



The National Beekeepers'  
Association of New Zealand

11<sup>th</sup> August 2015

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

Dear Sir

### **Submission – National Environmental Standard – Plantation Forestry**

**Note:** Please note there is a page counting error of 2 pages between the **National-Environmental-Standard-book** handed out by MPI at the Gisborne meeting on 14<sup>th</sup> July and the document on the MPI website titled; **National-Environmental-Standard-book-interactive**. Page numbers in this submission refer to the website document.

1. **Introduction.** This submission has been prepared by the Technical Committee of the National Beekeepers Association (NBA). The Technical Committee asks Ministry for Primary Industries (MPI) to take into consideration our views of the proposed draft National Environmental Standard (NES) for Plantation Forestry (PF).
2. **Beekeepers interest in this standard.** Beekeepers have been long term users of forestry land for the placing of their hives during the year. They have placed their hives along the margins of forests and have used logging areas to place beehives amongst recently cut plantations. Depending on the vegetation present due to locality, it can range from weed species (gorse and broom) through to valuable manuka in riparian zones adjacent to streams. These forestry areas are extremely important foraging areas for honey bees. Bees do collect pine pollen as well as pollen from other plantation species such as macrocarpa. Reference Item 5 below for discussion on Manuka plantations.
3. **NES-PF Objectives.** Beekeepers understand the motives of MPI in developing this national environmental standard, but are concerned that the standard does not go far enough in protecting the environment and or their bees and business. Beekeepers support the objectives of the NES – PF, in particular;  
**Objective #3 (page 8) – “improve certainty about environmental outcomes, from plantation forestry activities for forestry stakeholders, including communities, nationally;”**  
Beekeepers who access and use plantation forestry land for their bees consider themselves as forestry stakeholders.

**The National Beekeepers' Association of New Zealand**

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4. **Objections.** The following details the NBA objections to the draft NES-PF document.

- a. MPI have spent some considerable time and thought on ensuring safe environmental outcomes for introduced fish species such as trout and salmon, but there is no mention of honey bees.  
The introduced honey bee has been estimated to contribute \$5 billion annually to the NZ economy, (equivalent to the forestry industry). The NBA is concerned that MPI has not provided any environmental support for the beekeepers whose bees may forage plantation forestry land managed by this proposed standard.
- b. Table 1, Page 14 it is noted that there is no mention of the use of agrichemicals for any of the following forestry activities;  
Planting – ground preparation and release spraying with herbicides.  
Crop protection – the use of fungicides to control plant diseases and insecticides to control pests.  
Spray Tank adjuvants used in spray mixtures applied to protect plantations.  
Spraying techniques – ULV aerial spraying of insecticides with a high propensity to drift.  
Agrichemicals present a significant risk to honey bees and beekeepers would like to see MPI acknowledge this and ensure they are used responsibly in the forestry plantation environment.
- c. Section 2.2 Page 17 – Uncertain environmental outcomes.  
There is no mention of the use of agrichemicals causing uncertain environmental outcomes.  
For a beekeeper this could be learning that their foraging bees have been sprayed by a pesticide applied by aerial application. The standard identifies “activities at particular stages of this life cycle (such as harvesting and earthworks) can have adverse environmental effects” (page 17) but does not identify other activities that can occur throughout the plantation’s life cycle (see b above). This is a major deficiency of the proposed draft standard in that a full life cycle analysis of the forestry environment has not been examined.



d. Table 2 Page 20; Matters out of scope of the NES-PF.

It is noted that MPI considers agrichemical use out of the scope of this standard.

On page 96, the MPI rationale for not including agrichemicals is as follows;

“These activities are not universally undertaken as part of forestry operations, so greater national consistency in relation to these activities would not provide significant benefits.”

This is a dubious argument about ‘universal undertaking’ being applied which deserves closer examination. Examples where this universality is not applied;

- There are no salmon rivers in the North Island so to be consistent with the above argument then MPI should not include provision for protecting the forestry waterways for salmon ahead of eels which are clearly established in both islands. Eels are universally more common throughout NZ compared with salmon.
- Not every plantation forest greater than one hectare will have a trout stream in it. There is a higher probability that honey bees will be present in more forestry plantations than trout.

This justification for MPI’s rational to exclude agrichemical use from the NES-PF does not stand up to any scrutiny and must be challenged and changed.

e. Agrichemicals used in forestry are mainly regulated by the EPA under the Hazardous Substances and New Organisms (HSNO) Act 1996.

MPI regulates agrichemicals where they are used on food crops and animal food crops under the Agricultural Compounds and Veterinary Medicines (ACVM) Act 1997.

But suppliers do not have to register their agrichemicals if solely used for forestry use as under the Agricultural Compounds and Veterinary Medicines (Exemptions and Prohibited Substances) Regulations 2011, Schedule 2 section 35 (b) they can be made exempt.

“35.Agricultural compounds exempt from registration under sections 21 and 27 of Act

Section 35. Agricultural chemicals used solely—

(b) in commercial plant production on plants that are not intended to be used as food for humans or animals; or”.



Of concern to beekeepers is that surfactants used as spray tank adjuvants are not regulated by MPI and many have a record of being toxic to bees. We submit that MPI must provide recognition of their use in plantation forestry and guidance for safe use in the proposed standard. This should include appropriate control mechanisms to ensure that all forestry stakeholders are protected from their misuse.

- f. Appendix 2, Page 57 Table 9: Environmental benefits and risks associated with afforestation (and replanting) activities  
There is no mention of herbicide use for weed control especially as preparation prior to planting or post planting release of the seedling tree.  
On Page 59 there is no mention of the use of fungicides and insecticides to control diseases and pests in plantation forestry.  
Safe use of agrichemicals in the environment is essential and yet MPI has not provided any guidance in this standard at all.

5. **Manuka Plantations.** Landowners are now planning to establish and some are already planting, plantations of manuka trees for their bees to harvest manuka honey. Many of these sites are near or adjacent to existing forestry plantations. These manuka plantation operations will fall under the scope of the NES-PF. In these plantations beekeepers will be producing a highly valued food crop imprinted with New Zealand's natural environment. Key features of this valuable and important export crop is that it is natural, organic, and free of pesticide residues. European markets have stringent testing and access requirements for food products that may contain genetically modified material, such as honey. Beekeepers acknowledge that MPI has deferred decision making on GM forestry crops to the EPA under the HSNO Act 1996 (Section 6.4, page 43). That decision is acceptable to beekeepers as we expect that the EPA will run a transparent process open to public scrutiny and submissions from all involved parties.



## 6. Enforcement

New Zealand's experience and ability to enforce well intentioned environmental regulations and standards has been woeful. The best place to look is at the HSNO Act and the lack of enforcement by the EPA, particularly when it is assigned to another party for enforcement. The track record of enforcement of the HSNO act on chemical trespass and bee deaths is disappointing.

We submit that the proposed environmental standard needs a clear indication that it must be enforced by the local territorial authority.

Where there are issues not covered by the environmental standard that puts the environment at risk, including honey bees, MPI must define a clear path forward, for all stakeholders – forest owners, beekeepers, public and territorial authorities. This revision path should clearly show how changes to the NES-PF are to be incorporated into the standard (updating) and if not, what additional controls can be implemented by the territorial authority (enforcement) when they become aware of any deficiency in the standard.

This would enable local authorities to include specific controls for agrichemical use on plantation forestry land where they are not covered by the NES-PF standard.

There is an example already with respect to MPI not electing to include forest burns in this standard, which means the air quality standards in the territorial authority plan will apply.

This submission notes that having territorial authorities making new rules for plantation management is not meeting the objectives of the NES-PF.

But it is a direct result of the standard being deficient at commencement.

## 7. Summary

- a. Beekeepers are stakeholders in forestry plantations when they use their land or adjacent land for their bees to forage.
- b. Beekeepers are dismayed to see that MPI has completely excluded agrichemical use in plantation forestry from the proposed standard.
- c. The NBA asks MPI to reconsider their rationale about agrichemical use and include the safe and proper use of agrichemicals in plantation forestry in this standard.



The National Beekeepers'  
Association of New Zealand

The National Beekeepers Association Technical Committee would be prepared to attend and present at a Public Hearing if held by MPI for the consideration of this standard.

Technical Committee of the NBA is available for further consultation.

Thank you for considering our submission.

NBA Technical Committee  
Oksana Borowik,  
Roger Bray  
Barry Foster  
Don MacLeod  
John Mclean

Includes a contribution from Philippa Rawlinson of Federated Farmers Bee Industry Group

Yours faithfully

D.N. MacLeod



## Northland Conservation Board

*Te Runanga Papa Atawhai O Te Taitokerau*

Our ref : SBC-07-14-17-15

24 July 2015

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

Attention: Stuart Millar

Dear Mr Millar,

**Submission: Response to the proposed National Environmental Standard for Plantation Forestry.**

The Board would like to lodge its strong objection to the provision (6.4) that would allow genetically modified tree stock to be used for afforestation, where it has been approved by the EPA. We would like this provision to remove from the standard.

The Board supports the precautionary principle in regard to the use of GMO in the environment. We consider the release of GMOs into the environment to be a substantial and unnecessary risk to the natural environment. GE timber crops are currently prohibited by both international certification bodies (Forest Stewardship Council FSC and Programme for the Endorsement of Forest Certification PEFC, who certify genuinely sustainable forests.

Outdoor use of GE trees (including outdoor GE tree experiments as well as releases) approved by the EPA can result in unintended and unforeseen adverse impacts on soils, waterways, and other finite resources (as well as transgenic contamination of FSC and PEFC certified forests which may cause loss of certification and access to key markets)

The Board has worked with Territorial Authorities and Local Councils for over 15 years, to establish a regional a working policy, regarding the management of GMO and the right to regulate and/or prohibit the use of GMOs in the environment. It is disappointing that the Ministry of Primary Industries (MPI) now seek to abdicate democratic process and override the power of local Council's authority in this matter.

Most recently we have supported the Northland Regional Council's stand against GMO's in their new Regional Policy Statement. A recent Environment Court decision (12 May 2105) by Judge Newhook confirmed that local Councils have the right to make planning decisions around the use of GMOs in the environment. We are concerned that provision (6.4) clearly seeks to undermine that right.

The Board would also like to point out that GMO has been identified as an issue of significance for Northland's tangata whenua, who are overwhelmingly opposed to the release of any GMO's into Northland's environment.

The Board would, therefore, like the Ministers to reject the above provision 6.4 from the NES-PF.

The Board further requests the opportunity to speak to this submission.

Yours sincerely

A handwritten signature in black ink, appearing to read 'M Harris', with a stylized flourish underneath.

Mita Harris  
Chairperson



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

14 August 2015

Dear Sir/ Madam

**Re: Proposed National Environmental Standard on Plantation Forestry**

Please find following a submission on behalf of the New Zealand Fish and Game Council and the Otago Fish and Game Council (Fish and Game) on the proposed National Environmental Standard on Production Forestry (NES-PF).

The contact for service on this matter is below:

New Zealand Fish and Game Council  
C/-  
Peter Wilson

[Redacted]  
[Redacted]  
[Redacted]

Fish and Game is uncertain about the process and extent to which we will have an opportunity to speak to this submission to the decisionmaker. An opportunity is sought to speak to this submission if that is possible. In any event, your advice as to how this and other submissions will be considered and any opportunity for review of decisions made would be appreciated as this is unclear from the documents released for comment.

Yours faithfully

W. Bryce Johnson  
Director,  
New Zealand Fish and Game Council

## Summary

1. The New Zealand Fish and Game Council (“Fish and Game”) is broadly supportive of the proposed NES, subject to the proposed changes suggested. Fish and Game notes that the detail of the proposed regulations has not been presented to comment on.
2. Plantation forests offer many benefits to anglers and hunters, and the environment, as well as posing risks, primarily during the harvest and replanting phase, when sedimentation of small streams and rivers can be an issue. Of the primary industries, forestry is the most environmentally sustainable.
3. Fish and Game accepts that there is a lack of consistency within regional and district plans on rules for forestry across the country, and that this lack of consistency is creating problems for the industry, and for consistent environmental management. That said, whilst there is a need for nationwide consistency, the NES must provide for regional and local rules set by territorial local authorities and regional councils where there are specific needs.
4. Overall, the concept of a National Environmental Standard on Plantation Forestry is encouraging, in particular:
  - a. The NES-PF is based on assessments of biophysical carrying capacity through the erosion susceptibility classification (ESC), which is primarily a combination of rainfall, slope, and soil type. The re-emergence of biophysical carrying capacity tools such as the ESC as a basis for land use planning is strongly supported by Fish and Game.
  - b. Fish and Game accepts that the current ESC, which is presently based on information collected in the 1970s and 1980s, requires refinement and adjustment in order to be suitable for fine-scale forestry decision-making, such as afforestation and replanting. The proposed process of mapping, review, collation, and data stewardship by Landcare Research will go some way towards rectifying this problem, with costs falling primarily on forestry companies developing this land. The planning principle that appears to be developed here is that the underlying datasets critical to the planning process can be updated using a formal process. A similar approach can be taken to other environmental risk tools, such as the fish spawning indicator.
  - c. Fish and Game’s views on the proposed fish spawning indicator are similar. As a tool, it could deal more effectively with the range of fish spawning values present in waterways, however, there is a risk of incorrect information becoming embedded in the tool and being unable to be corrected. Fish and Game proposes that a process be created, similar to that with the ESC classification above, that involves the statutory managers of freshwater fish species – the Department of Conservation and

the relevant Fish and Game Council, and NIWA – to formally update the fish spawning tool when new information becomes available.

This is necessary in order to avoid placing foresters at the risk of breaching section 26ZJ of the Conservation Act 1987, which creates offences for those persons who disturb or damage the spawning ground, eggs, larvae, of freshwater fish.

5. Fish and Game has concerns with the permitted and controlled activity status given to afforestation of erodible and highly erodible land (orange and red). An alternative is proposed which would see this permitted status altered as follows:

	Green	Yellow	Orange	Red
Mechanical Land Preparation	P	P	RD	RD
Afforestation	P	P	RD	RD
Earthworks	P	P	P < 25 degrees	RD
			RD > 25 degrees	RD
Forestry quarrying	P	P	P	P, RD (earthflow country)
River crossings	P	P	P	P
Pruning and thinning to waste	P	P	P	P
Harvesting	P	P	P	C (not 8e), RD (8e)
Replanting	P	P	RD (for species with a rotation length of less than 25 years), P for species with a rotation length of greater than 25 years	RD (for species with a rotation length of less than 25 years), P for species with a rotation length of greater than 25 years

6. The sedimentation risk of keeping orange and red zoned land in production forestry justifies a higher status of consent, and more discretion being available to avoid, remedy, or mitigate this risk. The same applies for mechanical land preparation of this land, and for afforestation. Restricted discretionary status is more appropriate than permitted activity. Fish and Game does wish to incentivise the replanting or afforestation of this land with species that are of a long rotation length, even if these species are of limited commercial value in order to reduce the sedimentation risk.
7. Fish and Game has concerns with the buffer sizes proposed for rivers under the afforestation conditions (page 63). For instance, there is no difference in buffer size (10 metres) between an outstanding freshwater body and a river with a full channel width of >3 metres (also 10 metres). At a minimum, all water bodies above 3 metres in width should require a buffer of

20 metres, except where specified by a regional or district council, such as for an outstanding water body, which may be higher.

8. The same concern applies to lakes and wetlands – the buffers proposed should be increased to 10 metres surrounding any wetland greater than 0.25ha, and 20 metres around any lake.
9. It is not clear how marginal strips apply to this assessment, most of which are 20 metres wide (section 24, Conservation Act 1987), as most of these waterways will have marginal strips on them. The proposed conditions are thus inconsistent with what already exist on many waterways (i.e. those above 3 metres in width).
10. The proposed table of setbacks would thus look like this:

<b>Setbacks</b>	<b>Bank channel full width</b>	<b>Minimum horizontal distance</b>
Perennial river or stream	< 3 metres	10 metres
	>3metres	20 metres, consistent with marginal strip provision
Any small wetland or lake		10 metres
Wetlands larger than 0.25ha		20 metres
Lakes larger than 0.25 ha		20 metres
Coastal marine area		30 metres
Outstanding freshwater bodies (as defined in the NPS-FM) or surface water bodies subject to a water conservation order		20 metres or greater, as defined by regional or district council

11. The same applies for the earthworks provisions (page 67), and for the mechanical land preparation activities (page 75). These need to be consistent with the provisions of marginal strips, and the size of the buffer increased as specified in policy 6 above.
12. The restricted discretionary activity status for mechanical land preparation activities on orange and red zoned land is supported.
13. For the general conditions (page 83), changes are needed. For nesting times, these need to include gamebirds (some of which are indigenous, such as paradise ducks) which often nest or moult within forests. It is noted that this is often a requirement of current Forest Stewardship Council requirements.
14. Fish and Game opposes the spatial bundling provisions which downgrade high risk zones into permitted or controlled activity status where they overlap. A 10% overlap may be too great, and this should be reduced to 5%. This is a small concession given that the overall effect of the NES will significantly reduce the need for forestry consents.

15. Some of the spawning times presented are wrong with the seasons being too short. Spawning times for salmonids are affected by many variables, such as water temperature and seasonal variations mean that spawning is unlikely to always occur within the range presented within the table. As such, the seasons need to be extended as follows:

Brook char – 1 May to 30 September

Brown trout – 1 May to 30 September

Chinook salmon – 1 April to 30 August

Sockeye salmon – 1 March to 30 June

Item 3 needs to be removed from the proposed NES. The presence (or absence) of a species at the site does not indicate that the site has no value for spawning purposes. Many fish are migratory – they will not be present. Spawning sites often change as a result of other variables in a catchment, such as season, flows, or the effect of past floods. If spawning type gravels exist at a site and there is the potential for fish to access them, they require protection.

16. For water yield, dry catchments, it is not clear how regional councils will retain the ability to manage forestry in these areas, as this matter has been ruled as out-of-scope. The table that identifies where Councils can apply more stringent rules does not list dry catchments. This needs to be rectified.
17. Likewise, Fish and Game wishes to receive a summary of submissions and decisions requested on this consultation document.
18. Fish and Game wishes to present this submission, and expert evidence, at any hearing or meeting held prior to the writing of the national environmental standard.

Yours faithfully,

pp. W. Bryce Johnson

Director,

New Zealand Fish and Game Council



Environment Institute  
of Australia and  
New Zealand Inc.

10<sup>th</sup> August 2015

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

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

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

Contact details for this submission are:

Submitter: New Zealand Chapter, EIANZ

Submitted by: Ian Boothroyd, President EIANZ New Zealand

Contact address: [REDACTED]

Ph: [REDACTED]

### **Submitter's Position**

The New Zealand Chapter of the Environment Institute of Australia and New Zealand (EIANZ / the Institute) supports the need for a National Environmental Standard for Plantation Forestry (NES-PF) and the approach to manage the risk that is in line with good forest management practice. We support the aim of consistency in forest management practice and the opportunity to apply these rules nationwide rather than a raft of forest-specific rules in each region. We see some effort from Councils in implementing the NES-PF, especially removing duplication in rules or conflicts between the NES-PF and existing or proposed plans. We are hopeful that this can be carried out efficiently without the need for further conflicts.

However EIANZ are concerned that the successful implementation of the NES-PF will require a sound and comprehensive information base upon which standards can be based and monitoring undertaken and these are not currently available. Most local and regional councils do not have adequate data to undertake the responsibilities set out for them in the NES-PF. The NPS on Freshwater Management (NPS-FW) will be a significant driver in achieving databases for environmental monitoring, although it is uncertain how much will actually occur in association with forestry landuse. It is the view of the EIANZ that the NES-PF should clearly demonstrate how the NES-PF will integrate with the NPS-FW and guide how Councils are expected to reconcile the associations between them.

## **About the EIANZ**

The EIANZ is a non-profit, politically independent professional association. Founded in 1987, the Institute is multi-disciplinary in membership and provides scope and opportunity for professional and academic interchanges across all sectors of the diverse environmental industry. The Institute acts as a major contributor to the formulation of effective and responsible policies in the broad field of environmental management in Australia and New Zealand. Our vision is the sustainable and equitable management of the environment through excellence in environmental practice through environmental practitioner leadership, setting standards for best available environmental practices, and through supporting and enabling practitioners to promote and achieve a sustainable and equitable management of the environment.

As environmental practitioners, members of EIANZ include experts in local government, biological, physical and social sciences, planning, resource management, legal representation and many are experienced at the decision-making processes of resource consent hearings, Environment Court and Board of Inquiry. Most of the membership is employed by councils, private consultancies, universities or government departments and are actively involved in day-to-day management and decision-making on environmental management and protection. A number of members are accredited as independent hearings commissioners through the 'Making Good Decisions' programme.

## **EIANZ Submission**

In order to assess the effects of land-use activities there needs to be a clear understanding of

- What is being affected,
- The values attached to what is being affected,
- The types and scale of the effects, and
- Some estimate of the resilience of the particular resource that is affected.

This requires comprehensive and accurate information at a national and local level, and competence and consistency in effects assessments.

In spite of the length of time the Resource Management Act has been in force, many regions and districts continue to manage resources on the basis of inadequate data. The process of granting of consent can become fraught when the information provided by an applicant is contested on the grounds of a lack of objectivity and neutrality. For example indigenous biodiversity resources, and the values attached to such resources, can be contentious as can landscape, social, and cultural and historic heritage resources.

The NZ Land Resource Inventory (LRI) data does not have sufficient resolution or reliability as the primary framework for the regulations. Furthermore, the revised (2015) version of the Erosion Susceptibility Classes does not accurately reflect erosion risk. Without a national overview to ensure consistency, together with inadequate resourcing of local councils to undertake this work, the outcome has inevitably been inadequate data and inconsistency of application.

The EIANZ is concerned that, given the number of other pressures on local councils to provide more and improved facilities and services while reducing costs to ratepayers, Councils will not allocate the priority needed to filling major gaps in resource information which will be needed for

the sound decision-making and environmental monitoring envisaged in the proposed NES-PF. And even if a Council has the will, the Institute is concerned about their ability to obtain the skills required for this work. In terms of the skills required, EIANZ submits that the NES-PF should require qualified and certified individuals to be responsible for the implementation of the more specific-skill areas of the NES-PF (e.g., ecological and water quality monitoring and its interpretation).

The proposal acknowledges the requirements of the NPS-FW and the need for forestry activities to comply with that NPS. At this stage the implications of the NPS-FW for information gathering and forestry activities are unclear. As stated in the NES-PF - *“As most of the quality objectives have yet to be set, however, this (the positive contribution forestry might make) is not certain.”*

It is the view of the Institute that the NPS-FW will be a significant driver in achieving consistency, certainty and cost-effectiveness of the resource management system which the forestry industry is seeking. The NES-PF should clearly demonstrate how the NES-PF will integrate with the NPS-FW and guide how Councils are expected to reconcile the associations between them.





# Proposed National Environmental Standard for Plantation Forestry

## Template for Submitters

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

Please feel free to use this template to prepare your submission. Once complete please email to [NES-PFConsultation@mpi.govt.nz](mailto:NES-PFConsultation@mpi.govt.nz).

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

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

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

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

### Contact details

**Name:**

A.J.M. Bennett

**Postal address:**

s 9(2)(a)

**Phone number:**

s 9(2)(a)

**Email address:**

s 9(2)(a)

**Are you submitting on behalf of an organisation? Yes [ x]      No [ ]**

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

OrganicFarm New Zealand

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



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

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

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

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

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

☐ Please withhold my personal details where submissions are made public

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

## **Questions for submitters**

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

### **SUBMISSION FROM ORGANIC FARM NEW ZEALAND**

In the time available to our organisation, it is not possible to respond in detail to all the questions posed. This short submission is on behalf of Organic Farm New Zealand.

We wish to be heard in support of this submission.

Organic Farm New Zealand is a membership organisation providing its members with organic certification for fresh and processed food products. We have 300 members, distributed in all parts of the country. Our members must comply with the organic standards administered by the NZ Biological Producers Society.

We question the assertion which has driven the proposal to create this national standard for forestry, that regional variation imposes extra and unnecessary costs on foresters. The NZIER report itself, states that the size of the costs and benefits are difficult to quantify.



Organic Farm NZ wishes it to be noted that the spread of genetically modified organisms into the NZ environment will incur large costs on our members, even to the extent of preventing them from continuing with their business activities. Organic produce offers huge potential for lifting New Zealand's export performance, and organic producers' businesses must not be placed in jeopardy by the releasing of GMOs into the environment.

We also wish to submit that it is entirely appropriate for local communities to express their views and to make decisions through regional and district planning procedures, to state what is acceptable in their part of the country. The effect of the proposed standard to remove this right, is undemocratic.

Organic Farm New Zealand, requests that these changes are made to any standard as a minimum:

- 1) All provision for the use of GM tree stock be removed from the wording;
- 2) The use of GM tree stock be made a non-complying activity;
- 3) The use of GM tree stock be within the jurisdiction of regional councils.

Address for service:

AJM Bennett  
Chairperson  
Organic Farm New Zealand



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

Cc Hon Nathan Guy  
Minister for Primary Industries  
Parliament  
Wellington

6 August 2015

**Re:** Submission in response to: MPI proposed new NES for Plantation Forestry

**Name:** Brendan Hoare, Chair Organics Aotearoa New Zealand.

**Dear Stuart Miller,**

Organics Aotearoa New Zealand is the peak of body of the organic sector in New Zealand.

We **oppose** the specific MPI proposal: **6.4 - Genetically modified tree/root stock** (p. 43, Appendix 3, Afforestation, p. 64 & Replanting, p. 82)

**Generic Submission and Reasons –**

Organic in New Zealand is growing at approximately 8% year on year and is part of the fastest growing multi-food and fibre sector in the world. The basis for our opposition is that both the market we serve and the international standards we comply to do not permit GM contamination in the products. In addition to this the NZ brand proposition for all primary industries is supported by our GM free status.

**Specific Submission and Reasons –**

The GM clauses on p. 43, 64 & 82, in the proposed NES – PF do not meet the objectives of environmental protection for communities, nor does the standard take into account the inherent dangers and liabilities associated with novel genetic technology and its potential contamination of - soils, indigenous and exotic flora & fauna, pruning debris, waterways, trophic ecosystems and waterways.

We note that GE trees are prohibited by both international certification bodies (Forest Stewardship Council- FSC- and the Programme for the Endorsement of Forest Certification- PEFC) who certify genuinely sustainable forests.

We must protect NZ's biosecurity, unique biodiversity, existing non GM primary producers, FSC and PEFC certified forestry blocks, our economy and the public health from outdoor GE tree experiments and releases. These standards are considered as part of the wider family of standards associated with sustainability of which organic has been a leader in.

We ask that you remove all conditions and references permitting genetically modified organisms to be the sole responsibility of the Environmental Protection Authority (EPA) under the Hazardous Substances and New Organisms Act (HSNO) and allow Councils to manage Regional and District land use through their mandated planning functions' under the Resource Management Act (RMA).

Both the Environment Court and the Royal Commission on Genetic Modification (Chapter 13, 6) have stated the clear responsibilities and boundaries between the EPA and Council jurisdiction, there is no "duplication" between the HSNO or RMA once a GMO is released. This must not be undermined by any clause in the proposed NES-PF.

The Environment Court, Judges Thomson and Newhook, decision upheld the Councils ability, under the RMA, to place policies, rules and objectives, on the management of GMO land use activities as part of their management and planning functions in their regional and district plans [1], [2].

