GIS	New definition – not in the NES-PF	<b>GIS</b> means geographic information system
green zone	<b>green zone</b> means the land mapped and classified with an erosion susceptibility rating of low in the electronic tool referred to in item 1 of Schedule 2 ( <a href="http://www.mpi.govt.nz/growing-and-producing/forestry/overview/national-environmental-standards-for-plantation-forestry/erosion-susceptibility-classification/">http://www.mpi.govt.nz/growing-and-producing/forestry/overview/national-environmental-standards-for-plantation-forestry/erosion-susceptibility-classification/</a> )	<b>green zone</b> means the land mapped and classified with an erosion susceptibility rating of low in the electronic tool referred to in item 1 of Schedule 2 ( <del><a href="http://www.mpi.govt.nz/growing-and-producing/forestry/overview/national-environmental-standards-for-plantation-forestry/erosion-susceptibility-classification/">http://www.mpi.govt.nz/growing-and-producing/forestry/overview/national-environmental-standards-for-plantation-forestry/erosion-susceptibility-classification/</a></del> ) ( <a href="https://www.mpi.govt.nz/forestry/national-environmental-standards-commercial-forestry/erosion-susceptibility-classification/">https://www.mpi.govt.nz/forestry/national-environmental-standards-commercial-forestry/erosion-susceptibility-classification/</a> )
indigenous forest	New definition -not in the NES-PF	<b>indigenous forest</b> means a forest that consists of more than 50% indigenous forest species by basal area
indigenous forest species	New definition -not in the NES-PF	<b>indigenous forest species</b> means a forest species that occurs naturally in New Zealand or has arrived in New Zealand without human assistance
Land Use Capability Class 8e	<b>Land Use Capability Class 8e</b> means land defined as Land Use Capability Class 8e in the electronic tool referred to in item 1 of Schedule 2 ( <a href="http://www.mpi.govt.nz/growing-and-producing/forestry/overview/national-environmental-standards-for-plantation-forestry/erosion-susceptibility-classification/">http://www.mpi.govt.nz/growing-and-producing/forestry/overview/national-environmental-standards-for-plantation-forestry/erosion-susceptibility-classification/</a> ) as having severe to extreme erosion limitations or hazards that make the land unsuitable for arable, pastoral, or commercial forestry use	<b>Land Use Capability Class 8e</b> means land defined as Land Use Capability Class 8e in the electronic tool referred to in item 1 of Schedule 2 ( <del><a href="http://www.mpi.govt.nz/growing-and-producing/forestry/overview/national-environmental-standards-for-plantation-forestry/erosion-susceptibility-classification/">http://www.mpi.govt.nz/growing-and-producing/forestry/overview/national-environmental-standards-for-plantation-forestry/erosion-susceptibility-classification/</a></del> ) ( <a href="http://www.mpi.govt.nz/growing-and-producing/forestry/overview/national-environmental-standards-for-plantation-forestry/erosion-susceptibility-classification/">http://www.mpi.govt.nz/growing-and-producing/forestry/overview/national-environmental-standards-for-plantation-forestry/erosion-susceptibility-classification/</a> ) as having severe to extreme erosion limitations or hazards that

		make the land unsuitable for arable, pastoral, or commercial forestry use
low-intensity harvesting	New definition – not in the NES-PF	<b>low-intensity harvesting</b> means harvesting where a minimum of 75% canopy cover is maintained at all times for any given hectare of forest land
orange zone	<b>orange zone</b> means the land mapped and classified with an erosion susceptibility rating of high in the electronic tool referred to in item 1 of Schedule 2 ( <a href="http://www.mpi.govt.nz/growing-and-producing/forestry/overview/nationalenvironmental-standards-for-plantation-forestry/erosion-susceptibility-classification/">http://www.mpi.govt.nz/growing-and-producing/forestry/overview/nationalenvironmental-standards-for-plantation-forestry/erosion-susceptibility-classification/</a> )	<b>orange zone</b> means the land mapped and classified with an erosion susceptibility rating of high in the electronic tool referred to in item 1 of Schedule 2 ( <a href="http://www.mpi.govt.nz/growing-and-producing/forestry/overview/nationalenvironmental-standards-for-plantation-forestry/erosion-susceptibility-classification/">http://www.mpi.govt.nz/growing-and-producing/forestry/overview/nationalenvironmental-standards-for-plantation-forestry/erosion-susceptibility-classification/</a> )
plantation forestry activity	<del><b>plantation forestry activity</b> means any activity regulated under subparts 1 to 9 of Part 2 of these regulations that is conducted in plantation forestry</del>	Definition revoked and replaced with ‘commercial forestry activity’
red zone	<b>red zone</b> means the land mapped and classified with an erosion susceptibility rating of very high in the electronic tool referred to in item 1 of Schedule 2 ( <a href="http://www.mpi.govt.nz/growing-and-producing/forestry/overview/nationalenvironmental-standards-for-plantation-forestry/erosion-susceptibility-classification/">http://www.mpi.govt.nz/growing-and-producing/forestry/overview/nationalenvironmental-standards-for-plantation-forestry/erosion-susceptibility-classification/</a> )	<b>red zone</b> means the land mapped and classified with an erosion susceptibility rating of very high in the electronic tool referred to in item 1 of Schedule 2 ( <a href="http://www.mpi.govt.nz/growing-and-producing/forestry/overview/nationalenvironmental-standards-for-plantation-forestry/erosion-susceptibility-classification/">http://www.mpi.govt.nz/growing-and-producing/forestry/overview/nationalenvironmental-standards-for-plantation-forestry/erosion-susceptibility-classification/</a> )
removable in-stream structure	New definition – not in the NES-PF	<b>removable in-stream structure</b> means a removable river crossing that— (a) has been designed with the structural integrity to withstand its intended loading without failure due to fracture, deformation, or fatigue for at least 2 years in its location; and (b) is designed to pass low flows through the structure and allow high flows and debris to flow over the top of the entire structure
river crossing	<b>river crossing</b> — (a) means a structure that is required for the operation of a plantation forest and provides for vehicles or machinery to cross over a water body; and (b) includes an apron and other structures and materials necessary to complete a river crossing; but (c) does not include a stormwater culvert or a culvert under a forestry road or forestry track	<b>river crossing</b> — (a) means— (i) a structure that is required for the operation of a <del>plantation</del> <b>commercial</b> forest and provides for vehicles or machinery to cross over a water body; (ii) a ford; and (b) includes an apron and other structures and materials necessary to complete a river crossing; but

