



## 1.1 REPLANTING (REGULATIONS 77 – 81)

### 1.1.1 Overview of plantation forestry activity

*Replanting* is a regulated activity under Regulation 5(1)(h) of the NES-PF. The NES-PF ancillary activity regulations (Part 2, subpart 9) and the general provisions (Part 2, subpart 10) must also be complied with as relevant for *replanting*.



*Replanting* is defined in the NES-PF as:

*the planting and growing of plantation forestry trees on land less than five years after plantation forestry harvesting has occurred.*

The 5-year window for *replanting* is the key requirement of this definition – *replanting* of trees must occur within 5 years after *harvesting* of a *plantation forest*. If this 5-year period is exceeded, the activity is no longer *replanting* under the NES-PF but is instead treated as *afforestation*.

### 1.1.2 Potential adverse environmental effects

The potential adverse environmental effects of *replanting* are similar to *afforestation* but generally significantly less. For example, a second-generation *plantation forest* is likely to produce less sedimentation than a new *plantation forest* because *forestry infrastructure* will already be in place and the amount of soil disturbance from maintenance and upgrades will be lower than during initial construction. Similarly, effects on landscape and amenity from *replanting* are likely to be significantly less as the area to be planted is already an established *plantation forest*. However, wilding conifer spread is a potential adverse effect from *replanting* that requires similar management to *afforestation*.

### 1.1.3 Permitted activity and conditions

*Replanting* is a permitted activity if:

- **Territorial authority** – regulations 78(1) and 79 are complied with; and
- **Regional councils** – regulations 78(2) and (3) and 79 are complied with and the *replanting* is in any:
  - *Green, yellow, or orange zone*; or
  - *Red zone* where the land proposed for *replanting* is 2ha or less in any calendar year.

A summary of the permitted conditions for *replanting* is provided in Table 1. Sections 1.1.5 to 1.1.7 provide more detailed guidance on these conditions to assist with interpretation and implementation. For exact wording of the conditions, refer to the NES-PF which can be accessed through the hyperlinks below.



Table 1: Permitted activity condition for replanting.

Condition	Territorial Authority	Regional Council						
<a href="#">Setbacks (Regulation 78)</a>	<p><i>Replanting</i> must not occur in any area closer than the <i>stump line</i> to an adjacent <i>significant natural area</i>.</p>	<p>Must not occur within the <i>setbacks</i> specified below.</p> <table border="1"> <thead> <tr> <th>5 metres</th> <th>10 metres</th> <th>30 metres</th> </tr> </thead> <tbody> <tr> <td> <ul style="list-style-type: none"> <li>• <i>Perennial river</i> with a <i>bankfull channel width</i> of less than 3m; or</li> <li>• <i>Wetland</i> larger than 0.25ha.</li> </ul> </td> <td> <ul style="list-style-type: none"> <li>• <i>Perennial river</i> with a <i>bankfull channel width</i> of 3m or more; or</li> <li>• Lake larger than 0.25ha; or</li> <li>• <i>Outstanding freshwater body</i>; or</li> <li>• <i>Water body</i> subject to a water conservation order.</li> </ul> </td> <td>Coastal marine area</td> </tr> </tbody> </table>	5 metres	10 metres	30 metres	<ul style="list-style-type: none"> <li>• <i>Perennial river</i> with a <i>bankfull channel width</i> of less than 3m; or</li> <li>• <i>Wetland</i> larger than 0.25ha.</li> </ul>	<ul style="list-style-type: none"> <li>• <i>Perennial river</i> with a <i>bankfull channel width</i> of 3m or more; or</li> <li>• Lake larger than 0.25ha; or</li> <li>• <i>Outstanding freshwater body</i>; or</li> <li>• <i>Water body</i> subject to a water conservation order.</li> </ul>	Coastal marine area
		5 metres	10 metres	30 metres				
<ul style="list-style-type: none"> <li>• <i>Perennial river</i> with a <i>bankfull channel width</i> of less than 3m; or</li> <li>• <i>Wetland</i> larger than 0.25ha.</li> </ul>	<ul style="list-style-type: none"> <li>• <i>Perennial river</i> with a <i>bankfull channel width</i> of 3m or more; or</li> <li>• Lake larger than 0.25ha; or</li> <li>• <i>Outstanding freshwater body</i>; or</li> <li>• <i>Water body</i> subject to a water conservation order.</li> </ul>	Coastal marine area						
<p><i>Replanting</i> must not occur in any area closer than the <i>stump line</i> to an adjacent:</p> <ul style="list-style-type: none"> <li>• <i>Perennial river</i>; or</li> <li>• <i>Wetland</i>; or</li> <li>• Lake; or</li> <li>• Coastal marine area; or</li> <li>• <i>Significant natural area</i>.</li> </ul>								
<a href="#">Wilding tree risk and control (Regulation 79)</a>	<p><u>Calculator</u></p> <p>The <i>Wilding Tree Risk Calculator</i> score must be completed when the <i>replanting</i> is a <i>conifer species</i> which is different from the tree species most recently harvested. <i>Replanting</i> of a different <i>conifer species</i> must not be carried out in an area with a score of 12 or more and if the score is higher than the score of the tree last harvested.</p> <p>The calculation must be completed in accordance with the wilding tree risk guidelines by a <i>suitably competent person</i> no more than 6 months before <i>replanting</i> is carried out. A copy of the <i>Wilding Tree Risk Calculator</i> calculation sheet and score must be given to the relevant council upon request.</p> <p><u>Control measures</u></p> <p><i>Wilding conifers</i> established in <i>wetlands</i> and <i>significant natural areas</i> must be eradicated:</p> <ul style="list-style-type: none"> <li>• Before <i>replanting</i> begins, if the <i>wilding conifer</i> has resulted from the previous harvest</li> <li>• At least every 5 years after <i>replanting</i>, if the <i>wilding conifer</i> has resulted from the <i>replanting</i>.</li> </ul>							

#### 1.1.4 Determining whether a resource consent is required

The flow chart in Figure 1 summarises the process to determine whether *replanting* is a permitted activity or requires resource consent, the activity status if resource consent is



required, and whether consent is required from the regional council and/or territorial authority. *Replanting* is also required to comply with ancillary activity regulations (Part 2, subpart 9) and the general provisions (Part 2, subpart 10) as relevant to be a permitted activity.