References:

[1] <http://www.boprc.govt.nz/media/321876/environment-court-decision-18-dec-2013-env-2012-339-000041-part-one-section-17.pdf>

[2] <http://www.ge-free.co.nz/assets/pdf/20150512145527872.pdf>

**Changes we would like you to make -**

- Remove all GM clauses in the proposed NES – PF and references permitting genetically modified organisms to be the sole responsibility of the Environmental Protection Authority (EPA) under the Hazardous Substances and New Organisms Act (HSNO) and
- Retain and provide for Regional and District Councils to place more GM stringent land use rules, objectives and policies in their plans for the management of the natural and physical resources through their mandated planning functions' under the Resource Management Act (RMA).
- Protect the Regional and District Council mandate and duty of care, under the RMA, to the existing foresters, primary producers and businesses in their region and districts so they can maintain their responsibilities with national and global certification bodies.
- Ensure that the Regional and District Councils have the ability, under the RMA, to create a much needed additional tier of local protection against the risks of outdoor release and use of GMOs.

**The decision we would like the Minister to make**



1. Remove all wording in the NES-PF in 6.4 p.43, **Appendix 3; Afforestation: p. 64 & Replanting: p. 82**, referring to genetically modified trees and rootstock.
2. Place an added condition in the proposed NES-PF stating that Local Bodies can set more stringent rules, objectives and policies on GMO's as part of their land use planning function, under the RMA, when addressing the economic, social and cultural wellbeing of their communities.

OANZ wishes to be heard. Please keep us informed.

Yours sincerely



**Brendan Hoare**

Chair, OANZ

Wednesday 5 August 2015.

Stuart Miller  
Spatial, Forestry and Land Management  
Ministry for Primary Industries  
By email: [NES-PFConsultation@mpi.govt.nz](mailto:NES-PFConsultation@mpi.govt.nz)

Dear Stuart,

**Re: Proposed National Environmental Standard for Plantation Forestry**

Thank you for the opportunity to provide a submission on the proposed national environmental standard (NES) for plantation forestry.

Below is our submission which has been drafted in line with the template provided in the consultation document.

Our primary concern is the potential impact this NES will have on air quality. We understand that the introduction of a new NES for plantation forestry presents legal and practical compliance issues for the existing NES for air quality. The whole purpose of the NES for air quality was to provide bottom line standards for the protection of health of *all* New Zealanders - not just those living in urban areas. The creation of a new NES that designates activities that result in breaches of the air quality standards to be permitted activities, in our opinion defeats the fundamental purpose of a national environmental standard.

Accordingly, we oppose the proposal unless provision is made to avoid conflict with the NES for air quality. We would support the development of assessment tools and conditions to assess and manage the adverse effects from exposure to increased particulate emissions from unsealed roads associated with forestry harvesting activities.

We welcome questions or feedback on our submission.

Yours sincerely,

Alex Wright, Puti Tipene and John Luisi

Pipiwai Titoki Advocacy for Community Health and Safety Group

s 9(2)(a)

Phone: s 9(2)(a)

Mobile: s 9(2)(a)

Email: s 9(2)(a)

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

We remain unconvinced that the extent of the problem, as described, warrants the creation of a national environmental standard (NES). There are few, if any, practical examples in the consultation document and no estimate of actual costs associated with these perceived issues.

We understand the vast majority of forests are owned by multinational corporations who are well used to working within multiple jurisdictions with overlapping and/or inconsistent planning requirements. Furthermore, each region has specific terrain, climatic and environmental challenges that may be unique to that geographical area. Just as each forest plantation requires site specific plans to address these challenges, different regions may also require the consideration of different environmental factors. We consider that pro-active forestry management companies should be well versed in addressing these issues.

Notwithstanding our view that there is insufficient justification for the imposition of a NES, should the Ministry elect to proceed with this proposal, there are several key factors which we consider have not been adequately addressed.

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

No. (Thank you for asking this question).

Whilst harvesting has been included as a forestry activity for which rules are proposed, the transport of trucks *to* the forests and logs *from* the forests has been excluded from the scope of this NES. Accordingly, no conditions have been included to manage the adverse effects on air quality from transport of heavily laden vehicles over unsealed roads. (We are not aware of any forests in New Zealand that transport logs exclusively over sealed roads).

It is important to understand that the forests themselves are being physically removed – this is what harvesting is. As such, transport of the logs from the forests is *integral* to the harvesting process. After all, if the log is not removed, then the forest is not harvested.

As a result of forestry harvesting in Northland we have seen increased volumes of heavy vehicles on our unsealed roads. International research has shown that increased traffic volumes<sup>1</sup> on unsealed roads results in increased emissions of particulate matter less than 10 micrometres in diameter (PM<sub>10</sub>).<sup>2</sup> Local PM<sub>10</sub> monitoring near unsealed roads in Northland found that it regularly breached the PM<sub>10</sub> standard in the NES for air quality (NRC, 2013, 2015).<sup>3</sup> Scientific consensus is that PM<sub>10</sub> causes adverse health effects including premature mortality and cancer.<sup>4</sup> This in turn has raised concerns for us local residents living near unsealed roads about the potential for adverse health

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<sup>1</sup> Either number of vehicles or mean vehicle weight

<sup>2</sup> See for example, MidWest Research Institute, 1983. *Size Specific Particulate Emission Factors for Uncontrolled Industrial and Rural Roads*, Prepared for Industrial Environmental Research Laboratory, US Environmental Protection Agency, Kansas City, Missouri, January 1983.

<sup>3</sup> NRC, 2013. *Ambient PM<sub>10</sub> monitoring adjacent to four unsealed roads in Northland* (Wright, Opouteke, Ngapipito and Pipiwai Roads – March/April 2013), Northland Regional Council, May 2013.  
NRC, 2015. *PM<sub>10</sub> Monitoring adjacent to unsealed roads 2015* (Matawaia-Maromaku Road, Pungaere Road, Waipapa and Opouteke Road, Kaihu) File Note A739581, Northland Regional Council, 22 April 2015.

<sup>4</sup> International Agency for Research on Cancer, Press Release No. 221, 17 October 2013. [http://www.iarc.fr/en/media-centre/pr/2013/pdfs/pr221\\_E.pdf](http://www.iarc.fr/en/media-centre/pr/2013/pdfs/pr221_E.pdf). Summary evaluation was published by *The Lancet Oncology* online on Thursday 24 October 2013



effects from exposure to increased PM<sub>10</sub> emissions from unsealed roads associated with forestry harvesting activities.

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

Section 43A(3) of the Resource Management Act 1991 (RMA) states that:

*If an activity has significant adverse effects on the environment, a national environmental standard must not, under subsections (1)(b) and (4),—*

*(a) allow the activity, unless it states that a resource consent is required for the activity; or*

*(b) state that the activity is a permitted activity.*

It appears straightforward to us that causing an exceedance of the PM<sub>10</sub> standard in the NES for air quality qualifies as a significant adverse effect. The proposed NES for plantation forestry will make forest harvesting a permitted activity. Given the transport of logs over unsealed roads is integral to the harvesting activity, this will result in exceedances of the NES for PM<sub>10</sub>. We question therefore, whether an NES for plantation forestry can legally establish forest harvesting as a permitted activity (as it is known to cause significant adverse effects on air quality).

In any case, whilst the RMA does not preclude the making of an NES that conflicts with an existing NES, section 44A of the RMA requires local authorities to remove any duplication or conflict with an NES from their planning documents. We question therefore, the enforceability of permitted activity conditions that create conflict with an existing NES (and are more lenient than the NES for air quality).

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

No. (Thank you for asking this question).

Whilst the issues of adverse air quality arising from forest activities impact at the local level, these impacts actually occur nationally. We understand that similar issues to those that we are suffering in Northland have arisen in forests all over New Zealand. This is not surprising given that unsealed roads and forests are located all over New Zealand.

The inclusion of this issue in the proposed NES therefore, represents a good opportunity to address an issue that currently falls within the cracks of the existing resource management framework. As such, addressing air quality issues within the NES for plantation forestry would support the stated fourth objective of this proposal (please refer to our response to question 13 below).

Furthermore, without the movement of logging vehicles on the unsealed roads, it is unlikely that air quality standards would be breached. On this basis, there is a compelling case for including the effects of dust emissions from logging trucks traversing unsealed roads within the scope of a NES for plantation forestry.

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

No. (Thank you for asking this question).

These tools do not address adverse health effects from exposure to increased PM<sub>10</sub> emissions from unsealed roads associated with forestry harvesting activities.

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

Our comments relate to the proposed rules for Harvesting.

We suggest that similar provisions to those inserted previously to avoid conflict with the National Policy Statement for Freshwater, be inserted to avoid conflict with the NES for air quality. For example, Harvest Plans should specifically assess and detail management of risks relating to adverse impacts on air quality. This would, as with other conditions, match the scale and complexity of the issue. For example (as provided in the NES for air quality) if no people may reasonably be exposed then a significant effect (i.e. breach of the PM<sub>10</sub> standard) cannot occur.

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

We are neutral on the choice of an NES.

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

No. The analysis does not consider the cost of adverse health effects from forestry activities.

However, should air quality issues be appropriately managed, this presents an extraordinary opportunity for significant avoided costs. This would improve the current cost benefit ratio of the proposal.

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

Our response to question 3 outlines our legal concerns with the successful implementation of the proposal.

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

(Thank you for asking this question).

These tools do not address adverse health effects from exposure to increased PM<sub>10</sub> emissions from unsealed roads associated with forestry harvesting activities. Furthermore, we consider that a NES for plantation forestry provides a clear opportunity to assign responsibility for addressing the effects of dust from logging trucks on unsealed roads. There are a number of well-documented methods of reducing dust emissions and we consider that these should be incorporated within a harvest management plan.

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

We do not have an opinion on this matter.

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

We support the development of an assessment tool, similar to those developed for other environmental issues such as fish spawning, to address adverse health effects from exposure to increased PM<sub>10</sub> emissions from unsealed roads associated with forestry harvesting activities.

We support the development of conditions to assess and manage the risks of adverse health effects from exposure to increased PM<sub>10</sub> emissions from unsealed roads associated with forestry harvesting activities.

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

We consider that the proposal, as drafted, does not meet two of the four stated objectives. Namely it will not:

- (i) improve certainty about environmental outcomes from plantation forestry activities for forestry stakeholders, including communities, nationally.
- (ii) contribute to the cost-effectiveness of the resource management system by providing appropriate and fit-for-purpose planning rules to manage the effects of plantation forestry.

This is because:

- (i) It does not address concerns of residents suffering ill health effects due to poor air quality along unsealed roads leading to and from forests around New Zealand.
- (ii) It exacerbates an existing inefficiency in the current resource management framework whereby adverse effects on the environment from forest activities are being externalised.



# Proposed National Environmental Standard for Plantation Forestry

## Template for Submitters

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

Please feel free to use this template to prepare your submission. Once complete please email to [NES-PFConsultation@mpi.govt.nz](mailto:NES-PFConsultation@mpi.govt.nz).

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

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

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

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

### Contact details

**Name:**

John Davison

**Postal address:**

**Phone number:**

**Email address:**

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

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

Port Underwood Association

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



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

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

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

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

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

☐ Please withhold my personal details where submissions are made public

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

## **Questions for submitters**

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

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

Please provide comments to support your views.



No. As 2.2 recognises “Catchments across New Zealand contain a variety of terrains with different erosion potential and waterways with different values and vulnerabilities to the environmental effects of plantation forestry”. Accordingly, different approaches to the planning and control of forestry across the country are generally appropriate to reflect these differences. The focus of 2.1 & 2.2 is not to achieve a national environmental bottom line for forestry effects, but rather to eliminate “uncertainty” in planning rules. 2.2 Does not seem concerned with whether the environmental outcomes are appropriate or fulfil sustainable management principles, but simply whether they are predictable.

Forest owners who have multi-authority forests could take the initiative and work with the multiple authorities to come up with a combined plan for their forests, which could then be consented to by each authority. This is a specific problem that does not justify over turning the basis principle of environmental planning that recognises environmental diversity.

There are further problems from forestry. There are also issues of noise and dust, plus the impact of logging transport. There needs to be consideration of local conditions when dealing with these factors.

Whilst it is understandable that national rules would simplify matters for the forestry industry there are many differing environments within New Zealand and it would seem reasonable that local communities that understand the local environment should wish to contribute the planning and control of this environment.

This is not to say that minimum national standards should not be applied, such as activity around rivers with spawning fish, but there should be scope for local control for local conditions.

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

Please provide comments to support your views.



No, because the ESC scales will allow activity as permitted at the top of a property/forest that would not be permitted at the bottom of a forest, or vice versa. Forests of small to medium size should be zoned as a whole. Only large (probably multi-district) forests should have zone variances.

The harvesting rules do not sufficiently prohibit harvesting into and around waterways. While operators are to “fell away” from water ways, they are not required to do so when “unsafe or impractical”. Unless the inspectors have a photo of the area prior to felling or are there at the time, how are they to challenge an operator that their decision to fell towards waterway was not justified on safety or practicality grounds? A better condition that would promote waterway management would be a larger minimum horizontal set back from a river or stream, to provide for felling space well back from the river. A zone the size of the harvest height of the planted species plus two meters would be sensible. The afforestation or replanting conditions could require that operators plant native species in the set back zones around rivers to promote stream restoration and wildlife habitat.

All waterways should be appropriately protected, not just those classified as outstanding or subject to water conservancy orders.

It appears that the requirements for roading earthworks do not allow the relevant authority to approve or reject the Erosion & Sediment Control Plan. It also appears that the operator can make significant amendments to the plan, without notifying the authority or seeking their approval prior to the amendment.

Authorities should have the ability to approve, amend or reject the ESCP against a standard for erosion control based on the zoning of the land.

A 12 month outer time frame for land stabilisation is excessive. Stabilisation should occur as soon as practicable but before the onset of heavy rain months (as set by the regional authority having regard to local conditions).

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

Please provide comments to support your views.

Reasonably clear, but it seems that by and large local authorities have lost the power to control forestry activities. We see that as fundamentally inappropriate given the significant environmental effects that forestry can have. Further, there is no point having plans without the authorities being able to enforce non-compliance.

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



Please provide comments to support your views.

It is not clear how the coastal marine area is to be applied to forests that have a coastal boundary but are largely inland, as opposed to forests that are entirely coastal (i.e. Marlborough Sounds). It is not clear what areas permitted activity conditions the local authority is allowed to be stricter on. The need to exempt coastal marine areas is an example of why a national standard for permitted activity conditions, rather than baseline environmental effects, is inappropriate.

The preferable approach, which would still promote greater certainty, would be for a much more stringent set of permitted activity conditions, which would apply to land the local authority has designated at a low risk of overall environmental impact from plantation forestry. This could be calculated through a combination of the three proposed ERA tools (although we remain concerned at the underlying science of the ESC). National standards could guide what is to be properly considered low risk land.

Importantly, local authorities must however retain the ability to identify sensitive land, and protect it with appropriate conditions. Those cannot be set at a national level. Nor is it appropriate to remove this ability from local communities, given the impact of poorly managed plantation forestry fall on the communities around the forest.

This approach would also have the benefit of focusing forestry activity on low impact land, because it would be preferable for the industry, as low impact land would come with greater regulatory certainty.

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

Please provide comments to support your views.

Covered above under environmental effects – the ESC appears based on pastoral erosion risk, and will be different across different parts of a particular forest. A preferable approach would be for local authorities to assess forests in their regions and assign these indicators themselves – that would allow local authorities to determine which forests they need to retain more control over to mitigate environmental risk. A forested area as a whole should receive a ERA rating.

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

Please include reference to the rule you are referring to.





In the Marlborough Sounds area, forestry roading has a significant amenity value impact, which does not seem to be able to be considered under the rules. It also impacts on safety.

Barging should be the preferred mode of log transport in coastal marine areas.

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

Please provide comments to support your views.

Please enter your comments here ...

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

Please provide comments to support your views.

Please enter your comments here ...

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

Please provide comments to support your views.

Please enter your comments here ...

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

See section 13.

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

Please provide comments to support your views.

Please enter your comments here ...

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



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

Please enter your comments here ...

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

As representatives of a Marlborough Sounds community, the Port Underwood Association does not feel that a permitted activity status for plantation forestry is appropriate unless reasonable and valid control conditions can be set and enforced. The effects of plantation forestry carry far beyond the boundaries of the property on which the planting and harvesting takes place and can thus impact on local communities. These effects can include significant costs for instance increased maintenance of country roads worn down by heavy logging trucks.

Given that, it is fair that local authorities representing those communities should retain the bulk of the authority and control over forestry.

It is our opinion that this document does not provide the means to establish and enforce the required controls that will minimise the adverse environmental effects of plantation forestry. The plan is:

- 1) Inadequate in avoiding land subsidence, setimentation and pollution of the coastal marine area of the Marlborough Sounds.
- 2) Inadequate in addressing the possibilities of affecting the visual amenities of the local area.
- 3) Inadequate in addressing the effects on public roads, such as, deterioration of the road surface by heavy vehicles, reduced safety to the public of large, heavy vehicles on small winding roads, and the noise of large vehicles traveling at inappropriate times of the night.

These are issues that affect local communities, are best determined by local communities, and are thus best controlled by local communities. Provisions must be made in the National Environment Standard for local communities, through their district government, to use local knowledge to ensure that the best outcome is achieved for both the environment and the forestry industry.



## **Submission on the Proposed National Environmental Standard For Plantation Forestry**

August 11 2015

Pure Hawke's Bay represents food producers and exporters who want to position Hawke's Bay as a premium food-producing region and who are seeking to secure the region's GM Free status under the local plans. Collectively Pure Hawke's Bay supporters account for hundreds of millions in food exports annually.

This submission focuses exclusively on the proposed NES provisions that would prevent the regions and their local authorities from introducing specific policies and controls in local plans for any GM forestry activities in their territories (Consultation document p. 43, 64 and 82).

Pure Hawke's Bay submits that the proposed provisions should be dropped from the National Environmental Standard.

The proposals fail against the principles of robust and good-faith policy making. In particular:

- The Government has provided no analysis in support of measures that will:
  - deprive the regions of jurisdiction that certain councils clearly wish to exercise. These councils have invested significant resources in developing their policies.
  - undermine premium branding and marketing initiatives (such as Pure Hawke's Bay's)
- The proposals favour GM forestry developers and sections of the forestry industry with no regard for the regions (including local authorities and food producers) and their strategic aspirations with respect to GM free status, which have been clearly signaled and which they have invested in significantly.
- The lack of supporting analysis provides an inadequate basis for proper consultation and thus creates an inherently flawed process.

Bruno Chambers and Scott Lawson  
On Behalf of Pure Hawke's Bay, [purehawkesbay.org](http://purehawkesbay.org)

## 1. Context of the Ministry's proposals

Pure Hawke's Bay ([purehawkesbay.org](http://purehawkesbay.org)) represents a number of leading food producers who want to position Hawke's Bay as a premium food producing region. Key to that positioning in the international market place is protecting the region's current GM free food producer status (where no GM agricultural crops or animals are grown or farmed outdoors).

The grounds for this position are

- High sensitivity in key markets even to the risk of contamination with trace levels of GM content; and
- The opportunities to establish a competitive edge that GM Free regional branding initiatives provide exporters selling to high value markets.

In response to this initiative by Hawke's Bay food producers, Hastings District Council is currently considering rules that would secure the territory's GM Free status, by prohibiting GM releases for the life of the plan.

Hastings District Council has been working through this option since 2011 and recently held hearings on proposed district plan provisions that would protect the district's GM Free status.

The Ministry's proposal to eliminate local authority ability to regulate GM plantation forestry under local plans would stymie an initiative that has significant public support.

## 2. The proposals

Pure Hawke's Bay submits that the proposed provisions should be dropped from the National Environmental Standard for the following reasons:

### 2.1 The case for the proposals is not substantiated

The Ministry has failed to provide the justification for the proposed measures that would be expected given that these:

- constitute a significant curtailing of local authority jurisdiction with respect to the governance of outdoor use of GMOs - jurisdiction that has recently been confirmed, at the high level, by the Environment Court;
- remove or significantly diminish the ability for regions to create GM Free production zones.

Specifically, the Ministry has confirmed to Pure Hawke's Bay that it has undertaken no analysis of:

- the desirability/merits of extinguishing local authority regulatory jurisdiction for

outdoor activities involving GM forestry in general, nor the desirability or merits of removing that jurisdiction through a National Environmental Standard process, which does not require Parliament debate or sanction;

- the economic implications of reducing or eliminating the regions' ability to create GM Free zones for marketing and branding purposes.

The Ministry has indicated that the GM provisions were introduced in March 2014. There has therefore been ample time to undertake such analysis.

Further, in light of the significant and sustained interest by the regions and the fact that certain territories are currently in the final stages of lengthy consultation with their communities over plan changes that the proposed NES provisions would directly impact, it would be reasonable to expect the Government to substantiate the case for depriving the regions of jurisdiction that certain councils clearly wish to exercise.

In the absence of such analysis, the proposed policies demonstrate a bias to the forestry industry or GM forestry developers, without due consideration for the implications of other sectors that will clearly be affected by them.

### **Ministry guessing winners**

When pressed at the Napier public meeting for a rationale for the proposals, MPI acknowledged that there was little or no analysis behind the proposals. Officials were only able to point loosely to experimental GM sterile pine lines being developed by the Crown Research Institute, Scion, as reasons for extinguishing local authority jurisdiction in this manner.

Effectively, MPI is simply assuming that GM sterility is more valuable to Hawke's Bay's agricultural economy than maintenance of the region's GM free status and marketing and branding campaigns that seek to leverage off that status for high-end food exports.

GM sterility is probably the most notorious of GM traits for agriculture and Genetic Use Restriction Technologies (GURTs) are subject to a de facto moratorium under the Convention on Biological Diversity.<sup>1</sup> It could be hugely damaging for Hawke's Bay food producers if GM sterile plantations were to become widespread in the region. Yet the proposals could see GM sterile trees planted widely in Hawke's Bay, even if our councils and food producers are united in opposition to it.

However, the proposal would do more than open the door to GM sterility. It would

<sup>1</sup> <https://www.cbd.int/decision/cop/?id=7147>

<sup>2</sup> FSC prohibits both the field trialling and commercial plantation of GM trees (see criterion 6.8 of the National Standard for Certification of Plantation Forest Management in NZ – Pre Approved Draft 5.7) while PEFC prohibits commercial plantations, based on the precautionary principle (see 5.4.7 of Sustainable Forest Management – Requirements PEFC ST 1003:2010)

prevent local authorities from introducing special protections from all types of GM forestry. That would expose Hawke's Bay food producers to potential GM contamination of food production, particularly from pine tree pollen. Pine is a prolific pollinator and the broadcast of GM pollen with well-known constructs such as herbicide resistance (another Scion R+D line) could be hugely damaging for an exporter if GM pollen attaches to and remains on the product or ingredient through processing and is then picked up in routine testing in our export markets.

Indicative of how antagonistic GM plantations could be to premium branding is that neither of the two leading global sustainable forestry certification schemes – the Forest Stewardship Council (FSC) and the Programme for the Endorsement of Forest Certification schemes (PEFC) – permit the use of GM trees in accredited plantations.<sup>2</sup>

## **2.2 Stated rationale is not well-founded**

The consultation document states that the purpose of the proposed rule is “to avoid duplication” (Consultation document, p. 43).

Local level controls that certain councils, including Hastings, are currently considering are designed either 1) to complement any decisions made by the EPA under the HSNO Act or 2) to achieve outcomes that would not be possible for regions under the RMA. The policy exercises that Hastings and councils of the Northern peninsula have engaged in to determine a course have been very careful to avoid duplication.

Further, the requirements of the RMA would mean that any duplicative measures would not meet the s32 requirements of the Act that local authorities must satisfy when developing local plans.

The policy process by Northern peninsula councils and Hastings have identified regulatory gaps in the HSNO regulatory regime over GM releases that these councils are proposing to address through provisions in local plans. These include:

- The lack of ability for regions to create GM Free production zones under the HSNO Act: there is no provision under the Act that allows regions to create legally binding GM free zones for a given period. Businesses and marketing and branding campaigns require certainty over time that GM free status is assured. This cannot be achieved under the HSNO Act, where decisions on GM releases can only be made on a case-by-case basis. If the Ministry disagrees with this analysis, we challenge it to identify the specific clauses in the HSNO Act which

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<sup>2</sup> FSC prohibits both the field trialling and commercial plantation of GM trees (see criterion 6.8 of the National Standard for Certification of Plantation Forest Management in NZ – Pre Approved Draft 5.7) while PEFC prohibits commercial plantations, based on the precautionary principle (see 5.4.7 of Sustainable Forest Management – Requirements PEFC ST 1003:2010)

- Hastings and other councils can use to create GM Free zones.
- Lack of clear national standards that provide certainty for food producers: the HSNO Act does not set national standards – at least not predictable standards that Hawke’s Bay food producers that can rely upon to meet their market requirements. HSNO sets minimum standards (s 36) and broadly requires that benefits must exceed costs. However, the EPA is not required to give any special/particular regard for regional interests, nor is it clear that the regulator would require GM forestry developers take meaningful measures to prevent economic loss for neighbouring food producers. This certainty can only be achieved through local level standards set by the district plans.

For these reasons, Hastings District Council is currently considering introducing a rule prohibiting GM releases in the district for the life of the plan.

Finally, the recent Environment Court ruling (*Federated Farmers of New Zealand v Northland Regional Council* [2015] NZEnv C89) has confirmed that the RMA and HSNO management regimes offer “significantly different functional approaches to the regulation of GMOs” [para 49]. While HSNO is concerned with the introduction of new organisms to New Zealand, while the RMA is concerned with integrated sustainable management of resources within a territory. The Court concluded that:

regional authorities might, with community input, consider particular regional approaches acknowledging social, economic and cultural wellbeing (amongst other things), somewhat beyond the more limited policy considerations for regulation of import and release of new organisms under HSNO. [para 51]

and that:

Particular regional considerations would come in for study in a way not anticipated by HSNO. [para 51]

In summary, the proposals in the standard that relate to GM plantation forestry **do not avoid duplication but eliminate an important option** for regions to create GM Free zones for food and fibre production for marketing and branding purposes.

## 2.3 Disproportionate

The proposed measures eliminate local level options across New Zealand without any apparent consideration of other measures that might achieve the outcomes the Government or indeed GM forestry interests are seeking.

Not all regions may wish to use their local plans to regulate GM releases to achieve strategic local outcomes. Some regions may simply wish to represent their local interests by way of submission to the HSNO decision-making process; others may see no need to do even that.



The Ministry's view of the regions as wholly uniform in their agricultural profiles and economic needs and interests and so warranting the proposed 'drive thru' approach for GM plantation forestry is surprising.

The ministry representing primary industries should have an understanding of regional variations in the economic priorities and vulnerabilities that face different councils.

Further, the district plan rules that the Hastings District Council and other councils are currently considering clearly provide for a plan change in the event that a GMO of real benefit comes forward.

Pure Hawke's Bay accepts that this would involve cost for developers and the forestry industry. However, it is possible that local authorities would consider cost-sharing if there were sufficient local interest for bringing GM plantation species to Hawke's Bay. Importantly, the process would focus exclusively on the costs and benefits to the Hawke's Bay economy – a consideration that may only be given peripheral emphasis, if decisions are left exclusively to the national regulator.

### **3. Concluding remarks**

In the absence of any meaningful rationale, the proposals are an attempt by the Ministry and GM forestry developers to:

- bypass both Parliament and local authorities on a governance issue that is of current and considerable interest to communities and
- undermine food producer initiatives that have the potential to create greater wealth for the regions.

It is disappointing that the Government has chosen this route and that it remains unwilling to engage properly with the regions on this issue.

The Government has a target of doubling the value of primary exports by 2025 and we would expect that the Ministry and the Government would be looking to foster constructive relationships with food exporters to that end.

The GM forestry-related proposals in the NES have been advanced without any consideration of the impacts on opportunities for food exporters and Pure Hawke's Bay submits that the proposals should be dropped.