		(c) does not include a stormwater culvert or a culvert under a forestry road or forestry track
sediment control measures	<b>sediment control measures</b> means structures or measures to slow or stop water with sediment in it, so that the sediment will drop out of suspension before the water from the site reaches a water body	<b>sediment control measures</b> means <u>measures or structures or measures that do 1 or more of the following:</u> (a) <u>stop sediment from being washed away from its source;</u> (b) <u>to slow or stop water with sediment in it so that the sediment will drop out of suspension before the water from the site reaches a water body;</u> (c) <u>divert the flow of water so that it does not become contaminated with sediment</u>
yellow zone	<b>yellow zone</b> means the land mapped and classified with an erosion susceptibility rating of moderate in the electronic tool referred to in item 1 of Schedule 2 ( <a href="http://www.mpi.govt.nz/growing-and-producing/forestry/overview/nationalenvironmental-standards-for-plantation-forestry/erosion-susceptibility-classification/">http://www.mpi.govt.nz/growing-and-producing/forestry/overview/nationalenvironmental-standards-for-plantation-forestry/erosion-susceptibility-classification/</a> ).	<b>yellow zone</b> means the land mapped and classified with an erosion susceptibility rating of moderate in the electronic tool referred to in item 1 of Schedule 2 ( <del><a href="http://www.mpi.govt.nz/growing-and-producing/forestry/overview/nationalenvironmental-standards-for-plantation-forestry/erosion-susceptibility-classification/">http://www.mpi.govt.nz/growing-and-producing/forestry/overview/nationalenvironmental-standards-for-plantation-forestry/erosion-susceptibility-classification/</a></del> ). ( <a href="http://www.mpi.govt.nz/growing-and-producing/forestry/overview/national-environmental-standards-for-plantation-forestry/erosion-susceptibility-classification/">http://www.mpi.govt.nz/growing-and-producing/forestry/overview/national-environmental-standards-for-plantation-forestry/erosion-susceptibility-classification/</a> ).
5 Application	(1) These regulations apply to—	(1) These regulations apply, <u>in respect of commercial forests,</u> to—
5 Application	New clause (5) not in the NES-PF	<u>(5) Without limiting the generality of regulation 5(4), there may be rules in regional or district plans for afforestation in relation to effects of commercial forests to which subpart 1 of Part 2 does not apply</u>
6	6 Plan rules may be more stringent than these regulations	<del>6 Plan rules may be more stringent than these regulations</del> <u>6 Relationship between rules and these regulations</u>
6(4A) Afforestation	New regulation not in the NES-PF	<u>Afforestation</u> (4A) A rule in a plan may be more stringent or lenient than subpart 1 of Part 2 of these regulations.
7A Joint notice permitted	New regulation not in the NES-PF	<b><u>7A Joint notice permitted</u></b> If notice is required to be given under these regulations for more than 1 commercial forestry activity at the same time, a joint notice covering all the proposed activities is permitted.
10(2) Permitted activity condition: notice	(2) Notice under subclause (1) must be given at least 20 and no more than 60 working days before the date on which the afforestation is planned to begin.	(2) Notice under subclause (1) must be given at least 20 working days and no more than <del>60 working days</del> 8 months before the date on which the afforestation is planned to begin.

10A Permitted activity conditions: afforestation management plan	New regulation not in the NES-PF	<p><b><u>10A Permitted activity conditions: afforestation management plan</u></b></p> <p><u>(1) An afforestation management plan is required for all afforestation activities.</u></p> <p><u>(2) An afforestation management plan must be provided to the relevant council on written request.</u></p> <p><u>(3) An afforestation management plan must include all forest planning requirements that apply to the afforestation activity.</u></p> <p><u>(4) Amendments to the afforestation management plan must be documented and dated, and the relevant council must be advised that an amendment has been made. The amended plan must be made available to the relevant council on request.</u></p> <p><u>(5) Afforestation activities must be carried out in accordance with the afforestation management plan.</u></p>
11(1)(c) Permitted activity condition: wilding tree risk and control Calculator	(c) completed no more than 6 months before notice is given under regulation 10.	(c) completed no more than <del>6</del> 8 months before notice is given under regulation 10.
11(4)	(4) The relevant regional council and territorial authority must be given a copy of the wilding tree risk calculator calculation sheet and score required under subclause (1) at the same time as notice is given under regulation 10.	<p>(4) The relevant regional council and territorial authority must be given <del>a copy of the wilding tree risk calculator calculation sheet and score required under subclause (1)</del> the following at the same time as notice is given under regulation 10:</p> <p><u>(a) the score required under subclause (1) and the calculation sheet used to provide that score;</u></p> <p><u>(b) an assessment of each element of wilding tree risk for each relevant area of forest and an explanation of how the assessments were made.</u></p>
17(3)(d) Matters to which discretion is restricted	New clause not in the NES-PF	<u>(d) the effects on the values of an outstanding freshwater body where a Treaty of Waitangi settlement Act includes a statutory acknowledgement in relation to that outstanding freshwater body.</u>
17(4)(b)(i) and (vi)	(b) measures to avoid, remedy, or mitigate erosion, including— (i) the planting location and species: (vi) future harvesting and earthworks effects:	<p><del>(b) measures to avoid, remedy, or mitigate erosion, including—</del></p> <p><del>(i) the planting location and species:</del></p> <p><del>(vi) future harvesting and earthworks effects:</del></p>
17(4)(d) to (h)	New clauses not in the NES-PF	<p><u>(d) the planting location and species, including planting density and establishment practice;</u></p> <p><u>(e) future harvesting and earthworks effects:</u></p>



		<u>(f) the level of risk to communities and infrastructure that may be adversely affected by slash or sediment;</u> <u>(g) the forest type (plantation or exotic continuous-cover);</u> <u>(h) management requirements to avoid adverse effects on ecosystems, fresh water, the coastal marine area, communities, and infrastructure.</u>
<i>Subpart 3-Earthworks</i> 25(2)(b), (c) and (d) Permitted activity conditions: notice	(2) Notice under subclause (1) must be given— (a) at least 20 and no more than 60 working days before the date on which the earthworks or road widening and realignment are planned to begin; or (b) a minimum of 2 days before the date on which any earthworks that are required for salvage operations are planned to begin; or (c) annually, in the case of ongoing earthworks.	(2) Notice under subclause (1) must be given— (a) at least 20 and no more than 60 working days before the date on which the earthworks or road widening and realignment are planned to begin; or <u>(b) for earthworks or road widening and realignment in green or yellow erosion susceptibility zones, at least 10 and no more than 60 working days before the date on which the activity is planned to begin; or</u> <u>(c) for earthworks that are required for salvage operations, a minimum of 2 days before the date on which any the earthworks that are required for salvage operations are planned to begin; or</u> <u>(d) annually in the case of ongoing earthworks, annually.</u>
27(2)(b) Permitted activity conditions: forestry earthworks management plan	(b) contain the details required by Schedule 3, but, if earthworks are to be undertaken without harvesting activities, there is no need to include the details required by clause 5 of that schedule or regulation 66; and	(b) contain the details required by Schedule <del>34</del> , but, if <del>earthworks are to be undertaken without harvesting activities,</del> there is no need to include the details required by <del>clause 5 of that schedule or regulation 66;</del> and
35(3)(k) Restricted discretionary activity: regional council	New clause not in the NES-PF	<u>(3)(k) the effects on the values of an outstanding freshwater body where a Treaty of Waitangi settlement Act includes a statutory acknowledgement in relation to that outstanding freshwater body.</u>
<i>Subpart 4 -River crossings</i> 37(1) Permitted activity: regional council	<b>37 Permitted activity: regional council</b> (1) Constructing, using, maintaining, or removing a river crossing that is a single or battery culvert, drift deck, single-span bridge, or ford is a permitted activity if regulations 38 to 45 are complied with and— (a) a single culvert complies with regulation 46(1); (b) a battery culvert complies with regulation 46(2); (c) a drift deck complies with regulation 46(3); (d) a ford complies with regulation 46(4); (e) a single-span bridge complies with regulation 46(5).	<b>37 Permitted activity: regional council</b> (1) Constructing, using, maintaining, or removing a river crossing that is a single, double, or battery culvert, drift deck, single-span bridge, <del>removable in-stream structure,</del> or ford is a permitted activity if regulations 38 to 45 are complied with and— (a) a single <u>or double</u> culvert complies with regulation 46(1); (b) a battery culvert complies with regulation 46(2); (c) a drift deck complies with regulation 46(3); (d) a ford complies with regulation 46(4); (e) a single-span bridge complies with regulation 46(5);

		<u>(f) a removable in-stream structure complies with regulation 46(8).</u>
40(1) Permitted activity condition: passage of fish	(1) River crossings must provide for the upstream and downstream passage of fish in rivers, except where the relevant statutory fisheries manager advises the relevant regional council in writing that to provide for the passage of fish would have an adverse effect on the fish population upstream of the river crossing.	(1) River crossings must provide for the upstream and downstream passage of fish in rivers, <del>except where</del> unless— (a) the relevant statutory fisheries manager advises the relevant regional council in writing that to provide for the passage of fish would have an adverse effect on the fish population upstream of the river crossing; <u>or</u> (b) the relevant regional council has determined that fish passage must be restricted.
45(1)(a) Permitted activity condition: flow calculations	(1) Flood flow estimations must be calculated for all river crossings, except fords, using 1 or more of the following: (a) the document referred to in item 3 of Schedule 2 ( <i>Flood Estimation – A Revised Design Procedure</i> ):	(1) Flood flow estimations must be calculated for all river crossings, except fords, using 1 or more of the following: (a) the document referred to in item 3 of Schedule 2 ( <del><i>Flood Estimation – A Revised Design Procedure</i></del> <i>Regional Flood Estimation Tool for New Zealand Part 2</i> ):
46 Permitted activity conditions specific to various classes of river crossings	<b>46 Permitted activity conditions specific to various classes of river crossings</b> <i>Single culverts</i>	<b>46 Permitted activity conditions specific to various classes of river crossings</b> <i>Single and double culverts</i>
46(1)(a), (c) and (f)	(1) The following conditions apply to single culverts: (a) the calculated 5% AEP storm flow from the catchment above the river crossing point must be no greater than 5.5 m <sup>3</sup> per second: (b) the culvert must be designed to pass a 5% AEP flood event without heading up: (c) the culvert diameter must be at least 450 mm: (d) the highest point of the river crossing, measured at the inlet end, must be no greater than 3.5 m above the river bed: (e) the fill depth and construction must comply with the culvert manufacturer's specifications: (f) at installation, the culvert invert must be located so that at least 20% of the culvert's diameter is below the river bed level:	46(1) The following conditions apply to single <u>and double</u> culverts: (a) the calculated 5% AEP storm flow from the catchment above the river crossing point must be no greater than 5.5 m <sup>3</sup> per second <u>for a single culvert and 7.5 m<sup>3</sup> per second for a double culvert</u> : (b) the culvert must be designed to pass a 5% AEP flood event without heading up: (c) the culvert must <del>be</del> <u>have an internal diameter of</u> at least 450 mm: (d) the highest point of the river crossing, measured at the inlet end, must be no greater than 3.5 m above the river bed: (e) the fill depth and construction must comply with the culvert manufacturer's specifications: (f) at installation, the culvert invert must be located so that at least <del>20%</del> 25% of the culvert's <u>external</u> diameter is below the river bed level, <u>unless it is not possible to achieve 25% embedment, in which case best endeavours must be made to comply with this condition</u> :
46(8)	New clause not in the NES-PF	<u><i>Removable in-stream structures</i></u>