SUBMISSION ON THE PROPOSED NATIONAL ENVIRONMENT STANDARD  
FOR PLANTATION FORESTRY

To: NES-PF Consultation  
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Spatial, Forestry and Land Management  
Ministry for Primary Industries  
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Introduction

The Royal Forest and Bird Protection Society of New Zealand Incorporated (Forest & Bird) is an independent community-based conservation charity, established in 1923. Its mission is to be a voice for nature, on land, in fresh water, and at sea, on behalf of its 70,000 members and supporters. Volunteers in 50 branches carry out community conservation projects around New Zealand. Forest & Bird has been involved in resource management processes around New Zealand for many years, at the national, regional and district level.

Thank you for the opportunity to provide feedback on the National Environmental Standard for Plantation Forestry ("NESPF"). In addition to this submission on behalf of Forest & Bird's national office, many Forest & Bird branches are providing independent submissions.

Forest & Bird supports the principle of National Environmental Standards as a way of improving environmental outcomes and creating greater environment planning consistency (where this is appropriate) across the country. It is Forest & Bird's experience that, in the absence of clear national guidance, an unnecessary proliferation of local environment planning policies and rules occurs, which often do not provide the level of environmental protection that is required to achieve sustainable management.

The development of this NES has occurred over several years through three distinct phases. Forest & Bird was actively involved in the second of these phases, but was not involved as an active participant in the third and final phase that has led to the proposed NES that is the subject of this consultation.

While we wish to acknowledge the role of forestry in providing economic and social benefits to New Zealanders, carbon sequestration services and potentially lower impacts on freshwater relative to some other land uses, we state clearly at the outset that Forest & Bird has some very significant concerns about the content of the NESPF:

- There appears to have been very little analysis of the likely environmental impacts of forestry as anticipated under the proposed rules, particularly in terms of impacts of sedimentation and direct disturbance on freshwater quality and ecosystems, the natural character of water bodies, sedimentation of coastal marine areas, the threat of wilding conifers on native ecosystems, and impacts on riparian vegetation and other areas of high conservation value.
- We perceive an over-reliance in the NESPF on risk calculation tools, which are an integral part of risk management, but to be effective must be coupled with robust attention to their stated limitations, strong planning, monitoring and enforcement requirements. Permitted activity status, and the associated reliance on operator-produced and operator-monitored management plans, is simply not appropriate for many of the moderate, high and very high risk forestry activities described in the NESPF. No regard has been had to the effects of climate change in designing the calculators and setting the associated rules. Contrary to section 43A of the RMA (and section 70 relating to permitted discharges), the NESPF permits activities that will have significant adverse effects on the environment.
- Protection of wetlands and high conservation value areas (including significant natural areas) is woefully inadequate, and while it is pleasing to see that the NESPF drafters have considered the potential impacts of forestry on threatened fish and birds, the provisions as currently drafted are inadequate to ensure the protection of threatened species (and bats and other species have not been considered at all).
- The areas in which Councils may be more stringent are too narrowly defined, with the result that the NES is inconsistent with section 6, the New Zealand Coastal Policy Statement and the National Policy Statement for Freshwater Management. It is not clear how communities are able to seek more stringent provisions if these are not proposed by Councils (given that no Schedule 1 process occurs in those circumstances).
- A NES is not the appropriate place to make a decision about the appropriateness of GMO trees. The rationale underlying the blanket permitted activity rule for GMO trees has been considered and rejected by both the Environment and High Court, and the rule is therefore not for a proper resource management purpose.

The key issues addressed in this submission are:

- A. The NESPF underlying policy
- B. Erosion risks and consequences
- C. Sedimentation and water quality
- D. The coastal environment
- E. Wetlands

- F. Riparian vegetation and SNAs
- G. Native fish
- H. Native fauna
- I. Wilding conifers
- J. Genetically Modified Organisms
- K. Effects of forestry not able to be managed under the NESPF

#### A. Underlying policy

##### Achieving better environmental outcomes

1. Forest & Bird is concerned that achieving better environmental outcomes does not appear to be a goal of the NESPF. We have not seen any analysis of whether the methods proposed in the NESPF will improve environmental outcomes overall (only assumptions that do not appear to be supported by analysis). The NESPF process should have started with an assessment of the environmental impacts of forestry, and the extent to which these impacts need to be avoided, remedied or mitigated to achieve acceptable environmental outcomes. Rules could then have been devised with a view to achieving those outcomes, and a further analysis carried out to ensure that the rules would actually be effective.
2. The consultation document states that Scion has assessed the environmental costs and benefits of the NESPF. We do not agree. The Scion report makes assumptions about environmental outcomes of the NESPF, then applies a costing to the difference between the (assumed) improved state, and the status quo.
3. At no stage does the Scion report actually assess whether the sedimentation-related measures in the NESPF will be an improvement on the status quo, let alone meet water quality objectives. In particular, there is no assessment of the environmental effects of permitting forestry on land with moderate and high erosion susceptibility. The Scion report says that all Councils other than Environment Southland and Canterbury (which do not perceive erosion as a problem in their region) believed that their own guidelines or regulations regarding erosion and sedimentation control would match or better the NESPF controls. Despite this, the report then describes the NESPF as providing “stricter controls” and goes on to assume reductions in sedimentation based on those “stricter controls”.<sup>1</sup>
4. Because of Councils’ view that most large forestry operators are doing “all that was reasonable” to control sedimentation from harvesting, the Scion report focuses exclusively on small operators. This does not assist in determining whether forestry activities generally are operating in a way that will meet community expectations and national requirements for water quality. We do not agree that large operators are doing all that is reasonable, and provide some photographs of poor practice by large operators.
5. Similarly, the Scion report assumes that applying a rule which requires resource consent for new plantings with a Wilding score of 11 or less will result in better environmental outcomes in terms of wilding control, and goes on to attribute a monetary value to that “benefit” - but we have not seen any analysis to support the underlying assumption. This is concerning given that a score of 12 equates to a high risk of spread from the site, and the wilding calculator also assesses a ‘Siting’ of 3 or more, together with downwind land

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<sup>1</sup> This assumed environmental benefit is even monetised, despite not being demonstrated to be achieved.

management practices as high risk – with no attention given to the additional consideration.

6. We have not seen any analysis of whether the NESPF rules will achieve acceptable environmental outcomes in terms of indigenous vegetation, native fish, birds, bats and other fauna species, or the natural character of water bodies.

#### Relief sought

- a. Clearly define the environmental outcomes that the NESPF must achieve in order to adequately avoid where necessary, and otherwise remedy or mitigate, adverse effects of forestry operations on the environment.
- b. Assess (using evidence rather than assumption) whether the proposed rules will achieve those outcomes.
- c. Revise the rules where necessary to achieve those outcomes.

#### Preference for permitted activity status

7. Forest & Bird does not agree that activity status for forestry activities should be determined on the basis that permitted status should be used “wherever possible”.

#### *Legal limits on use of permitted activity conditions*

8. The NESPF places a great deal of reliance on permitted activity standards to adequately manage activities that can have significant adverse effects on the environment.
9. One example is harvesting, which is provided for as a permitted activity on green, yellow and orange zones, where yellow equates to “moderate” erosion susceptibility, and orange equates to “high” erosion susceptibility. The potential effects, or “risks” identified in the NESPF include sediment and slash transport into water bodies, and soil erosion. The potential effects of harvesting on orange zone land include were demonstrated in the Gisborne District recently, when large amounts of sediment and woody debris were washed into rivers and onto beaches, destroying a large whitebait spawning site on the Te Arai River.
10. The NESPF does not comply with section 43A(3) of the RMA where it allows activities that will have significant adverse effects on the environment and relies on permitted activity conditions to address such effects. Section 43A(4)(b) states that a NES that allows an activity may: (i) state that the activity is permitted but only on the terms or conditions specified in the NES, or (ii) require compliance with the rules in a plan or proposed plan as a term or condition. Section 43A(3) states that if an activity has significant adverse effects on the environment, a NES must not under subsection 4, state that the activity is permitted, or allow the activity unless it states that resource consent is required for it.<sup>2</sup> Reading those

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<sup>2</sup> Section 43A

- (3) If an activity has significant adverse effects on the environment, a national environmental standard must not, under subsections (1)(b) and (4),—
  - (a) allow the activity, unless it states that a resource consent is required for the activity; or
  - (b) state that the activity is a permitted activity.

sections together it is apparent that a NES must not state that an activity is permitted where the activity would have significant adverse effects on the environment, even where those significant effects can (in theory) be addressed by permitted activity standards.

11. The RMA also places limits on the use of permitted activity standards, particularly in relation to discharge rules. The NESPF purports to authorise the discharge of sedimentation as a permitted activity where it is associated with forestry activities. Sediment is a potential contaminant<sup>3</sup> in freshwater and coastal water. Section 70 provides that before a regional council includes in a regional plan a rule that allows as a permitted activity a discharge of a contaminant into water, or onto land in circumstances where it may enter water, the regional council must be satisfied that none of the listed effects are likely to arise in the receiving waters after reasonable mixing. The listed effects which must not be likely to arise include:

- a. The production of conspicuous floatable or suspended materials.
- b. Any conspicuous change in the colour or visual clarity.
- c. Any significant adverse effects on aquatic life.

12. Harvesting, earthworks and mechanical land disturbance are likely to generate substantial amounts of sediment, particularly where they occur on land with moderate, high or very high erosion susceptibility. Permitted activity standards to deal with sediment discharges vary:

- a. Forest & Bird supports the intent of permitted activity standards for harvesting which require that all disturbed soil is stabilised or contained so as to prevent movement of sediment into any water body or coastal water that would result in effects including sedimentation of the bed of any surface water body, or significant adverse effects on aquatic habitat. However, determining in advance whether those impacts will be caused is not straightforward, and will require baseline monitoring of aquatic habitat, an assessment of the effectiveness of mitigation measures, and ongoing monitoring of impacts. Enforcing these standards will in many instances be unfeasible, particularly where an effect on aquatic habitat results from cumulative impacts. In addition to the practical difficulties, there is likely to be disagreement as to whether “significant adverse effects” will be (or, more realistically, have been) caused, and who caused it. Despite their intent, it is unlikely that these standards are consistent with the section 70 requirement to be “satisfied” that particular outcomes will not occur before a discharge is allowed as a permitted activity.

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- (4) A national environmental standard that allows an activity—
    - (a) may state that a resource consent is not required for the activity; or
    - (b) may do one or both of the following:
      - (i) state that the activity is a permitted activity, but only on the terms or conditions specified in the standard; and
      - (ii) require compliance with the rules in a plan or proposed plan as a term or condition.

<sup>3</sup> The Act relevantly defines contaminant as including any substance (including solids) that either by itself or in combination with the same, similar, or other substances, energy, or heat, when discharged into water, changes or is likely to change the physical, chemical, or biological condition of water.

- b. Standards that are based on management actions (such as riparian buffers) have not been devised to meet the requirements of section 70. Scion's Environmental Impact Assessment of the Proposed NESPF notes that "overseas publications have highlighted the need for buffers much wider than 10 m to maintain ... in-stream habitat, water quality and biodiversity", and concludes that "A 10m buffer is therefore only likely to reduce the impacts of forestry activities to varying degrees and constitutes a compromise between environmental and economic considerations."<sup>4</sup> Some of the proposed NESPF buffers are set at 5 m rather than 10, and no setbacks are required from intermittent water bodies.
  - c. Some activities that have the potential to cause sediment discharges to water appear to be inconsistent with section 70. Sedimentation from Earthworks is not required to comply with an output standard (such as a visual clarity or deposited sediment limit) or an environmental outcome (such as avoiding significant adverse effects on aquatic life). Similarly, the permitted activity standards for river crossings will not ensure that the section 70 effects are avoided.
13. Taking those matters into account, it is likely that the NESPF provisions which permit sediment discharges to water bodies and coastal water will not meet the requirements of section 70.

#### Relief sought

- a. Ensure that the NESPF complies with section 43A of the RMA by reviewing the potential effects of all forestry activities that are provided for as permitted activities, and requiring resource consent for any activities that are likely (with or without proposed permitted activity standards) to cause significant adverse effects on the environment.
- b. Ensure that where a sediment discharge is permitted it will (individually and cumulatively) meet the section 70 matters.
- c. In particular, require a restricted discretionary resource consent for any forestry activities on orange zone land, including production forest afforestation.

#### *Permitted activity standards too uncertain and unenforceable*

- 14. Qualifying criteria for permitted activities must be clearly specified and capable of objective attainment.<sup>5</sup> Objectively phrased conditions of permitted activities can be acceptable even if they require an exercise of judgement. But they are to be assessed for validity in terms of the degree of certainty or lack of it.<sup>6</sup>
- 15. Although further legal certainty is proposed through drafting, in a number of instances is not clear how certainty will be achieved. For example, the general condition for vegetation clearance and disturbance provides that indigenous vegetation may be damaged, destroyed or removed provided it is incidental damage to riparian vegetation that will readily recover

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<sup>4</sup> New Zealand Forest Research Instituted Limited, Environmental Impact assessment of the Proposed National Environmental Standard for Plantation Forestry, 8 June 2015 at page 19.

<sup>5</sup> *Maclean v Thames-Coromandel District Council* A046/03 at [19]-[21].

<sup>6</sup> *Twisted World Ltd v Wellington City Council* W024/02 at [64].

within five years, or it is incidental damage to adjacent vegetation (including SNAs) that will readily recover within five years.

16. The terms “incidental damage” and “readily recover” are too uncertain to be valid permitted activity standards. They are also unenforceable by local authorities, who would be in the impossible situation of having to determine after the fact whether damage was incidental, and whether vegetation that has been damaged or removed will readily recover within five years.
17. Other examples of uncertain standards which do not have an obvious remedy include the requirements:
  - a. During harvesting operations, to “avoid, mitigate or remedy actions that accelerate erosion and minimise the discharge of sediment to water bodies”
  - b. To limit riparian disturbance by felling away from the riparian zone except where unsafe or impractical to do so.
  - c. To avoid “more than minor adverse effects” (eg on aquatic habitat).
  - d. To carry out mechanical land preparation parallel to the contour where practical.

#### Relief sought

- a. Devise clear, enforceable permitted activity standards that will effectively control potential environmental effects (including cumulative effects that may not be easily attributable to a single activity or operator).
- b. Where sufficiently clear, enforceable permitted activity conditions cannot be devised, move to a consenting regime.

#### *Consenting relationship improves outcomes*

18. The justification for the policy position that “where possible, activities should be permitted” is not clear.
19. Permitted activity status is appropriate for relatively uncomplicated activities where the potential for adverse environmental effects (individually or cumulatively) is small. However, an underlying preference for permitted activity status in the NESPF has led to the use of complex permitted activity standards which leave important considerations such as whether an activity will cause, or has the potential to cause, significant adverse impacts on aquatic habitat, and the steps required to avoid or mitigate such impacts, to the operator, with no local authority oversight.
20. While there are administrative costs associated with obtaining resource consent, that should not be the predominant consideration in determining activity status. Where permitted activity standards are complex and involve the preparation of management plans etc, the additional cost of obtaining consent may be minimal. Permitted activity status merely shifts the cost of determining whether standards have been complied with from the forestry operator to the local authority.
21. The consenting process has a number of benefits:

- a. It enables site-specific mitigation measures that cannot be provided for in permitted activity standards.
  - b. The consenting relationship often means that better environmental outcomes are achieved. This is due in part to the exchange of information between developers and local authority staff during the pre-application and application stages of resource consents.
  - c. Outcomes that are sought through permitted activity standards may be too uncertain to be enforceable, where-as the same outcome can be phrased with more certainty as a resource consent condition.
  - d. The cost of monitoring consent conditions is recovered from developers, where-as enforcement of permitted activity standards is a cost to local authorities. In practice, this means that permitted activity standards are often not enforced. A lack of enforcement results in poor environmental outcomes.
  - e. Compliance monitoring and enforcement is generally reactive in nature, where-as the consenting regime enables potential effects to be identified and addressed in advance. For example, a consent applicant can be required to demonstrate, based on appropriate ecological evidence, that indigenous vegetation that is incidentally damaged will readily recover within 5 years. As a permitted activity standard, it is doubtful that ecological advice will be sought to ensure this standard is met, and in practice it is likely to be ignored.
  - f. Where appropriate, consent can be declined.
22. Accordingly, Forest & Bird submit that a preference should not be given to permitted activity status (and complex self-enforced permitted activity standards) over a consenting regime.
23. Finally, “afforestation” is defined in the NESPF as “the act of planting a production forestry crop on land that is not currently in forest and has not been under plantation forestry cover within the past five years” (p46). The act of afforestation then means, under this definition, that the crop will be harvested in some way. Therefore uncoupling afforestation from the various provisions relating to harvesting, by allowing it as a permitted activity, but then requiring more stringent scrutiny around harvesting (albeit insufficient), does not allow sufficient scrutiny to be observed around the afforestation of land in the first instance.

#### Relief sought

- a. Undertake a review of the activity status provided for all forestry activities, which:
  - i. Recognises the benefits of the resource consent regime described above, and
  - ii. Avoids an underlying bias towards permitted activity status.
- b. Limit the use of permitted activity status to truly low risk activities which can be adequately managed with clear, straightforward and enforceable permitted activity standards.
- c. Ensure afforestation has at least as stringent an activity status as the associated harvesting rule.



*Use of Management Plans in permitted activity standards*

24. Forest & Bird is concerned at the extent to which the NESPF relies on Management Plans to ensure that environmental outcomes are achieved.
25. There is significant Environment Court guidance on how management plans should be used in the resource consent context. That guidance is also applicable when considering management plans that are used as part of permitted activity standards, as the objective is the same: reasonable certainty that the environmental outcomes envisaged in allowing the activity (whether under a resource consent or as a permitted activity subject to conditions) will eventuate and that unanticipated adverse effects will be avoided.
26. The purpose of a management plan is to provide a consent authority, and anyone else who might be interested, with information about the way in which the consent holder intends to comply with the more specific controls or parameters laid down by the other conditions of consent.<sup>7</sup> The Board of Inquiry that determined the Transmission Gully proposal set this out in the following way:
- “The Board was initially concerned that the extensive use of management plans which were to be approved or certified by Council Officers rather than the Board, might mean that we were in effect delegating our decision making obligations. Ultimately, we determined that as not the case, provided the conditions of consent imposed contained clear objectives to provide focus to management plan provisions and performance criteria which operate as bottom lines which the management plans must achieve. In other words, the conditions imposed by the Board would identify the performance standards which had to be met and the management plans would identify how those standards were to be met.”<sup>8</sup>
27. In general, the NES does not set out particular standards that the Erosion and Sediment Control Plan, Harvest Plan and Quarry Management Plan are required to meet. Their contents are prescribed, but only in terms of the topics that they need to cover. For example, the Erosion and Sediment Control Plan is required to include “the erosion and sediment control methods to be used and indicative locations”, but not what those methods must achieve. One requirement is to identify methods to “avoid effects on riparian margins and water bodies”. If the intention of this standard is that permitted earthworks must avoid effects on riparian margins and water bodies (which is supported), this should be expressed as a permitted activity standard, and the ESCP should then identify how that standard will be achieved. As currently phrased, the Management Plan could be considered to meet the standard by identifying (some) methods to avoid (some) effects.
28. The Management Plan permitted activity standards are satisfied by preparing a Management Plan that includes the specified content, making the Management Plan available to council on request prior to operations commencing, and thereafter complying with the Management Plan.

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<sup>7</sup> *Wood v West Coast Regional Council* C127/99, 24 February 1999, at [6].

<sup>8</sup> Final Report and Decision of the Board of Inquiry into the Transmission Gully Proposal (EPA, June 2012), paragraph 190, cited in *Re Canterbury Cricket Association* [2013] NZEnvC 184

29. Outcome standards do not merely “penalise non-compliance once an activity has already occurred.”<sup>9</sup> Properly applied, they set the parameters within which an activity can operate, which should then be demonstrated in the management plan.
30. It is not clear what is gained by making the Management Plan available to council on request. If the council considers that the content of the Plan is insufficient to ensure that significant adverse effects are avoided, it has no ability to require changes to the Plan (such as additional mitigation measures). Also, as the council cannot recover any costs associated with reviewing management plans, it is unlikely that they will be given much attention.
31. As a result, the Management Plan regime that is proposed is essentially no different to operators complying with voluntary guidelines.
32. Given the significant environmental impacts being caused under the status quo, this approach is not good enough. For example, a recent report on the Marlborough Sounds marine environment identified the permanent destruction of an estuary from the effects of sedimentation caused by forestry harvesting (Davidson & Richards, 2015<sup>10</sup>). The estuary, Hitaua Bay, had been the best example of an estuarine habitat in the Tory Channel biogeographic region. It is now no longer listed as significant because of these impacts. Thus, the impacts of forestry on the environment justify a far more rigorous approach.
33. A provision that enables Councils to certify management plans and to require amendments where necessary is unlikely to be lawful as part of a permitted activity standard (generally, permitted activity standards may not reserve a discretion to the Council). However, the alternative – that management plans are prepared by operators and simply made available to Councils – will not ensure that the significant impacts that these management plans are designed to control are adequately addressed.

#### Relief sought

- a. To the extent that these activities are to remain as permitted activities, the following changes to the Management Plan provisions should be made:
- i. Set out specific standards that management plans must meet by re-framing the contents of management plans as permitted activity standards. Require that the Management Plans demonstrate that the standards will be achieved.
  - ii. Require that the Management Plans are submitted to Council for certification prior to operations commencing, and empower Councils to require changes to the Management Plans.
  - iii. Enable cost recovery by Councils for certifying and monitoring and enforcing compliance with Management Plans.

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<sup>9</sup> Consultation document, page 18, Box 6.

<sup>10</sup> Davidson, R.J. & Richards, L.A. (2015). Significant survey and marine site monitoring programme: Summary 2014-15. Published by Davidson Environmental Ltd for Marlborough District Council. Survey and monitoring report no. 819.

- b. If Management Plans cannot be required to be certified by Councils (and amendments required) as part of a permitted activity regime, move to a consenting regime.

## B Erosion risks and consequences

34. Forest & Bird supports the use of scientific information to ensure best practice and gain better environmental outcomes that achieve the implementation of the purpose of the RMA. However it is important in utilising science, that both the limitations and the extra parameters are taken into account in adopting the methodology. Both the initial Erosion Susceptibility Classification (ESC) (2011) and the revised version (2015) acknowledge the limitations of the ESC model. This includes the following:

- a. Basis of the analysis on the NZLRI and the resulting Land Use Classification. This index was developed for use with pastoral activity, and is not necessarily relevant for production forestry. However this method was chosen as that with the most reliable nationwide information over other potential models (e.g. variability with the use of slope stability data).
- b. The limitations of scale of 1:50,000.

35. The initial report also emphasised that the model is only one aspect of a series of issues that need to be addressed before determining the suitability of a site for afforestation<sup>11</sup>. In a personal communication with the lead author, he states:

“The ESC will never be a completely reliable predictor of risk because it is based on coarse-resolution mapping (equivalent to 1:50,000 scale). So all it can do is flag where we need to do more detailed mapping and planning to manage risks from forestry (or any other rural landuse for that matter). I would strongly contend that unless the ESC is backed up by a robust risk management process, as recommended in the original 2011 report by Bloomberg et al (2011) then the job is only half done.” (Bloomberg, pers.comm, August 2015).

36. Instead, the broadbrush of 1:50,000 scale is adopted – even after the opportunity provided by the revised classification in 2015. There has been some discussion, although not formally included in the NESPF, that a plan change may be sought or negotiated (possibly at the cost of the initiator) for the more detailed 1:10,000 assessment that is required for operationalising forestry production and providing greater detail on erosion susceptibility. The opportunity for this greater detail around 1:10,000 mapping should be included in the NESPF as a matter under which Councils can exercise greater ‘stringency’<sup>12</sup>.

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<sup>11</sup> As a result of the narrow brief provided by the Ministry for Primary Industries, the revised report is much more focussed on the reclassification aspect of the 2011 report, and does not address the other considerations.

<sup>12</sup> The word ‘stringency’ is not the most apt in this situation, as the 1:10,000 mapping may result in more closely detailed ESC designation – with some becoming less, and some more, stringent.

37. In both the original 2011 report and in an article in the NZ Journal of Forestry<sup>13</sup>, the need for consideration of a number of other factors in assessing risk of mass movement and fluvial (gully) erosion, is stressed. These two factors are:

- a. The occurrence of a triggering event, e.g. heavy rainfall; and
- b. The consequences of erosion, e.g. impact on human life, property and areas of conservation value (e.g. estuaries).

38. The 2011 report helpfully included a decision-making matrix, to understand risk associated with erosion events. This matrix (copied below) suggests that even with a moderate ESC, and a moderate risk of a triggering event, some degree of risk analysis is required. In slightly higher rankings, e.g. high ESC, and a moderate risk of a triggering event, the recommendation is to “proceed under stringent conditions only if full risk analysis indicates risk can be managed to be acceptable”.

Table 1: Decision matrix using ESC and annual exceedance probability (AEP) of a triggering storm

ESC	AEP				
	<0.08	0.08–0.12	0.12–0.21	0.21–0.30	>0.30
Low	NA	NA	NA	NA	NA
Moderate	NA	NA	SA	SA	SA
High	SA	SA	FA	FA	FA
Very High	FA	FA	FA	FA	FA

NA = no risk analysis required for forestry operations

SA = some risk analysis required

FA = full risk analysis – proceed with forestry operations under stringent conditions only if full risk analysis indicates risk can be managed to be acceptable.

39. This degree of detail is absent from the NESPF. No risk assessment is built into the NESPF around the two issues of “triggering event” and “erosion consequence”.

40. The NESPF should also include the opportunity for Councils to make decisions around siting of forestry for production purposes where they can utilise the information of “triggering event” and “erosion consequence” as a matter under which they can exercise greater stringency.

41. The usefulness of this approach is made pertinent in the report by Bloomberg (2012)<sup>14</sup> following a large landslide and debris flow event into an area of housing in Golden Bay, Tasman. Sited above the coastal embayment, was an area of plantation forestry ready for harvest. After determining a cautious approach to logging to reduce the likelihood of further impacts, the report identified areas with the current forestry plantation that could be

<sup>13</sup> Bloomberg, M. (2015). “Erosion susceptibility classification and analysis of erosion risks for plantation forestry: Response to Marden, et al.” in NZ Journal of Forestry, Vol. 60, No, 2.

<sup>14</sup> Bloomberg, M. (2012) Review of forest management options for 30-year old radiata pine plantations in upper catchments of Pohara-Ligar Bay area, Golden Bay. Report prepared for Tasman District Council.

replanted, and areas recommended for retirement into native woody vegetation because of high risk of landsliding<sup>15</sup>.

42. There is a further disconnect in the NESPF between science and policy. The NESPF, by not adequately taking into account the limitations, and added recommendations for other risks with respect to erosion, is allowing for a permissive regime over a potentially high risk activity. The ESC determines orange and red zone land to have high and very high erosion susceptibility respectively, yet most forestry activities are permitted throughout orange zones (as well as green and yellow zones), and only controlled or restricted discretionary status in red zones. This approach is entirely too permissive given the potential for significant cumulative impacts from erosion.
43. In the NESPF there is the introduction of a qualification around slopes in excess of 25 degrees. There is no reference as to where this figure arises from, although there is an unwritten implication that it possibly arises from within the ESC recommendations and has the same degree of scientific rigour and analysis attached to its inclusion. However there is no reference to slope angle as being a determinatory factor in erosion risk in any of the ESC reports. Although there is some degree of 'commonsense' in this inclusion, the actual figure has no basis in research that is evidenced in any of the reports, and there may be a combination and/or change in slope angles that should be utilised in its place.
44. The 2011 ESC report took the liberty of an additional section where they stated "we believe it is important to consider the implications of an ESC within the proposed NES for plantation forestry." (Bloomberg, et al, p37). In this brief section they identify two matters of importance:
  - "(1) This ESC is based on mapping at 1:50,000 scale. This must be supported by detailed assessment of erosion hazards and risks at a scale suitable for identifying the specific risks at a site or operational level.
  - (2) The ESC must be supported by specific standards for forestry operations that are appropriate for the level of erosion risk on a site. We suggest a set of best management practices (BMPs) which could be used for this purpose. However, we emphasise that these are suggestions for discussion purposes only, not recommendations."
45. This section elucidated a series of BMPs with rules and specific enforcement measures. The NESPF has neglected this important recommendation by the authors of the report, and has instead, by a series of steps, undermined the validity and usefulness of the ESC. They are:
  - a. Failure to provide for more detailed mapping which would assist in determining the most appropriate places for production forestry.
  - b. Failure to take into account the other erosional risk factors: i.e. triggering events and erosional consequences.
  - c. Reviewing the original classification to "Identify LUC units in the High and Very High ESC classes that are misclassified or conservatively classified". The conservative classification adopted in the 2011 report was to cater for the highest degree of erosional risk within any given polygon to compensate for the limitations of the 1:50,000 scale.