		<p><u>(8) The following conditions apply to removable in-stream structures:</u></p> <p><u>(a) the structure may be in a location for a period not exceeding 2 years;</u></p> <p><u>(b) the contributing catchment must be less than 500 ha;</u></p> <p><u>(c) the bed gradient, measured 50 m upstream and downstream of the river crossing, must be less than 10%;</u></p> <p><u>(d) the approaches and outlets must be protected from erosion;</u></p> <p><u>(e) the structure must be anchored;</u></p> <p><u>(f) the structure must be maintained so as to avoid debris build-up and blockage;</u></p> <p><u>(g) the structure must be constructed so as to allow flows to pass over it without structural failure.</u></p>
47 Controlled activity: regional council	<p>(1) Constructing, using, maintaining, or removing a single or battery culvert is a controlled activity if regulation 45 or 46(1) or (2), as the case requires, is not complied with and—</p> <p>(a) the culvert will pass a 5% AEP flood event; and</p> <p>(b) the highest point of the river crossing, measured at the inlet end, is no more than 4 m above the river bed; and</p> <p>(c) the culvert position complies with the manufacturer's minimum height specifications.</p>	<p>(1) Constructing, using, maintaining, or removing a single, <u>double</u>, or battery culvert is a controlled activity if regulation 45 or 46(1) or (2), as the case requires, is not complied with and—</p> <p>(a) the culvert will pass a 5% AEP flood event; and</p> <p>(b) the highest point of the river crossing, measured at the inlet end, is no more than 4 m above the river bed; and</p> <p>(c) the culvert position complies with the manufacturer's minimum height specifications.</p>
47(3)	<p>(3) Constructing, using, maintaining, or removing any river crossing (including a single or battery culvert, drift deck, single-span or temporary single-span bridge, ford, or temporary river crossing) is a controlled activity if regulation 38 is not complied with.</p>	<p>(3) Constructing, using, maintaining, or removing any river crossing (including a single, <u>double</u>, or battery culvert, drift deck, single-span or temporary single-span bridge, ford, or temporary river crossing) is a controlled activity if regulation 38 is not complied with.</p>
48(1) Restricted discretionary activity: regional council	<p>(1) Constructing, using, maintaining, or removing any single or battery culvert, drift deck, single-span or temporary single-span bridge, ford, or temporary river crossing is a restricted discretionary activity if any provision of regulations 38 to 46 is not complied with and the activity is not classified as a controlled activity.</p>	<p>(1) Constructing, using, maintaining, or removing any single, <u>double</u>, or battery culvert, drift deck, single-span or temporary single-span bridge, ford, or temporary river crossing is a restricted discretionary activity if any provision of regulations 38 to 46 is not complied with and the activity is not classified as a controlled activity.</p>
48(2)(f)	New clause not in the NES-PF	<p><u>(2)(f) the effects on the values of an outstanding freshwater body where a Treaty of Waitangi settlement Act includes a statutory acknowledgement in relation to that outstanding freshwater body.</u></p>

49 Discretionary activity: regional council	Constructing, using, maintaining, or removing a river crossing is a discretionary activity where it is a river crossing that is not within the following classes: a single or battery culvert, drift deck, single-span or temporary single-span bridge, ford, or temporary river crossing.	Constructing, using, maintaining, or removing a river crossing is a discretionary activity where it is a river crossing that is not within the following classes: a single, <u>double</u> , or battery culvert, drift deck, single-span or temporary single-span bridge, ford, or temporary river crossing.
<i>Subpart 5-Forestry quarrying</i> 52(2) Permitted activity conditions: notice	(2) Notice under subclause (1) must occur— (a) at least 20 and no more than 60 working days before the date on which the forestry quarrying is planned to begin; or (b) annually, in the case of ongoing forestry quarrying.	(2) Notice under subclause (1) must <del>occur</del> <u>be given</u> — (a) at least 20 and no more than 60 working days before the date on which the forest quarrying is planned to begin; or (b) <u>for forest quarrying in green or yellow erosion susceptibility zones, at least 10 and no more than 60 working days before the date on which the activity is planned to begin; or</u> (c) <del>annually</del> , in the case of ongoing forest quarrying, <u>annually</u> .
57 Permitted activity conditions: traffic conditions	<b>57 Permitted activity conditions: traffic management</b> Forestry quarry material must not be transported on a public road unless— (a) quarry material is being transported to a property under the same ownership or management as that of the plantation forest; and (b) debris and soil is removed from wheels of vehicles transporting quarry material before vehicles exit the property on which the quarry is located; and (c) the material is transported 2 km or less; and (d) vehicles carrying quarry material do not travel through any area zoned in a district plan or proposed district plan as— (i) an urban area; or (ii) primarily for rural residential or country living activities (however described).	<del><b>57 Permitted activity conditions: traffic management</b></del> <del>Forestry quarry material must not be transported on a public road unless—</del> <del>(a) quarry material is being transported to a property under the same ownership or management as that of the plantation forest; and</del> <del>(b) debris and soil is removed from wheels of vehicles transporting quarry material before vehicles exit the property on which the quarry is located; and</del> <del>(c) the material is transported 2 km or less; and</del> <del>(d) vehicles carrying quarry material do not travel through any area zoned in a district plan or proposed district plan as—</del> <del>(i) an urban area; or</del> <del>(ii) primarily for rural residential or country living activities (however described).</del>
59(1) Permitted activity conditions: quarry erosion and sediment management plan	(1) A quarry erosion and sediment management plan that contains the details required by Schedule 4 must be prepared for any forest quarry if the volume extracted exceeds 200 m <sup>3</sup> in any calendar year.	(1) A quarry erosion and sediment management plan that contains the details required by Schedule 45 must be prepared for any forest quarry if the volume extracted exceeds 200 m <sup>3</sup> in any calendar year.
<i>Subpart 6-Harvesting</i> 62 Functions for this subpart	<b>62 Functions for this subpart</b> The functions of regional councils and territorial authorities under sections 30 and 31 of the Act, in relation to this subpart, are as specified in the following table:	<b>62 Functions for this subpart</b> The functions of regional councils and territorial authorities under sections 30 and 31 of the Act, in relation to this subpart, are as specified in the following table:

	<b>Provision</b>  Regulations 64(1) and (2) Regulations 63(1) and 70(1) and (2) Regulations 63(2) and (3), 64(3), 65 to 69, 70(3) and (4), and 71	<b>Local authority with functions in relation to the activity concerned</b>  Regional council and territorial authority Territorial authority  Regional council	<b>Provision</b>  Regulations 64(1) and (2), 71A and 71B Regulations 63(1) and 70(1) and (2) Regulations 63(2) and (3), 64(3), 65 to 69, 70(3) and (4), and 71 and 71C	<b>Local authority with functions in relation to the activity concerned</b>  Regional council and territorial authority Territorial authority  Regional council
62A Application of provisions in this subpart	New regulation not in the NES-PF		<b>62A Application of provisions in this subpart</b> <u>(1) Regulations 63 to 71 apply in respect of plantation forests.</u> <u>(2) Regulations 71A to 71C apply in respect of exotic continuous-cover forests.</u>	
63(3) Permitted activity-plantation forests	(3) Harvesting where a minimum of 75% canopy cover is maintained at all times for any given hectare of plantation forest land (low-intensity harvesting) is a permitted activity in all erosion susceptibility classification zones if regulations 64 to 69 are complied with.		<del>(3) Harvesting where a minimum of 75% canopy cover is maintained at all times for any given hectare of plantation forest land (low-intensity harvesting)</del> <u>Low-intensity harvesting</u> is a permitted activity in all erosion susceptibility classification zones if regulations 64 to 69 are complied with.	
66(2)(b) Permitted activity conditions: harvest plan	(2)(b) contain the details required by Schedule 3, but, if harvesting activities are to be undertaken without earthworks, there is no need to include the details required by clause 4 of that schedule or regulation 27; and		<del>(2)(b) contain the details required by Schedule 36, but, if harvesting activities are to be undertaken without earthworks, there is no need to include the details required by clause 4 of that schedule or regulation 27; and</del>	
66(3)	(3) In the case of any orange or red zone, a harvest plan must be accompanied by a forestry earthworks management plan that contains the details required by Schedule 3 or a combined plan that contains all the details required by that schedule.		(3) In the case of any orange or red zone, a harvest plan must be accompanied by a forestry earthworks management plan that contains the details required by Schedule <del>34</del> or a combined plan that contains all the details required by <del>that schedule</del> <u>Schedules 4 and 6.</u>	
69(1) Permitted activity conditions; slash and debris management	(1) Slash from harvesting must be placed onto stable ground.		(1) Slash from harvesting that is produced at or on a landing must be placed onto stable ground.	
69(2)	(2) Slash from harvesting that is on the edge of landing sites must be managed to avoid the collapse of slash piles.		(2) Slash from harvesting that is <del>on the edge of landing sites at or on a landing</del> must be managed to avoid the collapse of <del>slash piles</del> —	

		<u>(a) a slash pile; or</u> <u>(b) the ground under a slash pile.</u>
69(5)	New clause not in the NES-PF	<u>(5) On orange zone and red zone land (as described in regulation 63(2)(b)), slash from harvesting that is sound wood must be removed from the cutover, unless it is unsafe to do so, if it has—</u> <u>(a) a length of over 2 m; and</u> <u>(b) a large-end diameter of over 10 cm.</u>
69(6)	New clause not in the NES-PF	<u>(6) However, residual slash may be left on the cutover.</u>
69(7)	New clause not in the NES-PF	<u>(7) In this regulation,—</u> <u><b>residual slash</b> means a quantity of the slash required to be removed under subclause (5) not exceeding 15 m<sup>3</sup> per hectare of the cutover</u> <u><b>sound wood</b> means wood that can be safely lifted using harvesting equipment and transferred to a landing without degrading or breaking up.</u>
70(4)(f) Controlled activity – Matters over which control is reserved	4(f) measures to contain and remove slash:	<u>4(f) measures to contain and remove slash, including minimum requirements for removal from the cutover:</u>
71(2)(f) Restricted discretionary activity: regional council	2(f) measures to contain and remove slash:	<u>2(f) measures to contain and remove slash, including minimum requirements for removal from the cutover:</u>
71(2)(g)	New clause not in the NES-PF	<u>(2)(h) the effects on the values of an outstanding freshwater body where a Treaty of Waitangi settlement Act includes a statutory acknowledgement in relation to that outstanding freshwater body.</u>
	New cross-heading	<u><i>Exotic continuous-cover forests</i></u>
71A Permitted activity	New regulation not in the NES-PF	<u><b>71A Permitted activity</b></u> <u>Low-intensity harvesting is a permitted activity in all erosion susceptibility classification zones if—</u> <u>(a) regulations 64 to 69 are complied with; and</u> <u>(b) any relevant forest planning requirement is not complied with.</u>
71B Controlled activity	New regulation not in the NES-PF	<u><b>71B Controlled activity</b></u> <u>(1) Low-intensity harvesting is a controlled activity in all erosion susceptibility classification zones if—</u> <u>(a) any provision of regulations 64 to 69 is not complied with;</u> <u>or</u>