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<sup>15</sup> This area includes Separation Point granites is zoned "orange" and is therefore a permitted activity.

- d. Providing for forestry as a permitted activity over land, when after reading the reports conclusions, a more detailed analysis is required because of potential erosion risk.
- e. Decoupling afforestation from the inevitable consequence of harvesting and associated activities. The NESPF is limited to production forestry, and deliberately excludes restoration planting.
- f. Having a rule based system that provides for forestry as a permitted activity (including as a matter of course, harvesting practices) over almost all land except that classed under the LUC system as Very High. The Very High (under the 2015 revision) is limited to very steep, almost vegetation-less surfaces in the South Island, and very highly erodible areas in the far east of the North Island.
- g. Not setting standards for Best Management Practice and the requirement for Plans to be approved by Council and that is linked to an appropriate rule structure.
- h. The inclusion of a 25 degree angle slope, without relevant scientific reference.

#### Relief Sought

- a. Allow Councils to exercise greater stringency around mapping at 1:10,000 scale.
- b. Require Councils to undertake an assessment including the other erosional risk factors of triggering events, and consequences. As a result of this, Councils may determine areas are inappropriate for production forestry. They may decide afforestation in permanent forest restoration initiatives are the best way to reduce erosional risk.
- c. Recouple afforestation with harvesting, so that there are controls provided at the outset around the amount of soil disturbance permitted during harvesting<sup>16</sup>.
- d. Retain the concept of slope as a risk factor, but provide for its consideration in the wider analysis of detailed mapping, triggering events, and erosion consequences.
- e. Provide for a maximum area of deep soil disturbance as a condition of site management, dependent on erosion risk. For example, the best management practices suggested in Bloomberg, et al (2011, pp42-43), were 6% on land of moderate risk, and 4% on land of high risk (excluding permanent road infrastructure).

### C Water quality and sedimentation

#### *NESPF will not maintain or improve water quality*

- 46. The NESPF provisions will not maintain or improve water quality, and so will not enable Councils to fulfil their mandatory function under section 30 of the RMA to (at least) maintain water quality. The NESPF will not safeguard the life-supporting capacity of

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<sup>16</sup> This will have a crucial impact upon the original decision whether or not to afforest an area in production forestry, permanent forest restoration, leave under current land use, or consider other options.

freshwater, and as such is inconsistent with the National Policy Statement on Freshwater Management, and cuts across the community value- and limit-setting process provided for in the NPS Freshwater.

47. The consultation document states that the proposed NESPF is expected to contribute to improved water quality outcomes, and that it is likely that in many cases the rules under the NESPF would be sufficient to meet water quality objectives once objectives and the corresponding limits have been set.<sup>17</sup> As discussed above in relation to the underlying policy and approach to the NESPF, those assertions do not appear to be supported by analysis.
48. Sedimentation associated with forestry activities can have very significant impacts on freshwater quality and ecosystem health. Suspended sediment directly smothers the feeding and gill structures of invertebrates and gills of fish and is known to reduce fish diversity (Richardson and Jowett 2002) and cause avoidance behaviour in a number of native fish species, including juvenile banded kokopu (Rowe et al. 2000; Richardson et al. 2001). Suspended sediment also reduces the ability of fish to feed (Rowe and Dean 1998) and disrupts the natural primary productivity base of the food chain in both freshwater and estuarine ecosystems (Rafaelli et al. 1998).
49. Deposited sediment directly affects aquatic life by increasing invertebrate drift out of affected habitat (Suren and Jowett 2001); reduces interstitial spaces, spawning habitat and refugia for aquatic invertebrates and fish (Clapcott et al. 2011); enables the establishment of aquatic weeds, alters bed habitat and can create anoxic conditions. In severe cases estuarine sedimentation contributes to anoxia and mortality of estuarine fauna (Robertson and Stevens 2007, 2011).
50. The effects of forestry on stream environments are well-documented in New Zealand (see reviews of Harding et al. 2000 and Fahey et al. 2004). Fahey et al. (2004) identify vegetation clearance and roading and tracking as the greatest generators of sediment during forest establishment. Roading, log landings and mass movement from harvested slopes are the key contributors once harvest has commenced. Between establishment and harvest, roading and tracking continue to contribute surface eroded sediment. Effects on water clarity generally last from harvest until re-establishment of groundcover.
51. As identified in the 2011 ESC report, the NESPF should put additional focus on reducing the impacts of roading (especially hauler roads), log landings and other sites of mass movement.
52. Hauler (harvest, skidder) roads generate a much high proportion of catchment sediment than permanent roads (Fransen, et al, 2001 cited in Bloomberg, et al, 2011). Figure 1 shows an aerial image of hauler roads across the contours on moderately steep slopes. The construction of such roads result in a significant expanse of the harvest site topsoil and subsoil being exposed to possible mass movement events. Given the suggested recommendations of a maximum deep soil disturbance (excluding permanent roads) of between 4 – 6% on slopes of moderate – high erosion susceptibility, these current practices should not be permitted. Other methods exist, e.g. cable hauler.

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<sup>17</sup> Page 42.



Figure 1: Image from aerial photography showing contour roading lines across a moderately steep slope.



Figure 2: The regular haul roads created 50 metres apart across a moderately steep slope. This increases the potential for large sediment loads

53. In some areas, forestry has been permitted to occur on surfaces with resulting erosion issues. However Council may wish to see the land utilised in other ways to ensure sustainable land management. Matters that may need to be considered include retirement to alternative land cover (not pastoral), and if replanting, consider methods of harvesting. One of these areas is the Separation Point granites that although not in the highest class of the ESC, often have significant slippage, including during heavy rain events.





Figure 3: Road constructed on highly erodible Separation Point Granites (SPG). SPG are identified within the Plan as occurring within the Orange Zone, with afforestation as a permitted activity.



Figure 4: Forestry operation on SPG. Note the extensive slips and other mass movement events, compounded by road cuts, and inappropriate disposal of slash.

54. A GNS report prepared following several large landslides in the Nelson Tasman region identified SPG as one of the most significant factors in the mass movement of the hillside. Aggravating factors were roading, the removal of a toe-slope and other earthworks<sup>18</sup>.

<sup>18</sup> Page, M.J. (2013), Landslides and Debris Flows caused by the 15 – 17 June 2013 rain storm in the Marahau-Motueka area, and the fatal landslide at Otuwhero Inlet. GNS Science Report 2013/44.  
file:///C:/Users/fb\_general/Downloads/SR%202013-044\_Final.pdf

Although vegetation may aid the stability of SPG, the wider impacts of harvesting may potentially aggravate the issue.

55. As a failure to give integrity to the NESPF by adopting the full suite of considerations that should be included alongside the ESC, Forest & Bird considers that the NESPF will result in poorer water quality outcomes.
56. The ESC does not take into account the current and future impacts of climate disruption (eg droughts, more frequent storm events) on erosion and sediment generation. Although it is noted in the ESC 2011 report, climate change is not taken into account because of the need for predictive modelling, rather than utilising existing data. Much obviously depends on the veracity of the climate modelling, however there is consensus building around increased storm, wind, and heavy rainfall events, and their likely impacts on parts of the country<sup>19</sup>. Councils should have the opportunity to address this in their planning, and it should be made a matter for greater stringency.

57. Relief Sought

- a. Provide for a less permissive regime for afforestation, harvesting, land preparation, earthworks, and other related activities.
- b. Include specific performance standards in the conditions, and require all Plans to be approved by the Council prior to any further activity occurring (which allows for Plans to be instigated at any part of the planting cycle given the existing nature of plantation forestry).

*Greater stringency*

58. The NESPF enables councils to take a more stringent position in their plans, but only in tightly defined circumstances. There is internal inconsistency within the NESPF consultation document as to how councils may take a more stringent position on freshwater matters:
- a. Table 4, page 23 says that Councils may apply more stringency where an NESPF is not sufficient to meet the objectives and corresponding limits set under the National Policy Statement for Freshwater Management ("NPS Freshwater"). Councils may also provide greater stringency in relation to outstanding freshwater bodies and water conservation orders.
  - b. Appendix 3, page 98 is a table of *Matters where councils can apply more stringent rules* but does not refer to the NPS Freshwater. It does refer to Outstanding freshwater bodies (a NPS freshwater concept), but appears to limit the ability to be more stringent to setbacks only. The rationale refers to "significant wetlands, rivers or lakes".
  - c. Section 6.1, page 42 says that greater stringency will be allowed where (i) a limit has been set for a freshwater management unit that is not being met and forestry activities are a source of the contaminant within that freshwater management unit; or (ii) significant values of an outstanding water body that have been specified (for example in a Water Conservation Order or a regional plan) and forestry activities

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<sup>19</sup> Ministry for the Environment website: <http://www.mfe.govt.nz/climate-change/how-climate-change-affects-nz/how-might-climate-change-affect-my-region>

would have an adverse effect on those values. Section 6.1 refers to “setting alternative rules” and does not limit the stringency measures to setbacks.

59. As a result, it is not clear from the consultation document what types of stringency measures will be permissible in relation to NPS Freshwater limits and outstanding freshwater bodies. Merely requiring larger setbacks may not be sufficient where forestry activities are or would cause unacceptable sedimentation of water bodies. The Scion report appears to suggest that setbacks have minimal impacts on sedimentation reduction and that reduction in sedimentation is better addressed through reducing the sources of sediment generation.<sup>20</sup>
60. In relation to freshwater limits, the ability to be more stringent is only triggered where a limit is not being met. Where water quality currently exceeds a limit, Councils could not be more stringent in order to maintain that good water quality. This is inconsistent with the section 30 obligation to (at least) maintain water quality, and Objective 2 of the NPS Freshwater.
61. Regional Councils have until 2025 (and potentially 2030) to implement the NPS Freshwater provisions relating to value- and limit-setting. In the meantime, the NESPF rules have the potential to override this process.
62. The NPS Freshwater includes a National Objectives Framework (“NOF”) which sets out attribute states and national bottom lines for some attributes that impact on water quality (for example, *E.Coli*). There is currently no suspended or deposited sediment or visual clarity attribute in the NOF. This means that sedimentation-related attributes will only be included in the value- and limit-setting process if they are “attributes that the regional council considers appropriate”.<sup>21</sup> Where a regional council is not motivated to address sedimentation as an attribute that is degrading ecosystem health, it will be more difficult for the community to achieve its inclusion where forestry-related sedimentation that is contributing to that degradation is already permitted under the NESPF.
63. Outstanding freshwater bodies are only intended to be those with truly outstanding values. This does not capture all of the areas that may be important in terms of their natural character or ecological significance. Outstanding freshwater bodies may also take some time to be identified and incorporated into plans. At present, Councils use a range of different labels to identify riparian areas of high natural character and amenity value (for example, Auckland Council’s Proposed Auckland Unitary Plan has “Natural Stream Management Areas”). The ability to be more stringent should apply to all water bodies with high natural character and significant water bodies.
64. A procedural matter that arises in relation to all of the areas where greater stringency is enabled relates to how interested groups or individuals can seek greater stringency if this is not provided for by the Council. That is, if the Council elects to incorporate only the NESPF rules, and not to provide greater stringency, the NESPF rules are adopted without following a Schedule 1 process. This means that there is no opportunity for interested parties to seek greater stringency, which in effect cuts across the Schedule 1 process that would otherwise be available in relation to freshwater, significant natural areas, and the other matters where greater stringency is allowed.

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<sup>20</sup> Page 20.

<sup>21</sup> Policy CA2c.i.B

### Relief sought

- a. Determine the outcomes required to safeguard life-supporting capacity and ecosystem health of freshwater.
- b. Analyse the effectiveness of the NESPF rules to achieve those outcomes, and make changes where necessary to ensure desired freshwater outcomes are achieved.
- c. Review the areas in which greater stringency is permitted, and ensure that the NESPF does not preclude the use of greater stringency to:
  - i. Maintain or enhance water quality (where a freshwater limit is met).
  - ii. Ensure that freshwater limits are not breached, and that targets are met within defined timeframes.
  - iii. Address issues/controls other than setbacks.
  - iv. Protect freshwater bodies that are significant but not “outstanding”.
- d. Work with MfE to develop sedimentation/water clarity attributes for the NPS Freshwater NOF.
- e. Devise a process to allow submitters to seek greater stringency where this has not been proposed by a local authority (this is not limited to freshwater, but applies generally to all areas of greater stringency).
- f. Revise the ESC to take account of climate disruption.

### *Setbacks*

65. Setback standards only relate to perennial rivers and streams (defined as a stream that maintains water in its channel throughout the year or maintains a series of discrete pools that provide habitat for the continuation of the aquatic ecosystem). No setbacks are provided for in relation to intermittent streams.
66. An intermittent stream is hydrologically connected to downstream perennial channels, but may not have standing pools above ground. Above-ground flow may cease at times of the year when rainfall is low. Intermittent streams have a defined streambed, often covered with a hard substrate (eg. gravels, cobbles or bedrock) under natural conditions, regardless of the channel width. Many of these intermittent streams would be identified on a topomap or REC as first order streams, and thus should be identifiable by foresters prior to a site visit to confirm.
67. Intermittent streams are the beginnings of the catchment. Water quality impacts to intermittent streams (such as sediment discharge) contribute significantly to increasing cumulative water quality issues downstream in perennial rivers. Intermittent streams are also extremely important ecological habitats for aquatic life and play an important role in maintaining aquatic and terrestrial biodiversity. Macroinvertebrates and native fish take refuge in intermittent streams when conditions are unsuitable downstream and for some species (including national vulnerable taxa like lamprey and shortjaw kōkopu) the riparian vegetation alongside headwater intermittent and perennial streams are important spawning

habitats during autumnal freshes. It is important that destructive forestry activities are set back from intermittent streams.

68. Harvesting and Pruning and Thinning-to-waste are not subject to setbacks. Machinery and operations associated with these activities should be required to operate outside setbacks.
69. The proposed setbacks are not adequate to mitigate effects on water quality, riparian vegetation and habitat such as inanga spawning sites, and aquatic habitat. Literature on setbacks results in a variety of recommendations, generally because setbacks are used for a variety of purposes, and depending on the outcome, there will be a different size recommendation.
70. In forestry, one of the biggest reasons for setbacks is to protect the instream and riparian biodiversity. "Sediment intrusion into waterways from forest harvest and roading activities is, however, a major impact on stream water quality. The amount of sediment lost from a catchment depends on site factors such as slope, soil type, and harvesting operations, but in general, road and landing-area construction are believed to be the major sources of sediments from forests." (Parkyn, et al, 2000, p27<sup>22</sup>).
71. Setbacks should take account of the threat status of indigenous species. Many threatened fish species live in very small streams, and appropriate setbacks (alongside soil disturbance quantity and siting rules) are required to protect them from sedimentation and habitat degradation from physical impacts of forestry operation.
72. Setbacks do not take 'slope' into account. For example, in the Marlborough Sounds, much of the afforested land is moderately steep - steep, and a setback must clearly be of at least 10 metres horizontal width. It should be prohibited for plantation trees to be felled into the setback. If necessary to avoid this, greater setbacks should be included during afforestation or replanting. Provision should ensure that felled trees do not land in waterbodies, including the coastal marine area.
73. Following a review of literature it is recommended that to improve water quality and riparian habitat, all streams (including intermittent streams) under 3 metres wide should have a minimum setback of 10 metres. Streams between 3 and 20 metres should require a 20 metre setback; and large rivers or rivers protected by Water Conservation Orders should have a minimum setback of 30 metres. (Parkyn, et al, 2000; Collins, et al, 2013<sup>23</sup>; Gerbeaux, 2014<sup>24</sup>) This should apply both to afforestation and replanting, as well as all mechanical activities.

#### Relief sought

- a. Apply setbacks to intermittent, as well as perennial streams.

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<sup>22</sup> Parkyn, S., Shaw, W., & Eades, P. (2000). "Review of information on riparian buffer widths necessary to support sustainable vegetation and meet aquatic functions". Report prepared for Auckland Regional Council: NIWA Client Report: ARC00262.

<sup>23</sup> Collins, K.E., Doscher, C., Rennie, H.G., & Ross, J.G. "The Effectiveness of Riparian 'Restoration' on Water Quality – A Case Study of Lowland Streams in Canterbury, New Zealand" in: Restoration Ecology, Vol 21. No 1: pp 40 – 48.

<sup>24</sup> Gerbeaux, P. (2014). A Summary of Key Points related to Riparian Management/Restoration and its Effectiveness. Unpublished paper.

- b. Apply setbacks to harvesting, pruning-to-waste, all earthworks and any mechanical operations.
- c. Ensure that to protect the likely presence of threatened freshwater fish species and to provide appropriate protection to water quality, and riparian health, ensure a minimum setback of 10 metres on small streams; 20 metres on rivers between 3 and 20 metres; and rivers over 20 metres wide, and any protected by Water Conservation Orders should have a minimum setback of 30 metres.
- d. Ensure no intrusion into setback areas from all forestry operations.

#### D The coastal environment

- 74. Where activities are within or impact on the coastal environment, plans and policy statements are required to give effect to the New Zealand Coastal Policy Statement (NZCPS). In a number of areas, the NESPF does not appear to be consistent with the NZCPS, which if not addressed will result in conflicting national directions. A thorough review of consistency with the NZCPS should be carried out.
- 75. The extent of the coastal environment varies between localities, but includes areas where coastal processes, influences or qualities are significant, coastal vegetation and habitat of coastal species, and elements and features that contribute to the natural character, landscape, visual qualities or amenity values (Policy 1). The landward boundary of the coastal marine area is Mean High Water Springs.
- 76. Within the coastal environment, adverse effects on threatened, at risk and naturally rare indigenous taxa, species at the limit of their natural range and protected areas must be avoided (Policy 11(a)). For other ecological values, including areas of predominantly indigenous vegetation and habitats that are important during vulnerable life stages of indigenous species, significant adverse effects must be avoided and other adverse effects avoided, remedied or mitigated (Policy 11(b)).
- 77. Where sedimentation and slash from forestry activities potentially impacts on sensitive coastal receiving environments, greater stringency will be required to ensure that Policy 11 is given effect to. This may include the ability to decline consent for afforestation or replanting in certain areas, and the ability to impose additional mitigation measures in other areas. The sensitivity of receiving environments should be taken into account both in terms of activity status, and matters to be considered where consent is required.
- 78. Activities within the coastal environment have the potential to directly affect coastal vegetation and habitat. A 30 metre setback is insufficient to manage impacts on the coast. A setback of at least 50 metres would be more appropriate.
- 79. Planting on dunes should not be permitted, as sand dunes are a National Priority for protection and as a naturally rare ecosystem type, qualify as an area where adverse effects must be avoided under NZCPS Policy 11(a).
- 80. Councils' ability to be more stringent applies only to setbacks from the coastal marine area. As the coastal marine area is only a sub-part of the coastal environment, in order to align with the NZCPS councils' ability to be more stringent should apply to the coastal environment. As set out above in relation to water quality, a mechanism is required to

enable submitters to seek more stringent measures where these are not proposed by councils and hence no Schedule 1 process occurs.

#### Relief sought

- a. Review the consistency of the NESPF with the NZCPS, and ensure that it is consistent with NSCPS provisions, particularly Policy 11. Provide the ability for consent to be declined where forestry activities have potential adverse effects on the coastal environment that are unacceptable under the NZCPS.
- b. Enable Councils to be more stringent in relation to any matter identified in the NZCPS.
- c. Increase the setback from MHWS to at least 50 metres.
- d. Prevent afforestation or reforestation on dunelands.

#### E Wetlands

81. The protection of wetlands is a matter of national importance under section 6(c) of the RMA. All wetlands in New Zealand qualify as significant indigenous vegetation as a result of their rarity (less than 10% remain nationally), and many meet other significance criteria in addition. The preservation of the natural character of wetlands, and the protection of them from inappropriate subdivision, use, and development, as also a matter of national importance.<sup>25</sup>
82. Protection of indigenous vegetation associated with wetlands is Priority 2 of the four National Priorities for protecting native biodiversity in New Zealand.<sup>26</sup> The National Priorities document is intended to “help local and central government agencies coordinate their decisions and on-the-ground actions in relation to biodiversity”. Local authorities are expected to take the lead in implementing the National Priorities through their resource management policies and plans.<sup>27</sup>
83. Protection of the significant values of wetlands in terms of water quality and quantity is requirement of the National Policy Statement for Freshwater Management 2014 and must be given effect to in regional plans.
84. Forest & Bird is concerned that the NESPF provisions relating to wetlands fall well short of achieving the clear national requirement of protection:
  - a. Setbacks are only required from wetlands larger than 0.25 hectares. The RMA definition of wetlands includes permanently or intermittently wet areas, shallow water, and land water margins that support a natural ecosystem of plants and animals that are adapted to wet conditions. There is no minimum size. Small wetlands can have very high ecological values and there is no basis for allowing them to be degraded or destroyed by forestry activities.

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<sup>25</sup> Section 6 (a) RMA.

<sup>26</sup> DOC, MFE: Protecting our Places – Introducing the National Priorities for Protecting Rare and Threatened Biodiversity on Private Land,

<sup>27</sup> Page 6.

- b. The setback from wetlands is only 5 metres. This is completely inadequate to protect wetland habitat, particularly when combined with the permitted status of riparian disturbance. The Scion report states that there is limited scientific information on the performance of a 5 metre riparian buffer in mitigating the effects of forestry activities on riparian areas and stream environments, and discusses the inadequacy of buffers of <10 metres in resisting adventives pioneering species.<sup>28</sup>
- c. The setback from all wetlands should be 30 metres. Wetlands, almost more than any other water-based natural feature, are particularly susceptible to forestry operations, including any changes in patterns of water input and drainage, sedimentation, shading, and mechanical damage<sup>29</sup>.
- d. Inability to adhere to wetland setbacks should result in the activity classification as non-complying.
- e. Permanent crossings may be installed in wetlands of less than 0.25 hectares as a permitted activity. The rationale is to prevent permanent crossings being installed on large wetlands, so as to protect the significant values of these wetlands. The reasoning behind only protecting the values of large wetlands is not clear. Permanent crossings will have very significant impacts on the hydrology and ecology of small wetlands – possibly even more so than larger wetlands.
- f. Temporary crossings also have the potential to damage wetlands, and should only be allowed where the operator has demonstrated that they will not harm the wetland's values.
- g. Activities that alter a wetland's hydrology (for example by altering water flows or the water table) are permitted by implication, and Councils are not able to be more stringent in order to protect wetlands from such activities.

#### Relief sought

- a. Review all aspects of the NESPF to ensure that it gives proper recognition to the importance of wetlands and is consistent with the requirement to protect them.
- b. Require wetland setbacks of 30 metres for all forestry activities. Apply setbacks to wetlands of any size. Failure to comply with wetland setbacks is a non-complying activity.
- c. Require consent for permanent crossings in a wetland of any size. Provide that temporary crossings in wetlands are a restricted discretionary activity, and set out assessment criteria which require operators to demonstrate that the temporary crossing will not adversely affect the wetland's ecology, hydrology and natural character.
- d. Enable Councils to be more stringent in relation to measures to protect wetlands, including wetland hydrology.

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<sup>28</sup> Scion report, pages 18-19.

<sup>29</sup> Department of Conservation, Threats to Wetlands,  
<http://www.doc.govt.nz/nature/habitats/wetlands/threats-to-wetlands/>



85. Forest & Bird has serious concerns about the permissive approach to forestry impacts on riparian vegetation, significant indigenous vegetation and significant habitat of indigenous fauna and under the NESPF.
86. The NESPF is also silent on the impacts of forestry on adjacent or nearby public conservation land, and has not addressed how the protection of the conservation values will be retained.

*Provisions permitting vegetation clearance*

87. The maintenance of indigenous biodiversity is both a district and regional function under the RMA. Protection of significant indigenous vegetation and significant habitat of indigenous fauna ("significant natural areas" or "SNAs") is a matter of national importance. Protection is an important element of the RMA's sustainable management purpose.<sup>30</sup> Yet the NESPF anticipates and provides for destruction to SNAs as a permitted activity.
88. Riparian vegetation also deserves special protection because of its contribution to natural character of water bodies. Protection of natural character of rivers and their margins is a matter of national importance.
89. Public conservation land (PCL) may not be identified by Councils as SNAs per se (either mapped or unmapped), even though their high natural values are readily appreciated. Usually this is because Councils may choose to focus their SNA surveys outside public conservation land for priority reasons especially on limited budgets. The NESPF does not address proximity to public conservation land.
90. The document also fails to take into account the Department of Conservation's Protected Natural Areas (PNAs), QE2 covenants and other land identified as having high natural values. Some Councils, e.g. Marlborough District Council, have used the PNA surveys to supplement their SNA survey information (both of which remain unmapped in their resource management plan).
91. Furthermore we are aware that SNA surveys in some Council areas are scheduled to be surveyed over at least a decade; given large geographic areas and budgetary constraints, e.g. Tasman District Council.
92. The general condition for vegetation clearance and disturbance provides that indigenous vegetation may be damaged, destroyed or removed if it is incidental damage to riparian vegetation or other adjacent vegetation (including vegetation at the edge of an SNA) that will readily recover within five years. "Edge" is not defined. "Incidental damage" is not defined. "Readily recover" is unhelpfully defined as "refers to the recovery of the vegetation within the area". Criteria or methods for determining whether vegetation will "readily recover" within 5 years are not provided. The only way of being confident of recovery within 5 years would be to ensure that all vegetation that is damaged is less than 5 years old. That is, in biological terms, the only way that something could recover (i.e. return to its previous state) within 5 years.
93. So long as the vegetation will "readily recover", longer-term and even permanent damage to significant habitat of indigenous fauna is permitted.

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<sup>30</sup> *EDS v New Zealand King Salmon* [2014] NZSC 38

94. As set out above, we consider that this provision is invalid for uncertainty, and unenforceable. It is also inappropriate in terms of section 6(c), and the RMA's sustainable management purpose as rather than avoiding, remedying or mitigating adverse effect on the environment, it provides forestry operators with the right to destroy significant vegetation and habitat wherever it suits them to do so, without any onus to avoid these impacts through prior planning, or to minimise unavoidable impacts.
95. No setbacks from SNAs are required for any of the forestry activities authorised by the NESPF. Earthworks and mechanical land preparation including root raking, afforestation, harvesting and reforestation can all have significant adverse effects on adjacent vegetation and habitat. The lack of setbacks does not protect significant vegetation and habitat.
96. The following photos are images of current forestry practice occurring within indigenous vegetation. These include photos of damage by large corporate forestry companies.



Figure 5: Image caused through harvesting practices adjacent to an area of high natural value. This is known as 'incidental damage' and would be permitted under the proposed rules as the site is not identified within the relevant RM plan as an SNA. Note the damage to trees that are significantly older than 5 years old.





Figure 6: The practice of felling trees into areas of indigenous vegetation is routine and is proposed within the NESPF. These matai have been stripped of vegetation as a consequence of felling.



Figure 7: This roadside reserve including toe-slope and alluvial forest has been significantly damaged by the act of stockpiling logs up against an area of native vegetation from logging the slopes above. Similar situations have been witnessed at the edge of skid sites above indigenous vegetation.





Figure 8: The impacts of bulldozing new haul roads through indigenous vegetation is very significant. Not only does it dissect the native vegetation, thereby creating issues of 'edge' viability, but the spoil from the road is frequently pushed into the bush below, where it can smother the understorey, including threatened plant species and invertebrate communities.

97. Additional standards should be included which provide for maintenance of wildlife corridors and avoidance of edge effects.
98. The potential impacts of forestry on SNAs should be considered and minimised at the outset through the preparation of a Forest Management Plan at the time of afforestation and reforestation, which:
  - e. Identifies SNAs by a suitably qualified person, areas of riparian vegetation and areas of predominantly indigenous vegetation within (i.e. patches or gullies, not understorey) and adjacent to plantation forestry.
  - f. Identifies where setbacks from SNAs and riparian areas are required and maps them (whether or not the SNAs have been mapped in the plan).
  - g. Describes how activities will be undertaken in a manner that ensures that any more than minor adverse effects on SNAs and riparian areas (including edge effects, and loss of connectivity) will be avoided.

#### *Other matters*

99. The relationship between the general conditions and the activity –specific conditions is not clear. The general condition states that “Notwithstanding specific activity rules, all forestry activities are permitted provided the following conditions are met” (which means “despite” the specific rules). We assume that the intention is to apply the general conditions in addition to the activity-specific conditions, in which case this wording needs to be reviewed.
100. Mechanical land preparation is defined as including “associated removal of vegetation”. This aspect of mechanical land preparation should be deleted. It appears to authorise the establishment of forestry on areas of predominantly indigenous vegetation

(other than SNAs). Large areas of indigenous vegetation – such as tussockland in Canterbury and Otago - are not mapped as SNAs but are subject to indigenous vegetation clearance rules that would presently apply to land preparation associated with forestry establishment. Providing for “associated removal of vegetation” for mechanical land preparation as a permitted activity would override such rules.

101. Vegetation clearance that does not meet the permitted activity standard is a restricted discretionary activity. That activity status is inappropriate for indigenous vegetation clearance within SNAs. Non-complying status should be used.
102. Animal pests in production forests are a serious concern, especially pigs and wallabies. In South Canterbury production forests provide an ongoing source of animal pests moving into adjacent stands of native forests at Kakahu Bush in particular, but also onto public conservation land administered by DOC, where they cause damage to the native habitat. Other areas in New Zealand are also affected, especially along the foothills of the Hunter Hills, the Pelorus catchment, Coromandel Peninsula, etc.
103. Just as the NESPF addresses wilding conifer control, it should address impacts of fauna pests on adjacent areas. Standards for pest fauna control by forestry operators should be set out in the NESPF, and the Forest Management Plan should be required to demonstrate how the standards will be met.

#### Relief sought

- a. Review the permitted activity standard for vegetation clearance, and:
  - i. Delete aspects of the standard that permit adverse effects on significant indigenous vegetation and riparian vegetation, in particular the “incidental damage” provisions.
  - ii. Ensure that the standard protects significant habitat of indigenous fauna.
  - iii. Remove uncertain terminology such as “readily recover”.
  - iv. Incorporate additional standards that provide for connectivity and minimisation of edge effects on SNAs.
- b. Apply new activity standards requiring that afforestation and replanting is non-complying in an SNA (including DOC PNAs, all public conservation land, and QE2 covenants) or within 20 metres of an SNA comprising forest with a canopy height of 6 metres or more; or within 50 metres of any other SNA habitat, e.g. dunelands, tussocklands.
- c. Ensure that any activity associated with mechanical land preparation, earthworks, quarrying, harvesting, pruning and thinning-to-waste, is also non-complying within the abovementioned setbacks.
- d. At afforestation and replanting stages, require all forest operators to provide a Forest Management Plan showing how the permitted activity standards for indigenous vegetation will be complied with throughout the forest life cycle.
- e. Consider the relationship between the “general conditions” and specific activity conditions (we suggest that the term “in addition to” rather than “notwithstanding” is used).

- f. Delete the reference to “associated removal of vegetation” from the description of Mechanical Land Preparation.
- g. Provide that clearance of indigenous vegetation within SNAs is a non-complying activity rather than a discretionary activity.
- h. Activities that impact on indigenous vegetation or habitat in the coastal environment should be separately addressed, as discussed above.

### *Greater stringency*

104. Councils’ ability to be more stringent is limited to mapped SNAs. Many districts and regions have not included mapped SNAs in their district or regional plans, and may not intend to for a range of reasons (for example, the Nelson Resource Management Plan, Tasman Resource Management Plan, Marlborough Wairau-Awatere Resource Management Plan, Marlborough Sounds Resource Management Plan, Horizons One Plan do not include mapped SNAs). The ability to be more stringent should apply to all areas meeting significance criteria in the applicable regional policy statement, regional plan or district plan in order to avoid exposing these areas to clearance.

105. The same applies to Outstanding Natural Landscape and Outstanding Natural Features and Landscapes. For example, Tasman District Council has recently undertaken a community process to identify ONLs in Golden Bay, but these are still some way off being incorporated in to the Tasman Resource Management Plan, and Tasman does not intend to undertake a process to identify ONLs in the rest of the district in the foreseeable future.

106. Councils’ ability to be more stringent is described in the Advice note as:

Councils retain the ability to be more stringent where indigenous vegetation clearance (other than the listed permitted clearance activities) occurs within areas of significant indigenous vegetation or significant habitat of indigenous fauna as identified in district or regional plans, including SNAs. (emphasis added)

107. This provision means that Councils are not provided with greater stringency in relation to the matters that are permitted by the NESPF, they simply retain their ability to regulate the impacts of activities on SNAs that are outside the ambit of the NESPF. Councils should be able to provide greater stringency in relation to the listed permitted clearance activities – for example, where vegetation that would “readily recover” in 5 years should not be removed because it is significant habitat for indigenous fauna that would be adversely affected by the temporary impact.

108. Some SNAs are not “indigenous vegetation” (for example some dunelands) but are nonetheless important habitat for indigenous fauna. The NESPF should ensure that such areas are not able to be adversely affected by forestry operations.

109. Councils’ obligations to maintain indigenous biodiversity, and to achieve other goals such as the matters to be found in ss 5(2)(a), 5(2)(b), 5(2)(c), 7(c), 7(d) and 7(e) may require them to protect areas of indigenous vegetation that do not qualify as significant.<sup>31</sup> Councils should be empowered to incorporate more stringent rules where areas of indigenous vegetation or habitat that are required to be maintained for reasons other than their significance (for example, ecosystem services, coastal hazard mitigation, amenity value).

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<sup>31</sup> *Minister of Conservation v Southland DC* A039/01

## Relief sought

- a. Enable Councils to apply greater stringency where forestry activities impact on:
  - i. SNAs – whether mapped in a policy or plan, or not.
  - ii. Areas of predominantly indigenous vegetation that are not SNAs.
- b. Enable Councils to apply greater stringency to the activities that are permitted under the NESPF (i.e. in relation to the listed permitted clearance activities).

## G Native fish

### *Fish spawning permitted activity standard*

110. The fish spawning indicator is based on incomplete data. It needs to be revised to include all native fish (especially threatened taxa).
111. The list of species which trigger the permitted activity standard precluding bed disturbance is also incomplete. Excluded species include inanga, banded kokopu, short-jaw kokopu, lamprey, bluegill bully, giant bully, common bully, upland bully, Crans bully, alpine bully, common smelt, longfin, shortfin and Australian longfin eel, and torrentfish. Many of these are at risk or threatened, and the protection of their habitat is therefore a matter of national importance.
112. Freshwater mussels should be included in the spawning calendar in the permitted activity standard. Mussels spawn during summer (November-January). All three mussel species are classified at risk and are highly susceptible to the effects of sedimentation, not only during spawning.
113. The fish spawning permitted activity standard is uncertain: must standard 1c be triggered before 1a applies, or is standard 1c only required to be triggered where 1b applies? If the peak fish spawning period (standard 1c) must always apply, then the standard provides no protection for the habitat of threatened native fish outside the spawning period, for example destruction of riverbed habitat used by the fish's invertebrate food sources. Sedimentation prior to the spawning period also has the potential to clog habitat for benthic spawners.
114. Under permitted activity standard 2, the definition of bed disturbance does not include disturbance of intermittent streams, less than 20 stream crossings per day, or hauling partially suspended logs across rivers <3m wide. These activities have the potential to wipe out spawning fish and significantly degrade their habitat, and should be controlled. The narrow definition of bed disturbance is not appropriate.
115. Permitted activity standard 3 also significantly narrows the effectiveness of this standard. Where a freshwater fish survey has been undertaken within the past 12 months at the site, and the species has not been found, 1c does not apply. This activity standard should be deleted or if it is retained, appropriate methodology should be set out to avoid absence of evidence, being evidence of absence. It is unclear how this provision impacts on standard 1b given that it operates conjunctively with standard 1c.

116. The standard should ensure that downstream habitat of threatened fish is also protected, particularly during the peak fish spawning period.
117. The activity status of bed disturbance that does not comply with the fish spawning site standard should be non-complying rather than discretionary.
118. Compliance with these important permitted activity standards should be demonstrated in a Forest Management Plan, and particular impacts should be addressed in the Harvest Plan.

#### *River crossings*

119. The river crossing provisions do not adequately address fish passage.
120. For single culverts, the minimum culvert diameter is 450 mm. The minimum size should be 1.2 x stream bed width as per ARC and WRC guidelines. The controlled activity rule should be to demonstrate velocity in the 50% AEP event is less than either 0.3m/s or natural stream flows.
121. The culvert invert is at least 100 mm below the level of the bed of a river or lake. A minimum of 20% of culvert diameter below bed level (as per ARC and WRC guidelines) should be used.
122. For battery culverts:
- The diameter of each culvert is 450–800 mm. Total culvert diameter should be 1.2x stream bed width as per ARC and WRC guidelines (for example: a three culvert battery with 450 diameter culverts would sum to 1350mm which should be more than 1.2x stream width which will adversely affect fish passage). Again the controlled activity rule should be to demonstrate velocity in the 50% AEP event is less than either 0.3m/s or natural stream flows.
  - The invert of at least one culvert pipe is at least 100mm below the level of the bed of a river or lake to carry base flow. All culverts should be a minimum of 20% of culvert diameter below bed level, similar to ARC and WRC guidelines. Only having one culvert low will result in concentrated flows and velocities and likely adversely impacts on fish passage. Having all culverts low would approximately mimic natural bed width and form.
  - The culvert is sized to pass annual average flow. It must be constructed to allow greater flows to pass over it without structural failure. The average annual flow is too small to reliably and consistently allow fish passage. For all events above the average annual flow (i.e. for 6 months every year) this arrangement would act like a ford and the culverts would be surcharged resulting in increased velocities and adverse impacts of fish passage. This is far more permissive than, and inconsistent with, the single culvert rules which require no heading up (surcharging) in the 20% AEP event. International literature allows a wide variety of flows for fish passage and little or no NZ specific research on the topic is available. Without NZ specific research the permitted activity standard should be limited to 50% AEP flow with no surcharging.
123. The standards for drift decks and fords also need to address fish passage. Fords are more likely to adversely affect fish passage than culverts. Fords should be at least



a controlled activity, with specific provisions requiring design to avoid impedance of fish passage.

124. The controlled activity matters for culverts do not refer to fish passage. “Fish passage” should be included as a matter of control under clauses 2 and 5.

#### Relief sought

- a. Revise the fish spawning indicator to include all native fish and freshwater shellfish.
- b. Revise the list of species which trigger application of the permitted activity standard to include all native fish and freshwater shellfish.
- c. Address uncertainty in use of “and” and “or” in standard 1a, b and c. Only one of these matters should need to be breached for a consent requirement to apply.
- d. Analyse the effect of bed disturbance activities like vehicle crossings on aquatic habitat, and revise the definition of bed disturbance to only exclude activities with very minor impacts.
- e. Preferably delete standard, or if it is retained, set out methodology for the fish survey described in standard 3 (such as a requirement for repeated surveys) which ensure that the survey is effective in identifying the presence/absence of particular species.
- f. Address downstream fish spawning habitat in the permitted activity standards.
- g. Change the activity status of bed disturbance that does not comply with the fish spawning standards to non-complying.
- h. Revise the vehicle crossing permitted activity standards and matters of control to better address/provide for fish passage as described above. Make fords a (minimum) controlled activity so that the consent authority can ensure that the ford design avoids impedance of fish passage.

#### H Native birds and bats

125. The general condition relating to bird nesting times has several shortcomings:
- a. By limiting the condition to Nationally Critical and Nationally Endangered birds, the NES has excluded consideration of Northland brown kiwi (Nationally Vulnerable), North Island weka (Nationally Vulnerable) and NZ falcon (Nationally Vulnerable). These species are known to nest in plantation forestry. We seek that all threatened bird species (i.e. Nationally Critical, Nationally Endangered, and Nationally Vulnerable) are included.
  - b. The condition is limited to bird species “known to nest in areas where forestry operations are planned or underway”. The meaning of “areas” is unclear, and could be interpreted as referring to a specific forestry block. In that case, if forestry operators are not aware of the presence of these species and choose not to carry

out bird surveys this condition will never be triggered. The condition should refer to Ecological Districts rather than areas.

- c. Rather than simply requiring operators to “have procedures to identify nest sites and the nesting season”, the standard should specify that a bird survey must be undertaken by a suitably qualified expert, and that where the presence of nesting birds is detected, that disturbance during the nesting period is avoided.

126. Native bats are known to inhabit pine forest<sup>32</sup> and may utilise trees for roosting. Where harvesting is proposed in an Ecological District where bat activity is known to have occurred, a bat survey by a suitably qualified person should be required prior to harvesting. Where bats are detected, harvesting should be undertaken outside the period when bats may be in a state of torpor, i.e. with repeated overnight temperatures of less than 5 degrees. Outside that period, tree felling protocols to detect bats and avoid felling roosting trees should be adopted. These matters should be required to be addressed in a Forest Management Plan and compliance specifically demonstrated in the Harvest Plan.

127. Other indigenous native fauna, particularly land snails, may also inhabit pine forest. Some of these species are threatened. In line with the protocols for detection of bird species, the standards must address the possible presence of other threatened species if they are known from within the Ecological District. If they are known, advice should be sought from the Department of Conservation on the need for surveys and any management conditions that should be employed to ensure the protection of the species. Matters should then be addressed in the Forest Management Plan and compliance specifically demonstrated in the Harvest Plan.

#### Relief sought

- a. Redefine the nesting time provisions to identify all threatened bird species, i.e. Nationally Critical, Nationally Endangered, and Nationally Vulnerable.
- b. Add an additional condition to protect all New Zealand bat species as identified above.
- c. Incorporate a new condition around the identification and protection of other indigenous threatened fauna.
- d. Redefine “areas” as “Ecological Districts”.
- e. Require that surveys be undertaken by a suitably qualified person.
- f. Require that measures to protect the species are included in the Forest Management Plan and compliance is addressed specifically in the Harvest Plan. Include measures outlined above, i.e. avoidance at certain times of vulnerability.

#### I Wilding conifers

128. Wilding conifer control is a matter of serious conservation and economic impact to New Zealand, with the recent NZ Wilding Conifer Strategy estimating current spread of

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<sup>32</sup> Lloyd (2015) Bat Surveys on D’Urville Island for Royal Forest & Bird Protection Society of NZ Inc.

around 1.7 million hectares, with control costing \$6million in 2007. It is unfortunate that radiata pine and douglas fir, totalling 96% of the plantation estate, are two of the worst contributors to wilding spread.

129. It is appreciated that wilding conifers are included in the NESPF, however there are serious deficiencies with the application of the index, and its flow-on effect on the rules structure.
130. Ledgard (1993)<sup>33</sup> was one of the earliest developments of the Wilding Spread Risk Calculator. In the NESPF, the score states that there is a 'high risk' if the total score adds up to 12 or more, and then allows all afforestation to be a permitted activity. There are significant problems with this approach.
- a. It fails to recognise that a scale score does not mean that anything 11 or below is of low risk – the real situation is that as you go below 12, there is a decreasing level of risk.
  - b. It ignores the other calculator recommendation: "A high risk is also likely if a score of 3 or 4 in 'Siting' is followed by a 3 or 4 in 'Downwind land management' (a) or (b)." (ibid, p17). The 2012 version<sup>34</sup> cites it slightly differently (albeit with the same intention) with respect to the risk of long distance spread. It states "the need to test long distance spread risk from exposed sites (scoring 3 or 4 in 3 – Siting)", and then goes on to recommend assessing grazing and vegetation cover out to a distance of 2km, or 5km in the drier hill and high country areas of the eastern South Island.
  - c. It does not apply to replanting.
  - d. It does not have any provisions that provide for setbacks from areas of high conservation value, including public conservation land, or SNAs (particularly those of low stature; or all SNAs when the planted species is douglas fir, due to its shade tolerance).
  - e. It does not allow Councils to set more stringent controls, e.g. adjacent to high value public conservation tussocklands.
  - f. It does not address responsibility for any management of future wilding control. Standards and conditions of consent should be set in line with the recommendations of Ledgard and Langer (1999)<sup>35</sup> which includes a downwind survey and removal of any wilding pines every 5 years. The cost of any wilding spread must be borne in accordance with the New Zealand Wilding Conifer Management Strategy 2015 – 2030<sup>36</sup>.

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<sup>33</sup> Ledgard, N. (1993).

<http://www.wildingconifers.org.nz/images/stories/wilding/Articles/Wilding%20Prevention%20Booklet.pdf>

<sup>34</sup> [http://www.wildingconifers.org.nz/images/stories/wilding/Articles/DSSs1&2\\_NES%20version%2007011.pdf](http://www.wildingconifers.org.nz/images/stories/wilding/Articles/DSSs1&2_NES%20version%2007011.pdf)

<sup>35</sup> Ledgard, N.J., & Langer, E.R. (1999). Wilding Prevention: guidelines for minimising the risk of unwanted wilding spread from new plantings of introduced conifers. Published by the New Zealand Forest Research Institute:

<http://www.wildingconifers.org.nz/images/stories/wilding/Articles/Wilding%20Prevention%20Booklet.pdf>

<sup>36</sup> Anon (2014). The Right Tree in the Right Place: New Zealand Wilding Conifer Management Strategy 2015 – 2030. Access via <http://www.wildingconifers.org.nz>



Figure 9: Recent invasion of young wildings into an area of public conservation land. Wilding pines in this area have been removed over 3 kilometres from the source (pers.comm, Forest & Bird member)

#### Relief sought

- a. Modify the wilding risk calculation in the NESPF to reflect a 'degree' of risk, rather than the current 'cutoff' point at which plantation forestry below 12 is assumed to have no wilding threats.
- b. Incorporate the extra provisions around caution when the score for 'Siting' reaches 3 and insert provisions around the selection of species
- c. Provide for increased Council stringency around downwind sensitive areas up to a distance of 5 kms, including for SNAs, public conservation, QE2 covenants and any other areas of conservation value.
- d. Provide for increased Council stringency if wilding conifers are included in their Regional Pest Management Strategy.
- e. Include the wilding spread risk calculator as a matter for consideration when replanting, i.e. as a standard that must be met.
- f. Insert conditions under afforestation to ensure the potential risk of wilding control is managed, by requiring a survey to be undertaken every 5 years up to 2km downwind of the planting site, or 5 km downwind in the drier hill and high country of the eastern South Island. Require that any wildings found are to be removed. Downwind landowner permission is to be requested.

#### J Genetically Modified Organisms

131. The NESPF would make afforestation and replanting using genetically modified tree stock a permitted activity, subject only to the requirement that the tree stock has gained the appropriate approval for deployment under the Hazardous Substances and New

Organisms Act. The rationale given for this is that the EPA is best placed to evaluate the risks of genetically modified organisms and that approval and conditions imposed under the EPA regime will be sufficient to ensure any risks associated with the deployment of the tree stock are managed.

132. Forest & Bird disagrees with this rationale, and opposes the proposal to require councils to provide for afforestation with approved GM trees as a permitted activity.

133. The differences between an approval under the HSNO Act and planning provisions under the Resource Management Act were recently considered by the Environment Court (Chief Environment Judge Newhook presiding) in *Federated Farmers of New Zealand v Northland Regional Council*<sup>37</sup>. Key points made in that decision are that:

- a. In addition to protection of the biophysical environment, a regional council can incorporate social and economic development into its approach in achieving the purpose of the RMA. In doing so it could take into account the potential effects of the use or release of GMOs not only in an ecological sense, but also in economic and social terms.<sup>38</sup>
- b. Regulatory jurisdiction under the HSNO Act is limited to the importation for release and/or release from containment of new organisms. If HSNO were to be treated as an exclusive code for control of GMOs, there would be a disparity under the RMA between control of new organisms on the one hand and all other organisms on the other. This could be thought contrary to the broad regulatory approach under the RMA described by the High Court in *Meridian Energy Limited v Southland District Council*<sup>39</sup> (citing the Supreme Court in *West Coast ENT Inc v Buller Coal Limited*<sup>40</sup>):

The Act is carefully framed to provide control of the effects of resource use, including regulatory oversight given to functionaries at national, regional and district levels. In general terms, all resource use is amenable to its framework, unless expressly exempted from consideration. (emphasis added)

The overall legislative scheme of things would then be that there would be no requirement to regulate the potential adverse effects of GMOs beyond the act of approving them for release, thereby elevating animals and plants containing GMOs into a special category not amenable to regulation under the RMA as are animals and plants already present in New Zealand. Further, integrated management of them would not be possible.<sup>41</sup>

- c. There is nothing in the scheme of either Act, or the two read together, to call for a limitation to be placed on the RMA definition of natural and physical resources, which is:

“ ... includes land, water, air, soil, minerals, and energy, all forms of plants and animals (whether native to New Zealand or introduced), and all structures.”<sup>42</sup>

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<sup>37</sup> [2015] NZEnvC 89

<sup>38</sup> [35]

<sup>39</sup> [2014] NZHC 3178

<sup>40</sup> [2014] 1 NZLR 32

<sup>41</sup> [45]

<sup>42</sup> [47]

- d. There is a readily identifiable policy reason for that. Once having been approved for import and release into New Zealand under HSNO, regional authorities can provide for use and protection of new organisms together with other resources in a fully integrated fashion, taking account of regional needs for spatial management that might differ around the country for many reasons, not the least of which might include climatic conditions, temperatures, soils, and other factors that might drive differing rates of growth of new organisms and/or of other organisms, as just a few of perhaps many examples. The RMA and HSNO Act offer significantly different functional approaches to the regulation of GMOs.<sup>43</sup>
- e. It is true that the HSNO Act has an environmental protection purpose, as does the RMA, however that prima facie wide purpose is to be read in the context of its subject matter and specifics. It is to protect the environment against hazardous substances and organisms, and not on a wider scale. The wider scale is the role of others under general legislation in the RMA (citing *Bleakley v Environmental Risk Management Authority*<sup>44</sup>).
- f. In *Bleakley*, the High Court found against excluding the jurisdiction of a local authority should it deem it appropriate following an evaluation under s 32 RMA, to, for instance, identify areas more (or less) suited to the establishment of activities involving approved GMOs. For instance, regional authorities might, with community input, consider particular regional approaches acknowledging social, economic and cultural wellbeing (amongst other things), somewhat beyond the more limited policy considerations for regulation of import and release of new organisms under HSNO. These aspects in s 5 RMA are underpinned by the statutory requirements for preparing and publishing evaluation reports under s 32, including by way of just one example, the requirement for assessment of benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of proposed provisions, including opportunities for economic growth and employment. Particular regional considerations come in for study under the RMA in a way not anticipated by HSNO.<sup>45</sup> Further examples include policy positions representative of strong cultural concerns of Māori, and if thought appropriate “marketing and branding advantages” based on an approach to limiting the use of GMOs in an area, for instance by encouraging price premia for agricultural production and tourism activities in the locality.<sup>46</sup>

134. The Environment Court in *Federated Farmers v Northland RC* and the High Court in *Bleakley* have carefully considered and rejected the argument that HSNO Act evaluation and approval is sufficiently broad that regulation under the RMA is not also required. The findings in those decisions are contrary to the NESPF assertion that approval under the EPA regime will be sufficient to ensure any risks associated with the deployment of GM tree stock are managed.

135. The Supreme Court has held that all resource use is amenable to the RMA framework. It is doubtful whether it is lawful for a NES to effectively oust the operation of the RMA in relation to GMOs where this is not done for a valid resource management purpose.

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<sup>43</sup> [49]

<sup>44</sup> [2001] 3NZLR 213 at paragraph [243]

<sup>45</sup> *Federated Farmers* at [51]

<sup>46</sup> *Federated Farmers* at [52]

136. There are valid resource management reasons for local policies and plans to control the use of GMOs in a particular district or region. Communities should have the ability to make decisions regarding any outdoor use of GMOs, given the serious risks of GMOs to locally unique biodiversity, existing non-GM sustainable primary production including forestry and agriculture, local economies and public health. A precautionary approach to GMOs is consistent with sustainable management and the RMA definition of effects<sup>47</sup>, and should be open to councils and communities.

Relief sought

- a. Retain the ability for local authorities to make community decisions on whether outdoor use of GMOs should be allowed, and on what terms.

K Effects of forestry not able to be managed under the NESPF

137. The NESPF does not appear to give local authorities scope to manage the traffic effects of harvesting, or amenity impacts of forestry activities other than noise. This will no doubt be addressed further by local authority submissions on the NESPF.

138. Water Yield is identified as another matter that is out of scope of the proposed NESPF. The rationale includes the comment that “it is intended that regional councils retain the ability to manage afforestation in catchments that have been assessed as being water sensitive”. Because of this rationale it would seem appropriate to treat Water Yield as a matter over which Councils may exercise more stringent controls. As a result of this inconsistency there is a degree of confusion with respect to this matter remaining out of scope.

Relief sought

- a. Include Water Yield as a matter over which Councils may exercise more stringent controls  
b. Provide the ability for local authorities to address traffic and amenity effects of forestry



Debs Martin  
Regional Conservation and Volunteer Manager  
Top of the South



Sally Gepp  
Solicitor

Royal Forest & Bird Protection Society of New Zealand Inc 14 August 2015

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<sup>47</sup> In *New Zealand Forest Industry Council v Bay of Plenty Regional Council* [2013] NZEnvC 298 at page 10 the Court held that “subpara (f) [of the definition of “effect”] most certainly points to taking a precautionary approach – indeed it may go further than a precautionary approach would ordinarily be thought to require because it is premised on a given effect having a known low probability of occurrence and an unknown likelihood of a possibly high impact”.



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## **SUBMISSION ON CONSULTATION DOCUMENT JUNE 2015 NATIONAL ENVIRONMENT STANDARD FOR PLANTATION FORESTRY**

**To: Ministry for Primary Industries**

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

**Submitter:** Soil & Health Association of NZ ('SHANZ')

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Soil & Health Association of NZ wish to be heard.



**Soil & Health Association of NZ makes this submission** partly in **support** and partly in **opposition** to the proposed **National Environmental Standard Plantation Forestry**.

**Support:** SHANZ supports the NES Plantation Forestry insofar as it seeks to codify activity status and conditions for physical plantation forestry activities on the basis of land and plant related classifications.

The proposed erosion susceptibility classification, wildings spread risk calculator and fish spawning indicator are useful tools capable of measurement and calculation and will provide a degree of rigour to the regulation process.

To that extent, SHANZ agrees that the NES Plantation Forestry will provide a nationwide standard basis for regulation of forestry activities to achieve the stated objectives of change of regulation.