		<p><u>(b) any relevant forest planning requirements are not complied with.</u></p> <p><u>(2) For the purpose of subclause (1), control is reserved over—</u></p> <p><u>(a) the preparation and content of the harvest plan and the forestry earthworks management plan (if required);</u></p> <p><u>(b) the type and method of harvesting;</u></p> <p><u>(c) the timing, location, and duration of harvesting (including in relation to fish spawning);</u></p> <p><u>(d) measures to address effects of harvesting on water quality, vegetation in the riparian zone, wetlands, and the coastal marine area;</u></p> <p><u>(e) measures to minimise soil erosion during and after harvesting;</u></p> <p><u>(f) measures to contain and remove slash;</u></p> <p><u>(g) the information and monitoring requirements;</u></p> <p><u>(h) any other forest planning requirements.</u></p>
71C discretionary activity; regional council	New regulation not in the NES-PF	<p><b><u>71C Discretionary activity: regional council</u></b></p> <p><u>Harvesting (other than low-intensity harvesting) in all erosion susceptibility classification zones is a discretionary activity.</u></p>
<p><i>Subpart 7—Mechanical land preparation</i></p> <p>75(2)(i) Restricted discretionary activity; regional council</p>	New clause not in the NES-PF	<p><u>(2)(i) the effects on the values of an outstanding freshwater body where a Treaty of Waitangi settlement Act includes a statutory acknowledgement in relation to that outstanding freshwater body.</u></p>
77(1) Permitted activity	<p><i>Territorial authority</i></p> <p>(1) Replanting is a permitted activity if regulations 78(1) and 79 are complied with.</p>	<p><i>Territorial authority</i></p> <p>(1) Replanting is a permitted activity if regulations 78(1), <u>78A</u>, and 79 are complied with.</p>
77(2)	<p><i>Regional council</i></p> <p>(2) Replanting is a permitted activity if regulations 78(2) and (3) and 79 are complied with and the replanting is in any—</p>	<p><i>Regional council</i></p> <p>(2) Replanting is a permitted activity if regulations 78(2) and (3), <u>78A</u>, and 79 are complied with and the replanting is in any—</p>
77A Permitted activity conditions: replanting management plan	New regulation not in the NES-PF	<p><b><u>77A Permitted activity conditions: replanting management plan</u></b></p> <p><u>(1) A replanting management plan is required for all replanting activities.</u></p> <p><u>(2) A replanting management plan must be provided to the relevant council on written request.</u></p>

		<p>(3) <u>A replanting management plan must include all forest planning requirements that are applicable to the replanting activity.</u></p> <p>(4) <u>Amendments to the replanting management plan must be documented and dated, and the relevant council must be advised that an amendment has been made. The amended plan must be made available to the relevant council on request.</u></p> <p>(5) <u>Replanting activities must be carried out in accordance with the replanting management plan.</u></p>
78A Permitted activity condition: notice	New regulation not in the NES-PF	<p><b>78A Permitted activity condition: notice</b></p> <p>(1) <u>The relevant regional council and territorial authority must be given written notice of—</u></p> <p style="padding-left: 20px;">(a) <u>the location where the replanting will occur and the proposed setbacks (including a description of how they were calculated); and</u></p> <p style="padding-left: 20px;">(b) <u>the dates on which the replanting is planned to begin and end.</u></p> <p>(2) <u>Notice under subclause (1) must be given at least 20 working days and no more than 8 months before the date on which the replanting is planned to begin.</u></p>
79(1) Permitted activity conditions: wilding tree risk and control	<p>(1) A wilding tree risk calculator score must be completed—</p> <p style="padding-left: 20px;">(a) for any land on which replanting of a conifer species will occur, if that conifer species is different from the trees most recently harvested on the land; and</p> <p style="padding-left: 20px;">(b) in accordance with the wilding tree risk guidelines by a suitably competent person; and</p> <p style="padding-left: 20px;">(c) no more than 6 months before replanting described in paragraph (a) is carried out.</p>	<p>(1) A wilding tree risk calculator score must be <del>completed</del>—</p> <p style="padding-left: 20px;">(a) <del>for</del><u>applied</u> to any land on which replanting <del>of</del><u>with</u> a conifer species will occur, if that conifer species is different from the <del>trees most recently harvested on the land</del> <u>is proposed</u>; and</p> <p style="padding-left: 20px;">(b) <u>calculated</u> in accordance with the wilding tree risk guidelines by a suitably competent person; and</p> <p style="padding-left: 20px;">(c) completed no more than <del>6</del><u>8</u> months before replanting <del>described in paragraph (a)</del> is carried out.</p>
79(3)	<p>(3) Replanting of a conifer species must not be carried out if it is—</p> <p style="padding-left: 20px;">(a) a different species from the trees most recently harvested on the land proposed for replanting; and</p> <p style="padding-left: 20px;">(b) in an area with a wilding tree risk calculator score of 12 or more.</p>	<p>(3) Replanting with a conifer species must not be carried out <del>if it is—</del></p> <p style="padding-left: 20px;"><del>(a) a different species from the trees most recently harvested on the land proposed for replanting; and</del></p> <p style="padding-left: 20px;"><del>(b) in an area with a wilding tree risk calculator score of 12 or more.</del></p>
79(5)	(5) A copy of the wilding tree risk calculator calculation sheet and score required under subclause (1) must be	(5) <u>The relevant regional council and territorial authority must be given the following no more than 8 months before replanting is carried out:</u>



	given to the relevant regional and territorial authority on request.	<u>(a) the score required under subclause (1) and the calculation sheet used to provide that score;</u> <u>(b) an assessment of each element of wilding tree risk for each relevant area of forest and an explanation of how the assessments were made.</u>
79(6)	(6) Wilding conifers established in wetlands and significant natural areas must be eradicated— (a) before replanting begins, if the wilding conifer has resulted from the previous harvest: (b) at least every 5 years after replanting, if the wilding conifer has resulted from the replanting.	(6) <u>All wilding conifers resulting from the previous harvest that are established in wetlands and or significant natural areas must, before replanting begins, be eradicated—</u> <del>(a) before replanting begins, if the wilding conifer has resulted from the previous harvest:</del> <del>(b) at least every 5 years after replanting, if the wilding conifer has resulted from the replanting.</del> <u>(a) on the same property on which the replanting activity occurs; and</u> <u>(b) on any adjacent properties under the same ownership or management as that of the property on which the replanting activity occurs.</u>
79(7)	New clause not in the NES-PF	<u>(7) All wilding conifers resulting from the replanting activity must be eradicated at least every 5 years after replanting where established in wetlands or significant natural areas—</u> <u>(a) on the same property on which the replanting activity occurs; and</u> <u>(b) on any other adjacent properties under the same ownership or management as that of the property on which the replanting activity occurs.</u>
80(1) Controlled activity: regional council	(1) Replanting is a controlled activity if regulations 78(2) and (3) and 79 are complied with and the activity is in any red zone where the land proposed for replanting is more than 2 ha in any calendar year.	(1) Replanting is a controlled activity if regulations 78(2) and (3), <u>78A</u> , and 79 are complied with and the activity is in any red zone where the land proposed for replanting is more than 2 ha in any calendar year.
80(2)	(2) Control is reserved over the timing, location, and species.	(2) For the purpose of subclause (1), control is reserved over the timing, location, and species.
80(3)	New clause not in the NES-PF	<u>(3) Replanting with a conifer species is a controlled activity if regulation 79(3) is not complied with.</u>
80(4)	New clause not in the NES-PF	<u>(4) For the purpose of subclause (3), control is reserved over—</u> <u>(a) the level of wilding tree risk;</u> <u>(b) the mitigation proposed to restrict wilding conifer spread, including the species to be planted;</u> <u>(c) the effects on the values of the significant natural area or an outstanding natural feature or landscape;</u>