**Opposition:** SHANZ strongly opposes:

- a) the proposal that planting or replanting using genetically modified tree stock (GMO) be a permitted activity, or be provided for under the NES Plantation Forestry at all.
- b) Limiting the pre-requisite approval for permitted activity use of a GMO to EPA approval under the Hazardous Substances and New Organisms Act 1996 (HSNO).
- c) The statement in 6.4 of the consultation document that GMOs are regulated by the EPA under the HSNO, without any mention of the role of territorial authorities under the Resource Management Act, 1991.
- d) The absence in the consultation document of any information or discussion about the risks attendant on use of GMOs. Although the objectives of the change (see executive summary) include:-

Understanding the risk of adverse effects on the environment around the country should be informed by up-to-date science.

There is no discussion of up to date science with respect to GMOs to underpin the provision for use of GM tree stock as permitted activities. Given the controversial nature of this topic and potential adverse effects, this shows a lack of balanced consideration.

### **Soil & Health Association of NZ**

Soil & Health Association of NZ is the largest membership organisation supporting sustainable, organic food and farming in New Zealand and one of the oldest organic organisations in the world, established in 1941. Our aim is to empower people and communities to grow, buy and support locally based sustainable, safe, GE Free and organic food in Aotearoa NZ. In this process our role is to advocate on behalf of our 3,000 + membership and the general public for safe, healthy food and environmental sustainability for today and future generations.

## **Reasons for Opposition to provision for GM Tree Stock**

### **1. Genetically Modified Tree Stock Provisions.**

- a) Providing for the use of GM tree stock as a permitted activity with no conditions relating to assessment or management of risk leaves land owners, farmers, foresters and people using land and waterways for other activities (including recreation) at risk of adverse effects and without any say in the location or type of GM stock used. This is contrary to the scheme of the RMA. Any potential adverse effects are of particular concern to organic farmers and to foresters with sustainable certification such as the Forest Stewardship Council certification, as all the certification standards for these farmers and foresters do not allow the presence of genetically modified organisms on the land or in the primary products produced
- b) Unlike most other topics covered by the consultation document, the use of genetically modified organisms is not the subject of settled science. It has been argued by proponents of GM tree stock that the risk of escape of GM material from a plantation is low. However, this is far from settled. Sterile GM trees that do not produce pollen have been in development for some years with no success to date. SHA considers that the risk of escape by wind- or insect-borne pollen or seed is in fact high, and pollen from forestry plantations can travel several kilometres. Potential adverse events are very significant and range from the loss of individual enterprises such as organic farms and the loss of Forest Stewardship Certification for foresters, to the loss of whole markets for districts, regions and even New Zealand. Stringent criteria apply to certification for organic producers and sustainable foresters and some important international markets also require GE-free status certification.
- c) Economic analysis carried out by Covec as background to the proposed NES Plantation Forestry did not include economic impact on local and international produce markets arising from the use of GM tree stock. This means that one if not the most significant impact of the proposed NES has not been analysed and the risk of acting as proposed is unconscionably high.
- d) Potential impacts range across virtually all primary production including forestry – horticulture, animal husbandry, honey production and dairy products. Much wider analysis and consultation is essential before assigning activity status to the use of GM tree stock, let alone the high risk level of permitted activity.
- e) The only condition for this permitted activity is prior approval by the EPA under HSNO and this only applies to planting and replanting. The whole issue of management of slash involving GM material has not been addressed. Potential impacts of GM species on soil ecosystems, water ecosystems and indigenous species ecosystems has not been addressed.

## 2. Jurisdiction

- a) The Ministry will be well aware of the Environment Court decision in *Federated Farmers of New Zealand v Northland Regional Council* 2015NZEnvC89. That decision pointed to the different functional approach between HSNO and the RMA and the complementary roles they play.
- b) SHANZ submits that making the use of GM tree stock a permitted activity under the NES Plantation Forestry flies in the face of the Environment Court decision and purports to limit the regulation of that activity to the EPA acting under HSNO alone.
- c) Regional and district councils have clear duties under sections 30 and 31 for the integrated management of resources and the integrated management of the effects of the use and development of resources. Localised effects of plantation forestry such as erosion, wilding management and fish spawning areas are clearly able to be managed using national standards. However, the use of GMOs which may have region- and district-wide adverse economic, environmental and cultural effects depending on the pattern and type of resources and land-use activities in any given area, cannot be managed through a national permitted activity status. These region- and district-wide functions are very important and would not be addressed by regulation under HSNO.
- d) Attention is drawn to RMA section 43A(3) which states:

If an activity has significant adverse effects on the environment, a national environmental standard must not, under sections (1)(b) and (4), –

  - (a) allow the activity, unless it states that a resource consent is required for the activity; or
  - (b) state that the activity is a permitted activity.
- e) There is risk that the use of GM tree stock could have unmanageable and significant adverse effects over a wide area through, for example, seed spread and pollen blow over many kilometres. Such effects would devastate all GMO Free producers including all certified organic producers and FSC-certified foresters. SHANZ submits that this activity cannot be made a permitted activity under the NES Plantation Forestry. This activity should be a non-complying activity if it is provided for at all.

## 3. Assessment

SHANZ opposes the provision for the use of any GMO material under the NES Plantation Forestry. However, if it is so provided for, then comprehensive assessment criteria should also be incorporated that would include reference to the following categories of effects:

- a) Risk of spread of GM material beyond the forest site
- b) Economic and particularly with respect to GE Free producers, organic farmers, FSC-certified foresters and marketing;
- c) Cultural

d) Social

e) Mitigation by way of bonds or other financial instruments.

#### **4. Notification**

Use of GMOs is an environmental topic with widespread implications for whole communities as well as numerous individuals dependant on maintaining GE Free markets and organic certification for their enterprises and products. Applications for the use of GM tree stock should be publically notified.

#### **5. Relief sought**

SHANZ requests the following changes to the proposed NES:

a) Remove all provision for the use of GM tree stock from the NES

Without prejudice to the above strong first preference, if provision for the use of GM tree stock tree stock is retained, then

b) Make the use of GM tree stock a non-complying activity;

c) Make jurisdiction for applications for the use of GM tree stock a regional council responsibility.

Signed this 10<sup>th</sup> day of August 2015



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Marion Thomson

Co-Chair

Soil & Health Association of New Zealand



Spatial, Forestry and Land Management

Ministry for Primary Industries

PO Box 2526

Wellington 6140

Attn: Stuart Miller

Email: NES-PFConsultation@mpi.govt.nz

**Name of submitter: Te Waka Kai Ora Inc ( TWKO)**

**Postal:** s 9(2)(a)

**Phone :** s 9(2)(a)

**Email :** s 9(2)(a)

**Date :** 11<sup>th</sup> August 2015

**Re: Submission Proposed National Environmental Standard for Plantation Forestry (NES-PF)**

Dear Stuart Miller,

Te Waka Kai Ora is the Māori entity engaged with the Organic sector, we represent hua parakore growers of Aotearoa.

We oppose the Proposed Standard – NES & other relevant legislation: 6.4 - Genetically modified tree/root stock (p. 43, Appendix 3, Afforestation, p. 64 & Replanting, p. 82)

As indigenous growers of Aotearoa, as indigenous keepers of the land, we value the clean pure status of our Māori resources, the community that we service, the Whanau , hapu and the iwi that we educate all support our philosophy of hua parakore, the purest product created. The basis for our opposition is that our tikanga, along with the market we serve and the international standards we comply to, do not permit GM contamination in the products, as this reduces their purity, their integrity and essentially interferes with our sacred creation stories. The value of our produce and our products are grown with a deep rooted desire to maintain our traditional history and our long association with respect to our atua, our creation gods.

### **Submission and Reasons –**

The GM clauses on p. 43, 64 & 82, in the proposed NES – PF do not meet the objectives of environmental protection for communities, nor does the standard take into account the inherent dangers and liabilities associated with novel genetic technology and its potential contamination of - soils, indigenous and exotic flora & fauna, pruning debris, waterways, trophic ecosystems and waterways.

We ask that you remove all conditions and references permitting genetically modified organisms to be the sole responsibility of the Environmental Protection Authority (EPA) under the Hazardous Substances and New Organisms Act (HSNO) and allow Councils to manage Regional and District land use through their mandated planning functions' under the Resource Management Act (RMA).

Both the Environment Court and the Royal Commission on Genetic Modification (Chapter 13, Recommendation 13.1, H1, p.339) have stated the clear responsibilities and boundaries between the EPA and Council jurisdiction, there is no “duplication” between the HSNO or RMA once a GMO is released. This must not be undermined by any clause in the proposed NES-PF.

The Environment Court, Judges Thomson and Newhook, decision upheld the Councils ability, under the RMA, to place policies, rules and objectives, on the management of GMO land use activities as part of their management and planning functions in their regional and district plans [1], [2].

### **References:**

[1] <http://www.boprc.govt.nz/media/321876/environment-court-decision-18-dec-2013-env-2012-339-000041-part-one-section-17.pdf>

[2] <http://www.ge-free.co.nz/assets/pdf/20150512145527872.pdf>

### **Changes we would like you to make -**

Remove all GM clauses in the proposed NES – PF and references permitting genetically modified organisms to be the sole responsibility of the Environmental Protection Authority (EPA) under the Hazardous Substances and New Organisms Act (HSNO) and

Retain and provide for Local Bodies to place more GM stringent land use rules, objectives and policies in their plans for the management of the natural and physical resources through their mandated planning functions' under the Resource Management Act (RMA).

Protect the Local Bodies mandate and duty of care, under the RMA, to the existing foresters, primary producers and businesses in their region and districts so they can maintain their responsibilities with national and global certification bodies.

Ensure that the Regional and District Councils have the ability, under the RMA, to create a much needed additional tier of local protection against the risks of outdoor release and use of GMOs.

The decision we would like the Minister to make:

1. Remove all wording in the NES-PF in 6.4 p.43, Appendix 3; Afforestation: p. 64 & Replanting: p. 82, referring to genetically modified trees and rootstock.
2. Place an added condition in the proposed NES-PF stating that Local Bodies can set more stringent rules, objectives and policies on GMO's as part of their land use planning function, under the RMA, when addressing the economic, social and cultural wellbeing of their communities.

We wish to be heard. Please keep us informed.

Naku nei

Iwipuihu Tipene

Chairperson

Te Waka kai Ora





s 9(2)(a)

**From:** s 9(2)(a)  
**Sent:** Friday, 7 August 2015 2:48 p.m.  
**To:** NES PF Consultation  
**Subject:** Submission Proposed National Environmental Standard for Plantation Forestry (NES-PF)

**Spatial, Forestry and Land Management**

**Ministry for Primary Industries**  
**PO Box 2526**  
**Wellington 6140**

**Stuart Miller**

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

**Name** Vision for Kerikeri and Environs Inc.

**Postal** s 9(2)(a)

**Phone** s 9(2)(a) **Email** s 9(2)(a)

**Date** 04.08.2015

**Re: Submission Proposed National Environmental Standard for Plantation Forestry (NES-PF)**

Dear Minister Guy,

While we welcome the initially proposed standard in principle, we **strongly oppose** the later added inclusion of GMO trees in all areas even where local governments (such as Far North District Council) have opted to apply a pre-cautionary approach to GMO based on democratic principles (**NES & other relevant legislation: 6.4 - Genetically modified tree/root stock** (p. 43, Appendix 3, Afforestation, p. 64 & Replanting, p. 82))

**Comments**

- Northland and Auckland Councils have (based on wide voters' initiative and thus democratic principals) agreed to apply a very pre-cautionary approach to GMO; this cannot be overruled by generally allowing to plant GMO-trees in local forests
- GMO-trees in local forests contradict the regional GE-free and GMO-free status

**Submission and Reasons –**

The GM clauses on p. 43, 64 & 82, in the proposed NES – PF do not meet the objectives of environmental protection for communities, nor does the standard take into account the inherent dangers and liabilities associated with novel genetic technology and its potential contamination of - soils, indigenous and exotic flora & fauna, pruning debris, waterways, trophic ecosystems and waterways.

We ask that you remove all conditions and references permitting genetically modified organisms to be the sole responsibility of the Environmental Protection Authority (EPA) under the Hazardous Substances and New Organisms Act (HSNO) and allow Councils to manage Regional and District land use through their mandated planning functions' under the Resource Management Act (RMA).

Both the Environment Court and the Royal Commission on Genetic Modification (Chapter 13, 6) have stated the clear responsibilities and boundaries between the EPA and Council jurisdiction, there is no "duplication" between the HSNO or RMA once a GMO is released. This must not be undermined by any clause in the proposed NES-PF.

The Environment Court, Judges Thomson and Newhook, decision upheld the Councils ability, under the RMA, to place policies, rules and objectives, on the management of GMO land use activities as part of their management and planning functions in their regional and district plans [1], [2].

References:

[1] <http://www.boprc.govt.nz/media/321876/environment-court-decision-18-dec-2013-env-2012-339-000041-part-one-section-17.pdf>

[2] <http://www.ge-free.co.nz/assets/pdf/20150512145527872.pdf>

### **Changes we would like you to make -**

- Remove all GM clauses in the proposed NES – PF and references permitting genetically modified organisms to be the sole responsibility of the Environmental Protection Authority (EPA) under the Hazardous Substances and New Organisms Act (HSNO) and
- Retain and provide for Regional and District Councils to place more GM stringent land use rules, objectives and policies in their plans for the management of the natural and physical resources through their mandated planning functions' under the Resource Management Act (RMA).
- Protect the Regional and District Council mandate and duty of care, under the RMA, to the existing foresters, primary producers and businesses in their region and districts so they can maintain their responsibilities with national and global certification bodies.
- Ensure that the Regional and District Councils have the ability, under the RMA, to create a much needed additional tier of local protection against the risks of outdoor release and use of GMOs.

### **The decision we would like the Minister to make**

1. Remove all wording in the NES-PF in **6.4 p.43, Appendix 3; Afforestation: p. 64 & Replanting: p. 82**, referring to genetically modified trees and rootstock.
2. Place an added condition in the proposed NES-PF stating that Local Bodies can set more stringent rules, objectives and policies on GMO's as part of their land use planning function, under the RMA, when addressing the economic, social and cultural wellbeing of their communities.

We do not wish to be heard. Please keep us informed.

Sincerely

Vision for Kerikeri and Environs Inc

Rolf Mueller-Glodde

Deputy Chair

10 August 2015

Spatial, Forestry and Land Management

Ministry for Primary Industries

PO Box 2526

WELLINGTON 6140

Sent by email to to NES-PFConsultation@mpi.govt.nz

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

**Organisation: Waimea Inlet Forum**

**Contact details:**

Name: Anne Hilson

Address: s 9(2)(a)

Phone: s 9(2)(a)

Email: s 9(2)(a)

### **1. BACKGROUND**

The Waimea Inlet Forum is a group of people and organisations with a practical commitment to the sustainable future of the Waimea Inlet.

Waimea inlet is a large (3,345 hectares) shallow, seawater dominated, tidal lagoon-type estuary with two tidal openings, two main basins and several tidal arms

It is valued for its aesthetic appeal, biodiversity, shellfish collection, swimming, duck shooting, white baiting, fishing, boating, walking and scientific interest.

The inlet is of international importance for migratory bird species and is of national significance for other endangered or threatened species; these include birds such as bar-tailed godwit, white heron, Caspian and white-fronted terns, variable oystercatchers, bitterns, and banded rails, and plants such as coastal peppercress and grey saltbush.

It is important to life cycle stages of fish species, which are dependent on the continuity and sequence of habitats from the streams (through the inlet, and to Tasman Bay,) being maintained.

The inlet extends across both the Tasman District and Nelson City coastal marine areas and contributing catchments. Twenty two rivers and streams drain into the inlet.

Catchment land use is mixed, with plantation forest occupying a very large proportion.

A major stressor to the inlet is excessive muddiness caused primarily by catchment runoff from intensive land use in the lower catchment and exotic forestry in the upper catchment. Land erosion and its consequent excessive fine sediment loads accelerate the infilling of the estuary and coastal embayments. This results in a prematurely aged estuary and a degraded ecosystem that reduces ecological values and human use.

Estuaries are a sink for sediments and their natural cycle is to slowly infill with fine muds and clays. In the last 150 years New Zealand's estuaries have begun to infill rapidly. A recent review of the acceptable rate of infilling (tolerable sedimentation rate or TSR) recommends a 0.5-2mm/yr. range<sup>1</sup>. Many estuaries are well above that; the Waimea inlet has a sedimentation rate of up to 12.7 mm/yr.

The symptoms of excessive fine sedimentation include a decline in sediment oxygenation, a shift towards mud tolerant sediment biota, a decline in human use values.

Robertson and Stevens (pp.22-24) have rated estuaries for vulnerability to fine sedimentation. The Waimea inlet has a **HIGH VULNERABILITY**.

## 2. GENERAL COMMENTS

All people and organisations participating in the Forum have had the opportunity for input to this submission.

These submitters do not support the proposed NES-PF in its current form:

- The Erosion Susceptibility Classification (ESC) system is inadequate to form the framework for the NES rules.
- At least one of the assumptions in the Environmental Impact Assessment by Scion Research is flawed.
- Councils are not required to monitor most forestry operations
- The proposed NES will mean more and ongoing work for environmental NGOs and similar.
- It is not certain that the NES-PF will support the objectives of the NPS-FM

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<sup>1</sup> Robertson,B., and Stevens,L. 2012.Tasman Coast: Waimea Inlet to Kahurangi Point. Habitat Mapping, Ecological Risk Assessment, and Monitoring Recommendations. Report prepared by Wriggle Coastal Management for Tasman District Council

### 3. EROSION SUSCEPTIBILITY CLASSIFICATION (ESC)

The ESC is fundamental to interpretation of the NES-PF conditions as, at this stage, it defines the status of most forestry activities.

Because New Zealand is so diverse geologically the ESC would need to be very accurate to be a reliable framework.

Because the ESC is based on the Land Resource Inventory (LRI) dataset it will not suffice as a guide to erosion ratings. It was originally used to determine whether land could sustain pasture and so is inappropriate as a guide to erosion susceptibility for earthworks concerned with forestry.

Furthermore the LRI polygons are too large to reflect erosion susceptibility for many smaller forests. The average size of the polygons is 300 ha, but there are over 12,000 forest owners with less than 50 ha.

An example of the ESC inadequacy can be seen in the case of the Maitai catchment near Nelson. This catchment does not supply water to the Waimea estuary, but it is part of the same geological area of structural complexity. One tributary (Sharlands creek, which is sourced from a catchment predominantly under plantation forestry) has been repeatedly identified in scientific and monitoring reports as a major source of sediments in the lower reaches of the river. A recent report to the Nelson City Council<sup>2</sup> that of the exotic forest in the Maitai catchment *“over 68% is argillite or greywacke hill country and nearly 32% on ancient volcanics. The ancient volcanics are generally located in the lower reaches of the Maitai (ie. Around Sharlands hill and up the western side of Sharland creek) and observations show that it produces a lot more clay or finer material compared with soils developed on argillite or greywacke.”*

However, the difference in erosion susceptibility within this catchment is not reflected in the ESC, which classifies the vast majority of the Maitai catchment in the moderate ESC zone.

It is interesting to note that with respect to the Waimea inlet, the Department of Conservation has recently advocated a target of *“estuary sediment rates below 2mm per year”*.<sup>3</sup>

**Relief sought:** Use Slope Stability software to produce a more detailed and reliable national map of erosion susceptibility for plantation forestry purposes.

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<sup>2</sup> LandVision Ltd, and Moore and Associates. 2014. Review of forestry, Nelson City Council. Report prepared for NCC.

<sup>3</sup> DOC.2015. Draft Waimea Estuary Biological Management Unit Review.

## 4. ENVIRONMENTAL IMPACT ASSESSMENT (EIA)

We do not believe the expected costs and benefits of the proposed NES-PF have been adequately identified. We do not intend to comment on the economic assessment, but the EIA supplied by Scion Research is particularly weak.

For example, Assumption #6 of the Scion Research report<sup>4</sup> states that “*it is assumed that (environmental impacts) would only be experienced in small forests. It was identified that few or no impacts would come from large corporate forests since these already, generally, comply with high environmental standards through the environmental codes of practice. However, it was assumed that small forest owners are less likely to be applying such environmental codes.*”

There is no basis for Scion Ltd. to assume environmental impacts would not increase when corporate forestry moves from a largely Council-controlled regime to a largely permitted regime.

**Relief sought:** Revise the Environmental Impact Assessment to include possible effects from corporate forestry. Advise the authors of the NZIER Economic Analysis so they are able to adjust their conclusions appropriately.

## 5. IMPACT ON COUNCILS, ENVIRONMENTAL NGOS AND THE WIDER PUBLIC

5.1 There is no provision for Councils to charge forestry companies for monitoring their Plans (including the Erosion and Sediment Control Plans). It is said ((S5.1.1 p.37) that “*the cost per consent is expected to decrease over time as consents become more standardised*”. We would hope that consents would take into account such things as new scientific knowledge, new technology, climate change effects and thus be reasonably adaptable over time, where necessary, rather than aiming for a long term standardised system. A solution would be to make activities controlled rather than permitted so that councils could impose conditions requiring monitoring.

5.2 The proposal states (S.5.1.4 p.38) that “*under an NES-PF non-governmental organisations may spend less time and resources .....and will experience indirect benefits from the greater certainty about environmental effects.*”

This may well be the case if the proposal was less permissive than it stands at present. As it is NGOs will likely spend much time and resources as ad hoc monitors and advocates. The move to permitted status for most forestry activities over the vast majority of plantation forestry will, in effect, shift the responsibility and cost for monitoring environmental outcomes from the consent holders (those who will profit from the activities) to councils’ ratepayers.

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<sup>4</sup> Scion Ltd. 2015. Environmental Impact Assessment of the Proposed National Environmental Standard for Plantation Forestry.

5.3 The wider public will not necessarily “*experience indirect benefits from the greater certainty about environmental effects.*”(p.38.) unless the NES-PF is tightened up in terms of the cost-benefit analysis (in particular the environmental) costs and benefits, and the reliability of the ESC.

5.4 It is inevitable that large numbers of adverse effects will occur before any meaningful constraints can be applied with the currently proposed reduced means for Council input and control and with a reliance on a “permitted with conditions” regime across most forestry land.

**Relief sought:** Make activities controlled, rather than permitted, so that councils can be required to monitor and are able recover costs from forest owners.

## **6. NES-PF SUPPORT FOR THE NATIONAL POLICY STATEMENT FOR FRESHWATER MANAGEMENT**

Throughout the consultation document the focus on applying permitted activity status has taken priority over controlling and monitoring potential adverse effects.

The only reference to the NPS-FM in the draft rules is that (Councils can apply more stringent rules)..“*where required to meet the objectives of the NES-PF.*” (p.97) The rationale for this is that “*Councils may apply more stringent rules where the NES-PF is not sufficient to meet limits established under the NPS-FM.....*”

The draft rules (Appendix 3 pp58-97) contain no measureable thresholds for adverse effects. This is contrary to s43A of the RMA, and in particular subsection (3) which states

**If an activity has *significant adverse effects on the environment* , a national environmental standard must not, under subsections(1)(b) and (4),\_**

**(a) allow the activity unless it states that a resource consent is required for the activity; or**

**(b) state that the activity is a permitted activity.**

This is saying that, if the NES is to define permitted activities, it must first set limits on what is or is not a “*significant adverse effect on the environment*” , and permit only those activities whose effects fall below those limits.

To do this would mean to change the tone of the whole document from the current proposed method-based regulation to an effects-based regulation.

There is no ability for any audit on the required Erosion and Sediment Control Plans, and a requirement to change if they are found to be deficient.

A forest owner is only required to make an Erosion and Sediment Control Plan available to the council. They are required to notify the Council but are not required to submit this plan to the council- councils will have to request the plan. There is likely to be an increase in non-compliance which will lead to adverse effects that have to be remedied. Councils will be limited to a reactive position. There does not appear to be any possibility for councils to charge forest owners for any compliance monitoring that councils need to carry out.

**Relief sought:** Update the consultation document to include quality objectives for water quality outcomes before consulting again.

Require forest owners to submit Erosion and Sediment Control Plans with councils concurrently with notification. Allow councils to retain the power to require these plans to be amended both before and during operations.

Allow councils the ability to charge for monitoring permitted activities.

## **7. CONCLUSION**

One of the objectives of the proposed NES-PF is *“to improve certainty about environmental outcomes from plantation forestry activities”*. (p16 S.2.3).

Increasing certainty of outcomes does not necessarily lead to improvement of environmental outcomes, or even the maintenance of the status quo. This submission has raised several critical issues which need to be addressed before members of the Waimea Inlet Forum is satisfied that the environmental outcomes from the NES are likely to show an advance on the status quo.







# WELLINGTON RECREATIONAL MARINE FISHERS ASSOCIATION



**WE RECOGNISE MANAGED FISHERIES**

s 9(2)(a)

. Tel s 9(2)(a)

E mail s 9(2)(a)

10 August 2015

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

E mail: NES-PFConsultation@mpi.govt.nz

**Re: A National Environmental Standard for Plantation Forestry,  
Consultation Document June 2015.**

Dear Sir

The Wellington Recreational Marine Fishers Association Committee and members are quite concerned that the Consultation Document June 2015 has failed to identify the many impacts that pines have on both freshwater and marine species. Or acknowledge that marine species also travel great distances into freshwater to feed and spawn therefore MPI has failed to consider the impact on them.

## **Sediment impact on fish**

For example Mfish and DOC carried out some research and produced a publication called "Threats to Hector Dolphins" where in 150 pages they could only write one brief paragraph on their food sources. I contacted those who carried out the research and they described how Hector Dolphins when a river floods feed on the fish as they swim in and out of the bubble of mud filled fresh water. When a river is in flood the mud causes all fish life in a river to head out to sea as their gills become saturated in mud and are unable to breath. The information came from Mfish but why this was not included in their paper who knows. I can only guess that they could not include such information as they did not have the scientific proof. I have found the omission of such important information is common especially through the papers presented to support resource consents.

## **Past information provided**

On the 17 October 2010 we provided the Ministry for the Environment with a considerable amount of information in response to the Proposed National Environment Standard for Plantation Forestry. We also included a power point presentation. We can see a number of the concerns we raised have been acknowledged through this document but there has been a complete failure to acknowledge

the function of our native wetland plants to manage stream banks and mud from flowing into the marine environment. Hopefully we can expand on these concerns through the questions provided.

### **Not all impacts from pines are included in the Consultation Document June 2015**

Another impact from pines is from the sap of the pines and the oil in the pine needles as they produce the world's best weed killer. When not managed the pine oil causes the algae to be killed along beaches and mud flats. That impact may be considerable as this poisoned water will flow up and down the beach or over mud flats pushed by wind and tide for many miles killing the food source of shell fish and crabs. Those with recreational fishing experience will know of this impact as fish will not be caught where the streams that originated in a pine plantation flows into the sea as there would no longer be shell fish be at this location.

We are seeing the impact of pines in the Marlborough Sounds as the algae that once grew on the mud flats to provide a food source for yellow eyed mullet and mussels has been greatly reduced. The alga is the beginning of the marine food chain and found in the gut of yellow eyed mullet and in mussels. This impact is being felt further down the marine food chain as blue cod biomass has been reduced and mussel farm output has declined in recent years.

Another impact from pines is on ground water supplies as the pines make this water undrinkable. This impact has only been mentioned in brackets on **page 94** under **"Effects that may arise from forestry activities – Water yield"**. In the coastal town of Porangahau they used to rely on bores for their water supply as the estuary was tidal but as a pine plantation became established in the hills around Wallingford their water supply became undrinkable. The speed at which poisoned water can make it to a river occurred in the Hutt River twenty years ago when an extremely toxic chemical was buried in the Hutt City Council Silverstream Landfill. After the three million dollar access road was constructed the HCC ran out of money and the landfill was never sealed as a result the chemical only took three days to seep through a rock seam to kill all aquatic life in the Hutt River and wash ashore dead.