		<u>(d) actual wilding conifer spread, including measures to mitigate that spread and proposed measures to mitigate that spread;</u> <u>(e) the information and monitoring requirements;</u> <u>(f) timing, location, and species.</u>
81(1) Restricted discretionary activity	<i>Restricted discretionary activity: territorial authority</i> (1) Replanting is a restricted discretionary activity if regulation 78(1) or 79 is not complied with. <i>Restricted discretionary activity: regional council</i>	Restricted discretionary activity: territorial authority (1) Replanting is a restricted discretionary activity if regulation 78(1), <u>78A</u> , or 79 <u>(other than regulation 79(3))</u> is not complied with.
81(3)	(3) Replanting is a restricted discretionary activity if regulation 78(2) or (3) or 79 is not complied with.	<i>Restricted discretionary activity: regional council</i> (3) Replanting is a restricted discretionary activity if regulation 78(2) or (3), <u>78A</u> , or 79 <u>(other than regulation 79(3))</u> is not complied with
81(4)(f)	New clause not in the NES-PF	<u>(4)(f) the effects on the values of an outstanding freshwater body where a Treaty of Waitangi settlement Act includes a statutory acknowledgement in relation to that outstanding freshwater body.</u>
<i>Subpart 10-General provisions</i> <i>Discharges, disturbances and diversions</i> 97(2) Permitted activity: regional council	(2) Disturbance of a wetland (including vegetation or soil disturbance) associated with a plantation forestry activity is a permitted activity if subclause (5) is complied with and—	(2) Disturbance of a wetland (including vegetation or soil disturbance) associated with a commercial forestry activity is a permitted activity if subclauses <u>(2A)</u> and <u>(5)</u> are complied with and—
97(2A)	New clause not in the NES-PF	<u>(2A) Disturbance of a wetland described in subclause (2) through use of machinery, vehicles, equipment, and construction materials may occur only if—</u> <u>(a) machinery, vehicles, and equipment used for the activity are cleaned before entering the wetland (to avoid introducing pests, unwanted organisms, or exotic plants); and</u> <u>(b) machinery that is used for the activity sits outside the wetland, unless it is necessary for the machinery to enter it to achieve the purpose of the activity; and</u> <u>(c) machinery or vehicles that enter the wetland are modified or supported to prevent them from damaging the wetland (for example, by widening the tracks of track-driven vehicles or using platforms for machinery to sit on); and</u>

		<u>(d) the mixing of construction materials, and the refuelling and maintenance of vehicles, machinery, and equipment, is done outside a 10 m setback from the wetland.</u>
97(6)(a)	(6)(a) vehicles using a ford to cross the wetted river bed at a rate of up to 20 axle movements per day:	(6)(a) vehicles <del>using a ford to cross</del> crossing the wetted river bed at a rate of up to 20 axle movements per day:
<i>Fuel storage and refuelling</i> 105(2)(g) Restricted discretionary activity: regional council	New clause not in the NES-PF	<u>(2)(g) the effects on the values of an outstanding freshwater body where a Treaty of Waitangi settlement Act includes a statutory acknowledgement in relation to that outstanding freshwater body.</u>
<i>Part 3 Local authority charges for monitoring permitted activities</i> 106	<b>106 Local authorities may charge for monitoring permitted activities</b> A local authority responsible for monitoring any of the following permitted activities may charge for its monitoring of those activities: (a) regulation 24 (earthworks): (b) regulation 37 (river crossings): (c) regulation 51 (forestry quarrying): (d) regulation 63(2) (harvesting).	<b>106 Local authorities may charge for monitoring permitted activities</b> A local authority responsible for monitoring any of the following permitted activities may charge for its monitoring of those activities: <u>(aaa) regulation 9 (afforestation):</u> (a) regulation 24 (earthworks): (b) regulation 37 (river crossings): (c) regulation 51 (forestry quarrying): (d) regulation 63(2) (harvesting).
<i>Schedule 1, Part 2</i>	New Part not in the NES-PF	<b><u>Part 2</u></b> <b><u>Provisions relating to Resource Management (National Environmental Standards for Commercial Forestry) Amendment Regulations 2023</u></b>  <b><u>1 References to previous Title</u></b> <u>Every reference in any enactment and in any document to the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017 must, unless the context otherwise provides, be read as a reference to the Resource Management (National Environmental Standards for Commercial Forestry) Regulations 2017.</u> <b><u>2 Interpretation</u></b> <u>In this Part, unless the context otherwise requires,—</u> <b><u>amendment regulations</u></b> means the Resource Management (National Environmental Standards for Commercial Forestry) Amendment Regulations 2023 <b><u>commencement date</u></b> means the date on which the amendment regulations commence under regulation 2(1) of those regulations.

		<p><b>3 Slash provisions</b></p> <p><u>(1) Regulation 69 applies to an existing activity as if it had not been amended by the amendment regulations until the date on which these regulations (as amended by the amendment regulations) require notification of the activity to be submitted to the council.</u></p> <p><u>(2) In this clause, <b>existing activity</b> means an activity that is undertaken in accordance with a notice given under regulation 64 or a harvest plan that was made in accordance with these regulations, and that is in effect immediately before the commencement date.</u></p> <p><b>4 Forestry earthworks management plan</b></p> <p><u>(1) Forestry earthworks activities may be undertaken in accordance with a forestry earthworks management plan that meets the requirements of these regulations as they were immediately before the commencement date—</u></p> <p><u>(a) if—</u></p> <p><u>(i) the plan was submitted before the commencement date; and</u></p> <p><u>(ii) the expiry of the notice that applied to the activity under regulation 25(2) is less than 5 months after the commencement date; and</u></p> <p><u>(b) until the earlier of the following:</u></p> <p><u>(i) the date on which the activity is completed;</u></p> <p><u>(ii) the expiry of the notice that applied to the activity under regulation 25(2), or, if renewed under subclause (2), the expiry of the renewed notice.</u></p> <p><u>(2) The notice referred to in subclause (1)(a)(ii) may be renewed once under regulation 25(2) as if that regulation had not been amended by the amendment regulations.</u></p> <p><b>5 Harvest plan requirements</b></p> <p><u>(1) Harvesting activities may be undertaken in accordance with a harvest plan that meets the requirements of these regulations as they were immediately before the commencement date—</u></p> <p><u>(a) if—</u></p> <p><u>(i) the plan was submitted before the commencement date; and</u></p>
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		<p>(ii) the expiry of the notice that applied to the activity under regulation 64(2) is less than 5 months after the commencement date; and</p> <p>(b) until the earlier of the following:</p> <p>(i) the date on which the activity is completed;</p> <p>(ii) the expiry of the notice that applied to the activity under regulation 64(2), or, if renewed under subclause (2), the expiry of the renewed notice.</p> <p>(2) The notice referred to in subclause (1)(a)(ii) may be renewed once under regulation 64(2).</p> <p><b>6 Quarry erosion and sediment management plan</b></p> <p>(1) Forestry quarrying activities may be undertaken in accordance with a quarry erosion and sediment management plan that meets the requirements of these regulations as they were immediately before the commencement date—</p> <p>(a) if—</p> <p>(i) the plan was submitted before the commencement date; and</p> <p>(ii) the expiry of the notice that applied to the activity under regulation 52(2) is less than 5 months after the commencement date; and</p> <p>(b) until the earlier of the following:</p> <p>(i) the date on which the activity is completed;</p> <p>(ii) the expiry of the notice that applied to the activity under regulation 52(2), or, if renewed under subclause (2), the expiry of the renewed notice.</p> <p>(2) The notice referred to in subclause (1)(a)(ii) may be renewed once under regulation 52(2) as if that regulation had not been amended by the amendment regulations.</p>
<i>Schedule 2</i>	1 Erosion Susceptibility Classification <a href="http://www.mpi.govt.nz/growing-and-producing/forestry/overview/national-environmental-standards-for-plantation-forestry/erosion-susceptibility-classification/">http://www.mpi.govt.nz/growing-and-producing/forestry/overview/national-environmental-standards-for-plantation-forestry/erosion-susceptibility-classification/</a>	1 Erosion Susceptibility Classification ( <del><a href="http://www.mpi.govt.nz/growing-and-producing/forestry/overview/national-environmental-standards-for-plantation-forestry/erosion-susceptibility-classification/">http://www.mpi.govt.nz/growing-and-producing/forestry/overview/national-environmental-standards-for-plantation-forestry/erosion-susceptibility-classification/</a></del> ) ( <a href="https://www.mpi.govt.nz/forestry/national-environmental-standards-commercial-forestry/erosion-susceptibility-classification/">https://www.mpi.govt.nz/forestry/national-environmental-standards-commercial-forestry/erosion-susceptibility-classification/</a> )
	3 Pearson and McKerchar, Flood Estimation – A Revised Design Procedure, Transactions, Vol 16, No2/CE, November 1989	3 Pearson and McKerchar, Flood Estimation – A Revised Design Procedure, Transactions, Vol 16, No2/CE, November 1989 3 Henderson R, Collins D, Doyle M, Watson J (2018):

		<u><i>Regional Flood Estimation Tool for New Zealand</i></u> <u>Part 2, NIWA Client Report No. 2018177CH</u> <a href="https://niwa.co.nz/sites/niwa.co.nz/files/2018177CH-Flood-Frequency-Final-Report-Part2-NIWA.pdf">https://niwa.co.nz/sites/niwa.co.nz/files/2018177CH-Flood-Frequency-Final-Report-Part2-NIWA.pdf</a>
<i>Schedule 3</i>	Schedule 3 Forestry earthworks management plan and harvest plan specifications	<del>Schedule 3 Forestry earthworks management plan and harvest plan specifications</del> Schedule 3 <u>Afforestation and replanting plan specifications</u> See this link for details: <a href="https://www.legislation.govt.nz/regulation/public/2017/0174/latest/DLM7372012.html">https://www.legislation.govt.nz/regulation/public/2017/0174/latest/DLM7372012.html</a>
<i>Schedule 4</i>	Schedule 4 Quarry erosion and sediment management plan specifications	<del>Schedule 4 Quarry erosion and sediment management plan specifications</del> Schedule 4 <u>Forestry earthworks management plan</u> See this link for details: <a href="https://www.legislation.govt.nz/regulation/public/2017/0174/latest/DLM7372092.html">https://www.legislation.govt.nz/regulation/public/2017/0174/latest/DLM7372092.html</a>
<i>Schedule 5</i>	New Schedule not in the NES-PF	Schedule 5 Quarry erosion and sediment management plan specifications See this link for details: <a href="https://www.legislation.govt.nz/regulation/public/2017/0174/latest/LMS923797.html">https://www.legislation.govt.nz/regulation/public/2017/0174/latest/LMS923797.html</a>
<i>Schedule 6</i>	New Schedule not in the NES-PF	Schedule 6 Harvest plan See this link for details: <a href="https://www.legislation.govt.nz/regulation/public/2017/0174/latest/LMS923858.html">https://www.legislation.govt.nz/regulation/public/2017/0174/latest/LMS923858.html</a>