### **REPLYING TO QUESTIONS**

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

**Answer No**

There are a number of points that are not correct. For example:

#### **Comment Box 5: Case study – protecting fish spawning habitats**

Within this box is the comment that "The best environmental outcome will result if fish are not disturbed while they are spawning. This requires avoiding work that disturbs streambeds when fish are spawning".

This is an example of a lack of environmental knowledge as every area will see native freshwater spawning at different times but mainly through the warmer months and never when the water cools down. The best advice would be to have foresters set aside a valley or an area with a major stream and declare it a no go area. This could mean absolutely no vehicles or machinery allowed in the area for the months between spring and autumn, but that is almost impossible as most logs are removed in the summer months. Native fish will not stay in dirty water but if an area is allowed to run naturally fish will travel to that stream and out of a dirty stream to reach clean water. The next year or after the forest has been removed from that stream the site rotation can begin again so that fish will have an undisturbed stream. In practice this may also be impossible to manage as huge areas are removed in a year.

#### **Comment Box 5: Case study – protecting fish spawning habitats continued**

At the end of this box is the comment that must be taken seriously as obviously there is someone with some practical knowledge.

“In comparison, another council places controls on forestry activities to protect the spawning of trout and other fish species only in wetland habitats”. The reason why this comment should be taken seriously is that fish will not spawn in fast running water and they use the native reeds to capture the fish eggs that the males have milked. The fish can be seen feeding in running water when you know where and when to look but they need slow warm water to spawn.

#### **Comment Box 5: Case study – protecting fish spawning habitats continued**

Within this box is an unbelievable comment made by a regional council obviously lacking in any environmental knowledge.

“all in-stream forestry activity (including the operation of machinery in the bed of a river or cable logging across the bed of a river) may **not** occur between 1 May and 30 September without a resource consent”.

This really means they can use machinery in this stream all year around as this period is quite wet and machinery would most likely bog down and as a result they will never apply for resource consent at that time anyway.

Then if they did who would have the knowledge, time and money to oppose the application to grant resource consent or provide the detail to apply for the resource consent. This would have to be a money grabbing exercises to fleece a contractor by a regional council and their advisors NIWA to provide their environmental division with something to do to justify their existence. This would have to be empire building by a regional council who would then produce pages of legal jargon, detailed fish counts, water temperature and flow readings and then appoint commissioners most likely to support whatever the council want them to agree to ensure they are appointed again in the future. Believe me this is just the tip of what we experience at resource consent hearings.

#### **Comment Freshwater species spawning times**

The document references the paper “Freshwater Fish Spawning and Migration Periods” MPI Technical Paper No: 2015/17 produced by NIWA for MPI which describes fish spawning times as being related to a month on a calendar.

#### **Comment**

The statement from this paper below is wrong and is contradicted in the introduction to the NIWA paper.

“For a number of species, spawning and migration ranges were stated as seasonal i.e., spring and summer. Technically the period for spring is September to November, however, August is often included as part of spring, as this is a key month in terms of spawning and migration.”

#### **This is not correct**

All fish spawning times are related to water temperature and we go through weather cycles where in some years water temperatures can be high or quite low. Also spawning will only occur after a stream has been in flood which clears away the silt and debris build up. Also when a stream or river has been in flood and full of mud there will not be any fish in it as their gills become clogged with mud and they would have escaped into the sea.

#### **Comment 3.5.2 Environmental risk assessment tool 2 – Fish Spawning Indicator**

NIWA describes “peak spawning periods for the 21 species to which this rule applies are generally restricted to two periods (May-June and September- October)”.

This may be true for some areas but it is not true for the Wellington regions as I have proved. We captured a native inanga about to spawn as it had ripe running roe on the 16.1.02 some 500 metres from the Makara Stream mouth. This fish and its condition was identified by Andrew Stewart and Clive Roberts at Te Papa and is held in their records. A spawning time of August by NIWA for freshwater fish defies logic as the prime factor for fish spawning is water temperature a view supported by overseas scientific research. There is a book called "Cod" by Mark Kurlansky that goes into great detail describing the survival rate of fish eggs through various water temperatures.

NIWA have provided MPI with some serious misinformation to declare all freshwater fish will all spawn in August as the water temperature at the top of NZ will be quite different to the bottom of NZ. We have found there are also other conditions but as described to Rt Hon Helen Clark man has not discovered the biological clock of fish to know when fish will travel into the Bexley Estuary to spawn and to close it off when man thinks it's a good idea is crazy science. So for NIWA to declare August is the fish spawning month in a science report designed to support a national policy statement is insane. There are also many marine species that travel into freshwater to both feed and spawn so there is a mountain of information that has not been identified in the NIWA and MPI paper.

#### **Solution for Box 5**

Keep this simple and introduce measures to protect wetland habitats without resource consents and lawyers as it will be in wetlands where these native fish will spawn using the warmer waters.

#### **Comment Box 6: Case study – managing erosion and sedimentation risk**

"However, harvesting and the associated earthworks do disturb the ground, which can have an adverse environmental impact".

The comment that foresting "can have an adverse environmental impact" is an understatement as all through the stages of a forest being developed from the cutting of tracks to enable the trees to be harvested in the future, to spraying chemicals to keep them pest free, to regularly trimming prior to the harvesting and how the bare land is then managed there can be no such thing as a "can have an adverse environmental impact".

#### **Comment Box 6**

This raises some serious issues as to how this obvious impact on the environment is going to be managed. The comment "Some of these are focused on outcomes only (such as maximum suspended sediment levels) and give little indication of how best to avoid effects." And. "the emphasis is on penalising noncompliance once an adverse environmental effect has already occurred." This is another example of money grabbing by a regional council and to move forward this sort of management by a regional council must be stopped.

It's hard to believe we have regional councils who manage their regions with their heads in the sand; there is no place for outcome management of the environment any more. Regional council must be required to take ownership of their regions soil resources and help foresters mitigate against soil loss as it is an industry that opens up the land for erosion. While at the same time MPI must introduce rules to ensure regional councils take greater responsibility as they are only the guardians of the soil for future plantations.

There would not be many foresters that cut unnecessary tracks around the hills which makes the following comment logical and should be taken seriously.

“Other rules are prescriptive and allow little room for innovation. This can result in a good forestry operator being unable to use a technique that is best suited to their land and would minimise erosion and any subsequent sedimentation”.

This is really an important point as NZ has many types of rock that all react to water differently. It has become obvious that regional councils have little knowledge of their regions rock properties or rain fall when the Wellington Regional Council adopted a sediment management plan designed for the Auckland Regional Council for the Aotea subdivision. The sediment was allowed to run into the Porirua Harbour and in ten years the harbour depth was reduced by over a metre. The errors the WRC made managing sediment run off into the harbour I captured in photos which I then used to produce a power point presentation for the NZ National Policy Statement for Freshwater Management, Board of Enquiry. The power point was also used at the Meridian Mill Creek Wind Turbine resource consent hearing and Porirua Iwi then used the power point to demand the WRC, WCC and PCC take ownership of the Porirua Harbour. This resulted in public meetings and community groups being formed to reduce sediment run off into the harbour which the WRC had been failing to do for years.

As a guideline to how sedimentation should be managed to prevent as much as possible escaping into water ways Meridian at the Mill Creek wind turbine site went to a lot of trouble designing a system to ensure there was very little sediment run off into the Makara Stream.

Forestry operations' are now required to have a “Health and Safety Risk Management Plan” and an “Erosion and Sediment Control Plan” and it follows that within that plan is also the requirement that all forestry operators and their workers undertake an “Environmental Risks Hazard Plan”. The comment that “Only a few councils currently require a harvest plan to be prepared” is a warning that MPI needs to step in and introduce clear rules here. Within a “harvest plan” there should also be an “Environmental Risks Hazard Plan” and then streams can be managed so that all who enter the site will know through their “introduction site meeting” that machinery is to be kept out of sections of the plantation. The construction industry already has “Safe Site Introduction Procedures” with an outside safety person contracted to make all visitors aware of the “Health and Safety Risk Management Plan” so MPI should be adopting this procedure for forests. That way all on site will be aware of the “Environmental Risks Hazard Plan” and an “Erosion and Sediment Control Plan” which they would be required to sign off, not just the owner or manager.

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

**Answer no Box 7 must be rewritten.**

**Comment Box 7: Proposed definition of “plantation forestry”**

“We are proposing the following definition of plantation forestry:

(c) not including

(vi) willows and poplars space planted for soil conservation purposes.”

There no mention of the value of our native wetland plants and how they protect stream and river banks so the question when broken down to **“managing the adverse environmental effects of plantation forestry?”** cannot be taken in isolation if MPI considers “willows and poplars space planted for soil conservation purposes” in a river retains soil because they don't.

The adverse property of willows is that have no ability to capture fish eggs. If no one has figured that out yet it is pointless for MPI to go into great detail and get NIWA to produce screeds of

information about spawning times if foresters are not required to reintroduce our native plants. If Government through MPI wants our native wetland and stream bank plants to be replaced by willows throughout New Zealand then this whole exercise undertaken by first MofE and now MPI in producing this National Environmental Standard for Plantation Forestry conducting consultation forums and meetings has been a total waste of time and money.

There must be a requirement for foresters to reintroduce our native plants that were once seen alongside every stream and river in NZ before regional councils ripped them out

It is as if MPI and regional councils have just landed not to know the function of our native wetland, stream and river plants. Those who think willows and poplars stop soil erosion are dreaming and take a look at what happens to the willow after water has passed it. Whenever water passes these trees a vortex develops behind each tree which then carries the dirt and shingle that was once there away. This mismanagement of our rivers by regional councils has seen a massive job creation madness industry developed. In a flood the shingle loosened around the willows is swept downstream to form huge shingle piles that then direct the river over farm land or to blocking bridges.

Some regional council's plant willows above the river banks until there is a flood and then the willows then become undermined and fall into the river to be carried downstream to further divert the water flow. Regional councils then direct machinery into the rivers to fill in the holes that fish lie up in to cool down and shift the shingle banks lifting the mud that has come off the hills from the plantation further up the river. The continual use of machinery in rivers is causing all rivers in NZ to never run clean and a trip in a plane confirms this. Where do we go from here, it doesn't have to be like this.

In a recent letter to the Parliamentary Commissioner for the Environment describing how air pressure is changing our climate and why we are experiencing heavier rain falls I wrote:

"Their (regional councils) policy is resulting in massive land loss as they use English willows alongside rivers in an attempt to stop erosion. Willows cause water to scour around their roots resulting in the loss of more productive farm land. A river in the Hawke's Bay had a deep row of native flaxes and other wetland plants protecting the banks for over fifty years until the council made the land owner remove them. The regional council put machinery into the river turning the river into an irrigation ditch, shifting the shingle, filling in the deep pools and planting willows. In the first flood the river spread out and took out huge areas of his valuable farm land. Climate change is not causing our rivers to flood and spread out just dumb river management by regional councils led by the NZ National Policy Statement for Freshwater Management Plan that has failed to describe the function of our native wetland and intertidal plants".

### **Comment the impact of mud and sedimentation**

The MPI Consultation Document June 2015 has failed to describe what type of impact that sedimentation has on freshwater fish yet MPI mentions fish passage and spawning a number of times. The MPI Consultation Document has included a cartoon with a fish calling out to a logger "watch out for us" but what is the message here? Don't drop trees in a river or is it the resulting mud he is being asked to look out for? The MPI Consultation Document should not take it for granted that everyone knows what the impact of mud will have on freshwater fish. I know that fish do not stay in muddy water and will head out to seawater but this must be spelt out as there will be foresters who will say to MPI or regional councils "what is the impact have you any proof?" The impact has not been detailed in the consultation document although discussed in general terms in the Ministerial foreword.



In the Ministerial foreword by Hon Dr Nick Smith Minister for the Environment and Hon Jo Goodhew Associate Minister for Primary Industries they describe “there are risks of erosion and sedimentation, particularly from earthworks required for access. These can impact on water quality and fish life.” So why is this impact on fish life not described in the consultation document?

But here lies a massive problem which both MofE and MPI must have discovered in writing this consultation document. I have already discovered this impact and described in stories in the NZ Fishing Coast to Coast magazine and at MofE Environmental Reporting Forums but the NIWA representative told the 120 people at the last forum that “NIWA cannot use your marine knowledge as you are not a scientist.”

The only information I have found was in the 2008 NIWA publication *“A review of land based effects on coastal fisheries and supporting biodiversity in New Zealand”* by Morrison, Lowe, Parsons, Usmar and McLeod. The following was from one of my NZ Fishing Coast to Coast stories. “They state “little is known (scientifically) about our intertidal zone or the impacts.” NIWA were right about that as their marine scientists have failed to describe or name the marine specie yellow eyed mullet or grey mullet which lives, feeds and spawns in every estuary or river in NZ a fact that every experienced recreational and commercial fisher knows. Then NIWA went on to state “Most of our current knowledge concerning the effects of suspended sediments on fish are based on freshwater species.” Then the publication further explains. “Most existing information of the effects of suspended sediment is based on acute exposure laboratory experiments, with little empirical information available on chronic responses to high concentrations for extended periods, especially for marine species, or under natural field conditions.” While NIWA is describing science has a lot of catching up to do the fact remains you will never find mud in the gut of blue cod, sea perch, tarakihi or snapper yet blue cod often have small scallops in their gut as scallops are found in sand.

While NIWA management refuses to accept or acknowledge my research identifying the food sources of yellow eyed mullet. I have obtained the only record showing the fish yellow eyed mullet do not eat one spec of mud. Yet this fish travels into freshwater to access their many food sources with every incoming tide.”

A study by Otago University under the leadership of Gerry Closs has established native fresh water fish travel in and out of the sea all through their lives.

In one of my NZ Fishing Coast to Coast magazine story I said “The Otago University under Gerry Closs is producing discoveries in the intertidal zone that are light years ahead of any other university in New Zealand. In another massively important, far-reaching, discovery they established the importance of a continuous flow of water to the sea from our rivers and streams. This team led by Gerard Closs included Bruno David, Lindsay Chadderton, Bernard Barry and Andrew Markwitz who researched the life cycle of the giant kokopu and discovered by using microchemistry on their otolith that native fish travel in and out of the sea throughout their life cycle”.

**Comment Box 1 we agree that a:**

An NES should apply across the whole country and that local authorities must remove any duplication or conflict with a NES from their planning documents.

This will remove the conflict of rules we experienced at Makara pine plantation between the Wellington City Council and the Wellington Regional Council who could not agree on a management plan to protect the Makara Stream from massive sedimentation. With one council describing they manage the water in the stream and the other the banks of the streams they both watched as slash

was dumped in the stream, bank's collapsed and causeways were placed to divert the stream through a poorly thought out pine removal process.

**This section needs to be rewritten.**

#### **Comment 1.1 Plantation forestry in New Zealand**

It is hard to see if the NES has made any requirement to protect the land after pine removal other than this comment in 1.1 "sowing a ground cover crop after harvest to avoid sediment runoff."

#### **Comment 1.1 Plantation forestry in New Zealand continued**

1.1 also makes the statement "However, as with all land use activities forestry activities can have negative environmental impacts where they are not managed appropriately." Unfortunately the negative environmental impacts have not been described.

#### **Comment Page 66 Earthworks, Regional, Stabilisation and containment**

"As soon as practical after the completion of the activity and no later than 12 months from the date of construction , exposed areas of soil that have the potential to discharge sediment to water must be contained within the site."

#### **Comment**

MPI have provided an example that sediment is not going to be managed any better that ten or twenty years ago when the WRC shut their eyes and allowed the Porirua Harbour to lose over one metre of depth in ten years.

The WRC mismanagement of sediment from the Aotea subdivision I captured in photos that formed a section of our power point to the NZ National Policy Statement for Freshwater Management.

However the amount of land being lost to the sea I reported it in one of my NZ Fishing Coast to Coast stories.

"The Parliamentary Commissioner for the Environment (PCE) Dr J Morgan Williams in his report "Growing for good", Section 3.4.2 "Soil" page 50 has only described soil loss known from farming practices. If he was to include the soil loss from forestry, subdivision construction or dam construction and what can be seen through locked gates or threatening notices then the figures he quoted could easily be trebled. However in his report he quoted figures that describe: *New Zealand losses between 200 and 300 million tonnes of soil to the oceans every year. This rate is about 10 times faster than the rest of the world, and accounts for between 1.1 and 1.7 percent of the world's total soil loss to the oceans, despite a land area of only 0.1 percent of the world's total.*"

#### **Solution: - Correct this whole section on sedimentation**

**MPI this is not how land is being managed any more you will have to up skill your knowledge.**

After a subdivision has been created now there is continual hydra seeding to contain the soil. When DOC removed the pines along the Wainuiomata Coast Road there was no attempt to over sow the area twelve months later. I raised this concern at a DOC NGO forum and was told they were going to let weeds take over, mean while the Wainuiomata River became full of mud for over a year.

**Comment Table 1: Forestry activities in scope of the proposed NES-PF and adverse environmental effects.**

On this table is a photo titled “River Crossings”.

This is showing a river although running clean has filled the two pre constructed box crossing sections to over half way. In reality this crossing is totally inadequate for the purpose as it would not take much more of a river flow and the crossing would be blown out either side. There is also evidence of debris high up the crossing protecting rocks which suggests flood waters have already passed over this crossing. The photo should be used to describe that river flows in the region must take into account climate change predicted and expected heavy rain falls.

**Controlled activity conditions page 90**

“The **Annual Exceedance Probability** describes a culvert must pass a 5% AEP flood event. Then states the total height is to be no more than four metres above the stream bed.”

**The Rationale states**

“Note: Guidance will be provided on calculating annual exceedance probability (AEP).

This condition seeks to ensure the culvert is able to pass flood flows without heading up and reduce the risk of sediment and gravel entering water.”

**Specific conditions relating single-span bridges page 89**

Once again there is no mention of climate change predicted expected heavy rain falls. Described here is advice on.

- “1 Bridges are constructed to allow the flood flow from a 2% AEP (1 in 50-year) event
- 2 Temporary bridges are:  
Constructed to allow the flood flow from a 5% AEP (1 in 20-year) event.”

**The Rationale** states “guidance will be provided on calculating annual exceedance probability (AEP).”

This raises the question what organisation is going to give this guidance as the Metrological Service and NIWA only give advice after an event. The lack of understanding of how climate change is already producing very heavy rain falls and storm surges was described to the PCE in a letter. This letter also describes how the Metrological Service could be predicting weather bombs, the amount of water, how high and long a flood will remain, storm surges, sea level fluctuations, current speed and direction through the Cook Strait and anywhere in NZ days in advance and expected very strong winds as they have the information but are not using it.

**Comment the AEP will have to be recalculated**

A section of the letter to the PCE with an explanation on why the AEP will have to be recalculated is included in the comments made on slash management at the end of this submission.

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

**Answer No: - Refer to:-**

**Table 4: Summary of matters where councils may apply more stringent rules. I quote:**

“Coastal marine: In many locations, the coastal marine area has important values, such as landscape and habitat values, that are considered more appropriately managed at a local or regional level.  
Having this issue in the... "ability to be more stringent" list also provides for alignment with the New Zealand Coastal Policy Statement.”

There is a perception in Government that regional and local councils staffs have acquired an overall marine knowledge but the WRC has destroyed both freshwater and marine specie spawning habitats as if there was no tomorrow. It is not possible for a marine scientist to acquire overall marine knowledge as they would have been required to study marine science in a very selective portion of the marine world to gain a degree and even a smaller world to obtain masters. I have for thirty years been on many Mfish forums including stock assessment committees, quota setting committees, recreational advisory committees, DOCNGO committees, Ocean Policy Committees and MofE Environmental Reporting and EEZ Committees and since 1999 I have presented information to many resource consent hearings including the latest proposal to mine iron sand off Patea. I have found there is serious lack of marine science in NZ and an equally huge amount of misinformation being presented at resource consent hearings.

The amount of misinformation being presented by expert witness and regional and local council scientists through resource consent hearings is gob smacking and I now read their presentations looking for what they missed out describing or were prevented by their management from disclosing. However I am not the only one to see resource consents are being manipulated by those who have another agenda. The quote below was published in the NZ Fishing Coast to Coast magazine.

"Then we stepped into another world and the concerns express by the Parliamentary Commissioner for the Environment John Morgan Williams in his publication called *Missing Links* described only half the problem. He described *what this report does not cover*:

*"As we examined the relationship between science and environmental policy it became clear that it involved a broader range of issues than we could adequately address in a single report, for example: There are questions about whether science used in some adversarial approaches to environmental policy and decision making contribute to sustainability. For example there is the potential for scientific evidence to be selectively used in resource consent hearings for the purpose of gaining or maintaining a particular interest or position, which could be to the detriment of the broader principles of sustainability.*

*There are issues around the roles and influence of science and expert scientific witnesses in legal proceedings on environmental issues (S1.3.1, p16)."*

To entirely devolve management of "habitat values, that are considered more appropriately managed at a local or regional level" entirely to regional councils describes MPI have no idea as to how little regional councils know or have the expertise to manage.

#### **For example**

Councils have yet to find a scientist that can carry out the instructions laid out in the New Zealand Coastal Policy Statement. A recent decision by both the WRC and the WCC to extend the Wellington Airport north into Evans Bay exposed their lack of marine knowledge. We produced ten reasons why the runway extension could not go north. A week later another map appeared in the media showing the runway to the south.

In 2003 and 2009 the WCC and WRC combined to manufacture resource consent to discharge the Wellington City wastewater into Lyall Bay ignoring their own evidence the pipe had broken when pulled out. The WRC appointed scientist from Cawthron Institute described that 4000 litres a second of wastewater will mix with sea water inside 200 metres. This is not only scientifically impossible and proven to be by overseas research. We took the WCC to the NZ Environment Court and the Judge agreed the WCC scientific evidence was wrong but there was little we could do about it now. The WCC had produced a resource consent application with a photo of the waste water pipe on the front cover showing sea weed growing inside the pipe. Such was the WCC and their science division

knowledge they did not know they were proving what we had told them from the beginning, the pipe was broken as marine life does not grow in freshwater in fact everything in the marine world dies if freshwater makes contact.

The WRC environment division planned and constructed a wetland at Moera to replace the wetland they destroyed while altering the Hutt River alignment. Such is the WRC marine knowledge the inlet pipe was placed so high the estuary drains away at low tide. Through the media WRC described the area as a future freshwater fish spawning area but this project proved the WRC lacked any marine knowledge as not only does the water drain away the inlet pipe was positioned to catch mud and sticks flowing down the Hutt River and a massive mud bank was created blocking water leaving the area.

The WRC have just released their Proposed Natural Resources Plan but they have failed to describe or give any protection to the Wellington Harbour submarine freshwater springs which are interregional to the Hutt Ground Water supply that Wellington region uses over seventy five percent of. The WRC have since 2003 been collecting wastewater samples half a meter below the sea surface and wondering why they are not recording any waste water properties. This lack of marine knowledge was not discovered until we were working with HCC management and consultants at their prehearing resource consent meeting and wondered why they were not recording the endocrine chemicals found in wastewater. We sent a letter to the Hon Amy Adams the past Minister for the Environment pointing out the MofE guidelines to take wastewater samples were incorrect. In her reply we found that for years the WRC had been using the wrong guidelines. At the next prehearing meeting the HCC and their consultants agreed to use the correct guidelines and take water samples from the sea surface. This positive outcome was completely different to the rubbish we had received from WCC and WRC and the amended resource consent was adopted enabling us to sign off the resource consent avoiding the HCC going through a costly public hearing.

The New Zealand Coastal Policy Statement makes it clear that the water in an estuary is to be called the intertidal zone to stop councils and those who write about the water in estuaries as being a mixture of fresh water and seawater. The two waters in an estuary never mix but trying to get the WRC scientists to take water samples of the wastewater on the sea surface uncovered a serious lack of marine knowledge within the WRC as their scientists demanded to know why they should at a public meeting.

The WRC lack of marine knowledge to describe "habitat values" has been seriously exposed at the Pencarrow and Fitzroy Lakes outlets where they manufactured resource consent to allow the mining of sand from the lake outlets. Replacing the sand with rocks saw all life in the lakes die off as they could no longer travel into the sea and back as water travels over sand but falls into rocks. There was not a scientist at WRC, HCC, NIWA or Victoria University who could see what the WRC had done wrong. I was asked to look and as a result I exposed the WRC error in one of my NZ Fishing Coast to Coast stories and although the WRC are aware of the error they have yet to return the lake outlets to sand.

I have seen a study made of the beaches in the Wellington Harbour by Cawthron Institute which failed to see the problem at the lakes and failed to see the damage being done to the ecosystem on Petone Beach caused by constantly grooming the beach of beach cast seaweed. Later through my stories in the NZ Fishing Coast to Coast magazine and in communication with HCC Mayors beach grooming has been severely reduced. The information was passed to the Gisborne City Council who reduced their beach grooming.

While the MPI think they can devolve some of this management to regional councils through “habitat values, that are considered more appropriately managed at a local or regional level” in practice the regional or local councils have not the expertise to manage anything in the marine environment. I have attended almost every resource consent application made in the marine environment in Wellington and no sooner has the WRC or the WCC obtained a person with marine knowledge then they leave. I have added these experiences and there is a lot more that I have documented in my NZ Fishing Coast to Coast stories to make MPI aware that we have councils who could not care less about their environment. There are others like the WRC who breach the Privacy Act when you report environmental disasters or you have had to put up with WRC appointed commissioners stand up and abuse myself and the DOC scientist for describing the marine environment values. We had another WRC appointed commissioner stop our presentation half way through because he was “sick of hearing about the value of the intertidal zone”.

### **Solution**

Require regional councils to work within the Policies set out in the NZ Coastal Policy Statement.

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

**Answer No Not with the current level of regional council knowledge and attitudes.**

There is a comment made in **Box 12** which high lights that the Erosion Susceptibility Classification (ESC) will most likely be as nightmare to manage. “Given its important role in determining the level of erosion risk that needs to be managed, it is vital the ESC is accurate and reliable”. But how can this be accurate when the scale is so huge. All around NZ there is rolling flat ground with steep hills alongside which if planted out in pines would create issues that the ESC has not prepared for.

### **Comment**

In the letter to the PCE about climate change impacts I included this from one of my NZ Fishing Coast to Coast stories.

“At a Porirua City Council meeting in Tawa called to discuss the Porirua Harbour a resident expressed concern that the planting of pines up steep gullies would cause more sediment into the harbour when they are harvested. The WRC expert on sedimentation told the meeting “she is not to worry as she will not be around when they are harvested”.

Which raises another issue from **Box 12** what structure is going to be put in place to ensure “the ESC is accurate and reliable?” and has a “formal process been planned to enable landowners, forest companies or councils to have an existing ESC classification reassessed, if there are concerns about its accuracy?”

### **Comment**

This could lead to another get rich quick project by regional councils to fleece more money from forest owners and managers. This process will require a cost structure clearly setting out who will be responsible for the reclassification as this will entail a process that will cost someone a lot of money. The forest owners or managers will have had no input into the original classification and cannot be required to fund the correction to “mapped at a finer scale to more accurately reflect individual erosion features on the land”.

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

**3.5.2 Environmental risk assessment tool 2 – Fish Spawning Indicator**

I find it extremely hard to believe that MPI think NIWA can “produce a report outlining fish spawning periods and sensitivity to forestry disturbance (the fish spawning calendar)” and develop a “Fish Spawning Indicator” when they have not revealed that marine species such as yellow eyed mullet, grey mullet and flounder also use the freshwater for food and spawning.

NIWA, MPI or man has not discovered the biological clock of fish for anyone to make such rules as to when and where fish will spawn. It is unbelievable that NIWA think they can name where and when native freshwater fish spawn when they do not know marine specie also spawn in fresh water or that proof is already on record. This seriously questions their research as grey mullet can be found in the streams at the Waitomo Caves that are the tributaries to the Waikato River. Grey mullet are one of many marine species that spawn in rivers just as kahawai will spawn well into fresh water well known to Maori and marlin that wait until they return to the sea. It is unbelievable we have a Government science provider that has developed a “Fish Spawning Indicator” that makes no mention of the marine specie they must have seen in the rivers and stream while they carried out their research.

**NIWA “Freshwater fish and migration periods”**

The description in section 1 under 1.4 and 1.5 confirms that not a lot is known about freshwater fish movements. For example there is information that will make it extremely hard for “Individual forest owners and managers (to) can decide whether it is easier to schedule work outside this window or apply for resource consent.”

**The following is quoted from this section:-**

- 1.4 For many fish species, seasonal temperature changes play a major role in determining the timing of spawning, so climatic variation can delay or bring forward spawning activity.
- 1.5 Differences in climatic conditions affecting fish maturation, and thus timing of spawning, are likely to occur from one end of the country to the other contingent upon the fishes’ swimming/climbing ability, the distance inland for each particular site, river gradient and flow, and if in-stream obstacles (such as culverts and weirs) are present.
- 1.4 The upstream migration periods outlined in the calendar relate to fish entering river mouths and coastal streams and rivers (except for the lacustrine section of the calendar), but it will take some time for fish to migrate upstream to sites further inland

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

**Will the Fish Spawning Indicator appropriately manage environmental effects as intended?**

**Answer must be no to:**

To require an owner or manager of a forest to apply for resource consent to work outside the time line set out in the MPI online mapping tool is a money grabbing exercise that could be handled a lot better. Who in MPI is going to play God and put their hand on a Bible in a NZ Court and state the fish have talked to them and they know the fish are arriving early due to warmer weather or have been delayed due to colder or dirty water due to heavy rain and then describe the arrival of the fish

will be a month or two later or month or two earlier? That is a four month window and a rule hardly fit for the purpose.

What a mess NIWA cannot even inform MPI that kahawai spawn up rivers surrounded in pine plantations or that grey and yellow eyed mullet spawn up streams and rivers. Yet there are many commercial, recreational, Maori and Island fishers who either watch them spawning or net them as they gather.

#### **Question 5 solution**

From what I have read I think before any work begins in a forest it is treated as a construction site and an "Environmental Risks Hazard Plan" be worked through in conjunction with MPI, regional council and NIWA to avoid adding any more cost to a forest owner or manager. That would have another advantage as not only would the owner or manager be aware of the Environmental Risks it would also become part of the site induction procedure which would include a "Health and Safety Risk Management Plan" an "Environmental Risks Hazard Plan" an "Erosion and Sediment Control Plan" before any one visited the forest to work or visit.

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

#### **Appendix 2: Forestry activities and their effects**

"Sediment and slash can degrade water quality and in-stream habitats through increased sediment levels. It can also cause damage to infrastructure downstream (for example, damage to bridges or culverts)."

#### **Page 68 Harvesting**

"Harvesting includes:

- discharges of slash and contaminants to land and water associated with harvesting

#### **Risk:**

Risks particular to harvesting operations are primarily:

Slash transport into surface water bodies.

Sediment and slash can degrade water quality and in-stream habitats through increased sediment concentration and habitat destruction and can cause downstream infrastructure damage."

#### **The Harvest Plan must include (but is not limited to): page 69**

"A documented process for assessing and managing the effects and potential risks of slash entering water bodies appropriate to the scale and level of risk;

Identify and clearly document slash storage sites, including using skid diagrams as part of the pre-harvesting operation hazard identification process (as appropriate);

Slash management planning for perennial water bodies."

#### **Permitted activity conditions page 69**

##### **Slash and debris management**

"Whenever safe and practicable to do so, remove potentially unstable slash that has the potential to mobilise under flood flows from water bodies, and: block or dam stream flow; or

- divert flow into stream banks in a way that is likely to cause erosion; or
- damage downstream infrastructure, property or receiving environments; or
- cause significant adverse effects on aquatic habitat."

#### **Reason for a more detailed slash and debris management plan**

There is no mention in these rules as what is a safe height above the normal stream flow or how far back from the water a slash site should be placed and this is a factor that has been over looked.

Forget about 1 in 20 or 1 in 50 year floods they will become yearly events we are entering a period



where the west coast will experience some very heavy rain falls and I cannot see any mention that slash sites must be placed ten metres above water ways.

I predicted in a 2011 NZ Fishing Coast to Coast story we were entering a very wet ten year period and already Wanganui and the Hutt Valley have experienced some heavy flooding. Previously in 1997 I had published in the NZ Seafood magazine a story describing we were entering a dry ten year period and that was proved correct. Understanding why the weather changes every ten years has been my passion for fifty years. The 1997 story was really addressed to fishers as the stories were describing how fish species will decline on the east coast which proved to be the case. I could have described the east coast would experience very heavy rain falls as I had observed the depressions coming out of the Coral Sea had changed track. The 2011 story described the affect on fishing as the depressions coming out of the Coral Sea were now deeper, moving faster and now tracking down the west coast.

### **Climate change has not been mentioned**

The AEP will have to be recalculated to take into account climate change predictions to ensure culverts, bridges and temporary bridges are not destroyed yearly.

The track of the depressions change about every ten years but what has changed over the last ten years is probably due to more water in the sea or air from the ice melting as now the depressions are a lot deeper and are moving faster. They now pass over the lower North Island or the top of the South Island and as there is a ridge of hills in the way they have to dump a lot more water than they did ten years ago.

### **Solution**

It would be very unwise not to include in the Harvest Plan a rule that requires slash sites to be placed at least ten metres above the water way. History records two slash sites became flooded and caused a log dam that then burst at the Waikanae River and the river at Matata east of Tauranga in 2005 which destroyed houses.

### **Introduction to the effects of climate change in New Zealand**

For most we hear scientists describing ice melt will raise the sea level and we carry on with what we are doing as we live on a hill. What scientists are not describing is how air pressure has been gradually changing our weather over the last twenty years. I have heard and read what scientists are saying so it was a surprise to see the Parliamentary Commissioner for the Environment Dr Jan Wright give a presentation on climate change impacts and not mention air pressure as a factor.

### **The following is the technical side to why our weather has changed as described to the PCE.**

“While the increase in water mass has caused sea levels to rise around the world and we call it climate change we are seeing other quite different affects here. We have been observing never seen before extremes in air pressure causing both a rising and lowering of sea levels past previous levels. On the 17 July 2015 a day before a new moon we had a high pressure system recording 1037 hectapascals in the Cook Strait which is extremely high as in 1997 a high would be around 1020 hectapascals. This high pressure system peaked out at 1039 hectapascals over Matamata an extremely high reading.

Last week we were commenting on the very deep low pressure system seen below Stewart Island which was 950 hectapascals when years ago we would have thought a 970 hectapascals would be low.

This difference between these pressure systems in 1997 was 50 hectapascals but now in 2015 the difference is 87 hectapascals. The difference between a low-and high-pressure system makes the sea level change by one centimetre for each millibar of difference. So now we are seeing a greater mass of surface water moving between these systems caused by the extra 37 centimetres of water mass over a very large area shifting between the systems. As air pressure also lowers the sea level the rocks that LINZ described to be at chart datum at a pressure of 1014 hectapascals will be now higher up the water column by 23 centimetres which is the water height difference between 1037 and 1014 hectapascals making the information on all LINZ marine charts in error.

This will put boat owners at risk who if they hit a rock will call the rock uncharted. The affect of a sudden strong off shore winds at a reef is immediate as the sea level lowers the water covering the rock in a pressure system of 1037 hectapascals by at least another 50 centimetres. This would place the rock above LINZ chart datum by 73 centimetres and almost on the surface. Another impact of a changing climate has been the lowering of sea levels past previous expected low water levels. This will enable those who strip beaches of shell fish to go out further and remove more and bigger shell fish. But lower water levels is not the only problem in NZ as LINZ have all rocks at chart datum 150 metres from the electronic chart position which they supply to commercial electronic GPS providers adding further risk to boat owners and NZ insurance companies.

### **The track of low pressure systems changes every ten years**

In the 2011 story I described that we are in for another weather change for the next ten years as the path of the low pressure systems had changed as now they would be coming down the Tasman Sea and crossing the lower half of the North Island. Now we find that the low pressure systems are deeper and the high pressure systems are higher and cover a greater area than in 1997. The warning made in 2011 that we will experience wetter weather from now on is because prior to 1997 low pressure systems arriving out of the Coral Sea would track down the Tasman Sea to skip across the North Island further down or across the South Island. However their impact will be greater as they are deeper than years ago.

Another down side to this weather change was going to be strong north westerly winds and faster currents off the West Coast as water temperatures were dropping and the region was coming under the influence of the sub Antarctic Conveyer Current. In the past this has caused more southerly swells and wind from the south and resulted in poor fishing on the West Coast as the marine life was sent out to sea by the wind. The wetter weather cycle would smother marine life in mud and stunt paua growth. This 2011 prediction has already been proved correct as Wanganui and the Hutt Valley in 2015 experienced another period of floods similar to 2007.

This is our normal weather pattern that has been changing in predicable cycles every ten years for fifty years. When these low pressure systems move across the country and over the Cook Strait area they meet colder water and often stall which in the past has produced some very heavy rain fall in Wellington, Wairarapa and the top of the South Island. Wellington experienced such weather in 1997 which flooded the Hutt Valley and put Whiteman's Valley under water by two metres. It has been forecast that if the Hutt Valley experienced the same rain fall as Wanganui did in 2007 then all of the Hutt Valley would be under water by over a meter.

When low pressure systems out of the Coral Sea travel across the country because they are full of water they cannot pass over the hills running thorough the centre of the North Island easily which causes them to drop their water, as what happened in Wanganui they create floods. These floods then impact on the commercial fishing industry just like in the 2007 floods when all marine life was smothered in mud and the blue cod industry took a hit. Heavy rain falls in the Wairarapa have a

major impact on the fishery there as marine life does not live very long in fresh water and floods usually kill off crayfish and paua in their thousands.

**NIWA misinform the public that on the next full tide there will be another storm surge**

NIWA describe storm surges as tidal surges and warn resident's to be aware of the next high tide flood. NIWA are producing rubbish again to give this warning as storm surges are not caused by tides. The storm surge of June 2013 that flooded the industrial area of Seaview was caused by a deep depression rapidly moving from the Tasman Sea into the Pacific Ocean over the top of the South Island which then produced a rapidly rising sea level into Wellington and as it moved south it produced a southerly wind that then blew the already high water into the industrial area. That tidal surge cost property owners, those who lease property and NZ insurance millions of dollars and those affected could have moved their machinery and electrical goods higher to militate against the surge.

Metrological Service must have been watching the data coming in and said nothing. Either that or they have not a clue how to read it. The Metrological Service must be required to seriously look at why with all their equipment and skills they failed to warn industry, Police and the WRC that Wellington was about to experience high sea levels coupled with a storm surge within the next twenty four hours. Or as I have proved Government science providers namely NIWA, Metrological Service, LINZ and Maritime NZ, MPI, DOC, MofE, PCE have no knowledge that air pressure causes floods, currents, waves, aquifer salt water inclusion and wind which results in land erosion and marine life loss. It is little wonder they have not a clue as to how climate change has been impacting on NZ for ten years or more.

A recent public misunderstanding of ocean currents and storm surges took place in New Plymouth when a 3.9 metre storm surge charged twenty metres into campers at Onaero Beach. NIWA scientists predicted another flooding with the next high tide, but of course there was no repeat. Here in Wellington when the Waiwhetu Stream floods the people receive the same advice, wait for the next high tide. There is a huge gap in marine science if they have not figured out what causes it yet."

A recent TV documentary which is now on the internet gave an insight into how a low-pressure system can cause the sea level to rise to never before seen heights. With a series of graphic animations, they tracked the path of a very deep depression that came down the English Channel in 1956. They showed that after flooding Holland it caused the sea to rise four metres at the mouth of the River Thames. That caused massive damage from the flooding and resulted in the construction a massive floodgate at the mouth of that river."

Thanks for your time.

Yours Sincerely

Jim Mikoz  
President  
Wellington Recreational Marine Fishers Association

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

**Stuart Miller**

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

## West Auckland Community Gardens Network

Dated: 27/07/2015

*Submission on the proposed*

### **National Environmental Standard for Plantation Forestry (NES-PF)**

Dear Minister,

We **oppose** the Proposed Standard – **NES & other relevant legislation: 6.4 - Genetically modified tree/root stock** (p. 43, Appendix 3, Afforestation, p. 64 & Replanting, p. 82)

### **Who we are:**

The **West Auckland Community Garden Network** comprises 14 community gardens in the Waitakere area. This submission represents the strongly-held views of approximately 120 people; many of whom are quite knowledgeable and well versed in many aspects of growing, soils, seed-saving, environmental issues in general, and the issues surrounding GMOs in particular.

### **Submission and reasons:**

The GM clauses on p. 43, 64 & 82 in the proposed NES – PF do not meet the objectives of environmental protection for communities, nor do they take into account the inherent dangers and liabilities associated with novel genetic technology and its potential permanent genetic contamination of: soils; flora & fauna, waterways, trophic ecosystems and waterways – by pruning debris, and vehicle, wind & bee-borne pollen.

We ask that you remove all conditions and references permitting genetically-modified organisms (**GMOs**) to be the sole responsibility of the Environmental Protection Authority (EPA) under the Hazardous Substances and New Organisms Act (HSNO) and allow Councils to manage Regional and District land use through their own mandated planning functions, under the Resource Management Act (RMA).

As both the Environment Court and the Royal Commission on Genetic Modification (Chapter 13, 6) have stated the clear responsibilities and boundaries between the EPA and Council jurisdiction there is no “duplication” between the HSNO or RMA once a GMO is released.

We view the GM clauses in question as the forfeiture of another democratic right to self-determination. This must not be undermined by the proposed sections of the NES-PF.

The Environment Court, through Judges Thomson & Newhook, has already [made the decision](#) to uphold our Councils’ ability under the RMA, to place policies rules and objectives on GMO land use activities as part of their management and planning functions in their regional and district plans [1], [2].

## Changes we would like to see:

1. **Removing** all GM clauses from the proposed NES – PF and further, any references to permitting genetically-modified organisms (GMOs) to be the sole responsibility of the Environmental Protection Authority (EPA) under the Hazardous Substances and New Organisms Act (HSNO).
2. **Retaining** and provide for Regional and District Councils to place more stringent GM land-use rules, objectives and policies in their plans for the management of the natural and physical resources through their mandated planning functions under the Resource Management Act (RMA).
3. **Protecting** the Regional and District Council mandate and duty of care, under the RMA to all foresters, primary producers and businesses in their region and districts so they can maintain their responsibilities with national and global certification bodies.
4. **Ensuring** that the Regional and District Councils have the ability under the RMA to create a much needed additional tier of protection against local risks of outdoor release and use of GMOs.

## The decisions we would like you to make:

1. Remove all wording in the NES-PF [Section: 6.4, (p.43), Appendix 3: Afforestation, (p. 64) & Replanting, (p. 82)] referring to genetically-modified trees and rootstock.
2. Place an added condition in the proposed NES-PF stating that Local Bodies can set more stringent rules, objectives and policies on GMO's as part of their land use planning function under the RMA, and when addressing the economic, social and cultural wellbeing of their communities.

Yes, we wish to be heard. Please keep me informed.

Sincerely,

Ross Scholes.  
- on behalf of WACGN

Submission to the Ministry for Primary Industries  
attention:  
Stuart Miller  
Spatial, Forestry and Land Management

name of submitter  
Whangarei Heads Citizens Association Inc.

submission on rule changes in NES-PF section 6.4 pages 43, 64 &  
82

We strongly oppose these rule changes

We are very concerned with the casual approach in relation to the introduction of GMO's which could have long lasting effects on our environment.

Eventually it will effect us directly in terms of our health and in terms of our pockets: the tax/rate payer will have to fork out money for the clean up or the containment of pollution including the roots and branches after the profits have been taken by the corporates which sell this new technology.

The knowledge about the long term effects of introduction of DNA of one species into another is very, very limited, if only by virtue that the technique of DNA tranfer in this manner is in it's infancy.

The risks of planting of trees with eg Bt genes into our environment is enormous. If these GME trees do what their designers intend them to do, those trees could potentially kill all insects which eat any material of these trees: leaves, needles, bark, flowers, pollen, root material etc. Visiting bees which are essential for pollination of our orchard fruit producers, could be the victims if they would eat tree pollen or sugars which drip from tree wounds.

The effect of the loss of a large number of insects in large areas is unknow. Because insects are an important part of the eco system,

we can safely assume that it would upset the eco system and consequently the life of all plant and animal creatures which depend on that eco system.

- In the Whangarei Heads area we have made and are still making huge efforts to restore the native flora and fauna. GM forestry in this area could upset or even undo all that work. We find that totally unacceptable.

This modified material will get anywhere into our environment: soils, waterways and coastal waters. There are indications that the active chemicals created in the "Bt-cells" remain active for a long period and could have an effect on larger organisms as it accumulates in the food chain. Again no long term research has been or could have been done.

We should not take the risk that other species, like fish could be effected; the cost to our fisheries can not be overseen with the knowledge we have at the moment.

- The potential cost to human health could be even greater.
- The Whangarei Harbour is used for fishing, for recreation, it is being visited by dolphins, orca's and is home or hunting ground for many bird species. We find it unacceptable that for the sake of corporate profits our work on the clean up of the harbour (we pay high charges for sewerage management) will be undone.

Speaking with forestry owners, we have learned that to plant a new area for forestry only one herbicide spray is required at about 4 months after planting. From there on trees will grow faster than weeds and will stay above the weeds. About 4 to 5 years later native plants start developing underneath these forestry trees. Thus even a plantation forest can provide a home for native birds for another 25 years until the harvest of that forestry block takes place.

- Why would one want to make that process impossible by killing all insects (Bt poisoning) and killing all other plant life (herbicide sprays)?

We as locals in this area have agreed to pay an extra \$50.00 p.a. per rateable property on rates specifically to make continuation of pest eradication possible. We don't want to pay more again or have

our children pay more for clean up or containment of a form of pollution which could have been avoided.

Time and time again we see the state i.e. the tax payers pick up the cost after a small group of individuals have taken the profits.

This is not the right way of going about introduction of new technology or innovations.

We are also very concerned about the fact that both local and regional councils will be sidelined.

Overriding with a stroke of the pen, plans for a precautionary approach equals a total disregard for the opinions and concerns which live amongst the people in the area from Auckland to Cape Reinga and in other areas of New Zealand.

We want all wording referring to genetically modified trees and rootstock (section 6.4 p43, 64 & 82) removed from the NES for Plantation Forestry. I also want local councils to continue to have the right to prevent any experiments with GMO's or introduction of GMO's.

MPI should set a minimum standard and councils should have the right to require higher standards.

Regards



Philip King

President of the Whangarei Heads Citizens Association Inc.



Jos Polman

Vice president of the Whangarei Heads Citizens Association Inc.



**Subject:** FW: Public meeting 5.30pm Tuesday 14th July at Lawson Field theatre - Environmental standards for plantation forestry.

**Date:** Saturday, 11 July 2015 10:06:13 pm New Zealand Standard Time

**From:** Gillian Ward

**To:** [REDACTED]

**From:** Anne Salmond [REDACTED]

**Sent:** Friday, 10 July 2015 8:15 p.m.

**To:** [REDACTED]

**Subject:** FW: Public meeting 5.30pm Tuesday 14th July at Lawson Field theatre - Environmental standards for plantation forestry.

This version, Gillian - a few edits below. If the Women's Native Tree Project Trust can make this submission on my behalf, that would be great.

Many thanks

Anne

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**From:** Anne Salmond

**Sent:** Friday, July 10, 2015 7:58 PM

**To:** Gillian Ward

**Subject:** RE: Public meeting 5.30pm Tuesday 14th July at Lawson Field theatre - Environmental standards for plantation forestry.

Hi Gillian

I attach a comment you can quote at the Gisborne meeting. I'm happy for it be circulated in print.

"Many thanks for asking me for a comment about environmental standards for forestry in New Zealand. In keeping with standards in other developed countries, these need to be significantly strengthened.

The rules for sustainable forestry in New Zealand that have been agreed with the Forestry Stewardship Council in Bonn should become mandatory for all forestry operations. These include adequate bush buffers on both sides of all permanent waterways, the protection of endangered species of plants and animals, and 10% of the plantation area kept in native bush which is effectively protected against pests and weeds.

The use of toxic aerial sprays in plantation areas adjacent to dwellings (especially those that harvest rainwater) should not be permitted. Forestry in peri-urban areas needs to be carefully controlled to avoid harmful impacts on residents and other parties.

There should be limits (as in other developed countries) on the area of plantation that can be harvested at any one time, so that large areas of bare earth scattered with forestry waste are not exposed to heavy rainfall events. This would mitigate against greatly increased volumes of water washing forestry waste and silt into streams and rivers, onto beaches and into the ocean.

Current harvesting practices often lead to widespread damage to freshwater and marine ecosystems, roads and bridges, erode other people's land, build up the bases of rivers causing downstream flooding, the need for dredging in harbours, clearing slash from beaches, damage to shellfisheries etc. These costs are passed on to other landowners and the wider community without compensation.

While there are environmental gains from plantation forestry, for instance in carbon capture and erosion control, these must be balanced against the losses incurred as a result of relatively short term harvest cycles.

Alternative forestry regimes (for instance, mixed species, closed canopy native forests with selective harvesting of high value timbers, collection of manuka honey in the regeneration phase, the use of other forest products) that avoid these losses should be explored in NZ, as they are in other countries.

The convention should be adopted that environmental effects and costs of forestry operations must be contained in the plantation area. The owners of plantation forests should not be permitted to cause significant damage to the property of others (including community infrastructure) without adequate compensation.

At present, there is a large scale transfer of costs from forestry companies to other landowners, enterprises and the wider community, including environmental harm, damage to roads and bridges from logging trucks as well as flooding and slash, the medical and welfare costs associated with accidents in forests etc.

This represents a major cross-subsidy from private individuals, other enterprises and the wider community to these companies, particularly if they do not pay adequate taxes, rates, roading levies, resource consent fees etc.

The question has to be raised as to whether the benefits other parties receive justify the costs they are required to pay, without consent or approval.

The costs and benefits of forestry operations, and how these are distributed, need to be determined by rigorous, impartial analysis. The environmental standards for forestry should not be set as a result of self-interested lobbying.

I apologise for not being able to be present at this meeting. Many thanks again for inviting me to share these thoughts, in the interests of the wider community.

Dame Anne Salmond DBE CBE CFBA FANAS FRSNZ FNZAH"

Best regards

Anne

**From:** Gillian Ward  
**Sent:** Friday, July 10, 2015 6:49 AM  
**To:** Anne Salmond  
**Subject:** RE: Public meeting 5.30pm Tuesday 14th July at Lawson Field theatre - Environmental standards for plantation forestry.

Dear Anne,  
Thanks so much for your thoughts.  
Will you have an opportunity to have some input into the process through Ministry for the Environment or could I quote your comments at the Gisborne meeting or perhaps in a submission from the Environment Centre or Women's Native Tree Project Trust?  
Cheers,  
Gillian



# Proposed National Environmental Standard for Plantation Forestry

## Template for Submitters

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

Please feel free to use this template to prepare your submission. Once complete please email to [NES-PFConsultation@mpi.govt.nz](mailto:NES-PFConsultation@mpi.govt.nz).

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

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

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

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

### Contact details

**Name:**

Gillian Ward

**Postal address:**

**Phone number:**

**Email address:**

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

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

Women's Native Tree Project Trust

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



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

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

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

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

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

☐ Please withhold my personal details where submissions are made public

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

## **Questions for submitters**

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

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

Please provide comments to support your views.

Please enter your comments here ...

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

Please provide comments to support your views.

Please enter your comments here ...



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

Please provide comments to support your views.

Please enter your comments here ...

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

Please provide comments to support your views.

Please enter your comments here ...

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

Please provide comments to support your views.

Please enter your comments here ...

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

Please include reference to the rule you are referring to.

Please enter your comments here ...

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

Please provide comments to support your views.

Please enter your comments here ...

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



Please provide comments to support your views.

Please enter your comments here ...

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

Please provide comments to support your views.

Please enter your comments here ...

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

Please enter your comments here ...

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

Please provide comments to support your views.

Please enter your comments here ...

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

Please enter your comments here ...

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



Thank you for the opportunity to comment on the National Environmental Standard for Plantation Forestry, Consultation Document June 2015. We attended a meeting in Gisborne on July 14th and appreciated the opportunity to listen to the working party presentations as well as the concerns of the community represented at the evening meeting.

The Women's Native Tree Project Trust own a small native plant nursery in Gisborne and gift up to 2000 young trees to community groups and community spaces in the wider Gisborne region each year. We plant out and maintain several sites – riparian edges, hillslopes etc. ourselves, as well as encouraging other community groups to do this by gifting plants and assisting these groups to get started.

We are aware of the unusually erodable nature of much of our region's hill country, and in the long term would like to see much of this vulnerable country returned to native forest through natural regeneration and in places, assisted with planting. Much of this country should never have been cleared of its original forest cover. But in recent years, several landowners have been encouraging manuka to regenerate on steep hillslopes so that they can gain an income from manuka honey, and there are also several examples of landowners planting manuka to hasten this regeneration.

In our region, some of the plantation forests established since Cyclone Bola are on such steep and vulnerable land that to protect the soil cover they should actually not be harvested, but instead be allowed to become overmature and regenerate in manuka once the canopy starts to open up. Also, where regeneration has occurred in gullies and riparian edges during the last 25 years, harvesting would destroy these areas. If harvesting is assessed to be environmentally acceptable there should be limits (as there are in other developed countries) on the area of plantation that can be harvested at any one time, so that large areas of bare earth scattered with forestry waste are not exposed to heavy rainfall events. Where replanting for another plantation forest cycle is environmentally acceptable a mix of plantation species should be considered. This would discourage clearfelling of large areas due to the different growth rates of the different plantation species and assist in containing slash and soil on the site. The environmental effects and costs of forestry operations must be contained within the plantation area rather than environmental damage being carried by the adjacent communities.

During replanting, at least 10% of the plantation forest area should be replanted in an appropriate mix of native trees, as well as allowing gullies and riparian edges to regenerate. Ongoing pest control would be needed in the native forest patches to allow a diversity of wildlife to establish.

We support the requirement for riparian strips to be left unplanted within areas of plantation forestry. These areas should be assisted to regenerate into manuka or mixed native shrublands, with weed control, and be protected from damage during harvesting activities. These riparian strips should definitely not be available to be used as a convenient place to build a road for harvesting purposes, as Peter Weir indicated during the meeting in Gisborne!



Regarding the proposal to establish a NES for Plantation Forestry, we submit that the Gisborne – East Coast Region should not be included. Instead the management of plantation forestry activities in this Region should continue to be the responsibility of Gisborne District Council. **This is the decision that we request the Ministers make.** This Region, which could be defined by the young, soft rock geology which causes the hill country to be susceptible to erosion (and in this definition would also include part of Hawkes Bay Regional Council’s region) has extreme challenges for plantation forestry activities and is sufficiently different from the rest of New Zealand that it should be recognised as a separate region for this exercise.

We believe that a NES, which included this Region would inevitably lead to a weakening of environmental standards here. As recent local heavy rain events have shown, the environmental standards actually need to be stronger rather than weaker. We are aware of the input that Gisborne District Council Environmental and Regulatory Services staff have into each of the activities listed in Appendix 2 – afforestation, earthworks, harvesting, mechanical land preparation, pruning and thinning-to-waste, forestry quarrying, and replanting. It would be detrimental to the environment if these experienced staff were not able to have this input into management plans and to give advice to contractors at each of these stages through the consenting process.

The Council also needs to have the ability to not allow plantation forestry activities where these activities are not appropriate because of land stability, sensitive coastal or freshwater environments, wahi tapu sites, significant flora and fauna, and natural features and landscapes for example.