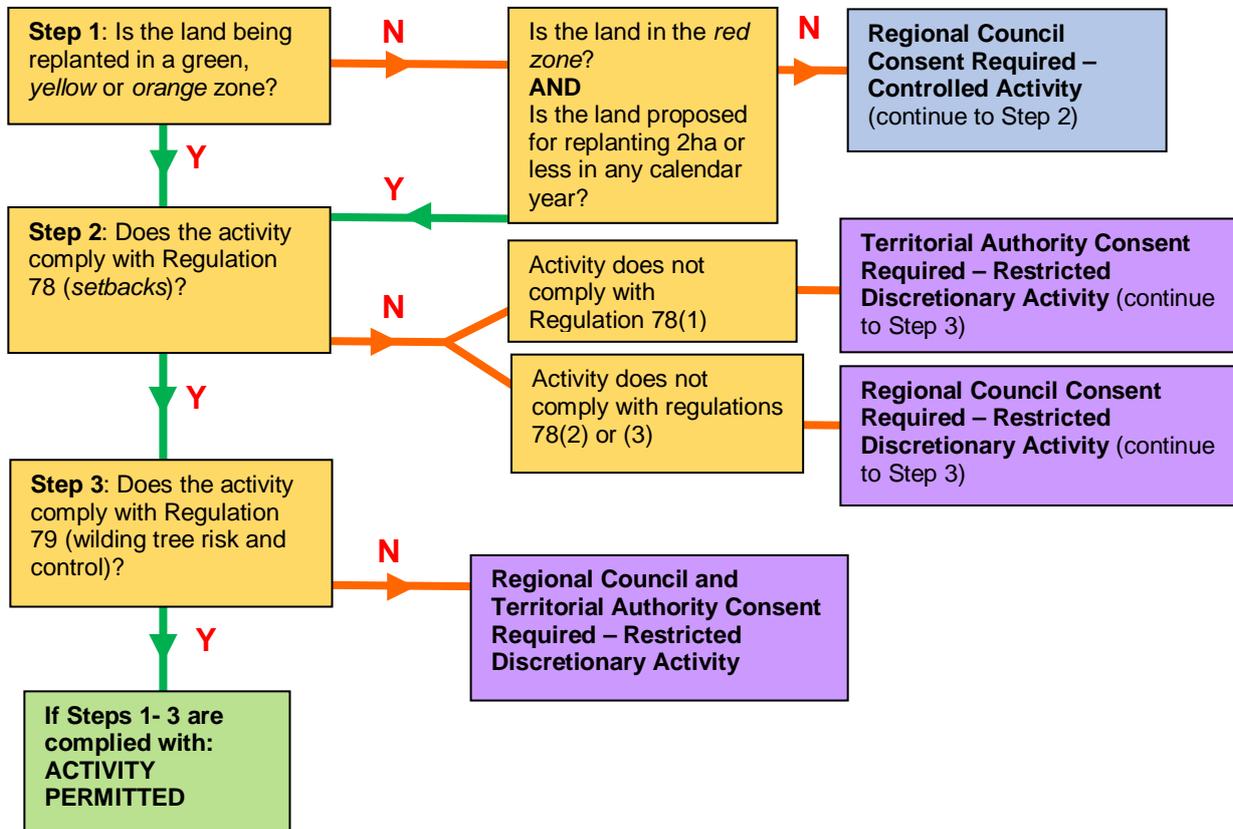


Figure 1: Flow chart to determine when resource consent is required for replanting.

### 1.1.5 Regulation 78 – Setbacks and stump line

The regional council *setbacks* from different types of *water bodies*, *significant natural areas* and the coastal marine area in Regulation 78(2) are consistent with other regional *setback* regulations in the NES-PF. Section 4.3.1 of the [NES-PF User Guide](#) provides general guidance on the regional council *setbacks* in the NES-PF.

Regulations 78(1) and 78(3) are *setbacks* which only apply in relation to *replanting*. These regulations require that *replanting* must not occur closer than the *stump line* to an adjacent *water body*, coastal marine area, or to a *significant natural area* (which is a *setback* in relation to regional council and territorial authority functions).

The NES-PF defines *stump line* as:

*‘points measured from the centre of the outer stumps of the plantation forestry trees previously harvested’*

The purpose of this requirement is to ensure the *replanting* remains within the same boundaries. If it was to extend beyond the *stump line* then planting in the new area would technically be *afforestation*. This also helps ensure that *setbacks* that have been established as a result of plan rules, consent conditions, or by voluntary means are maintained under the NES-PF.



The location of the *stump line* of the previous harvest should generally be easily identified through a visual assessment of the area at the time of *replanting*.

### 1.1.6 Regulation 79 – Wilding tree risk and control

#### Wilding Tree Risk Calculator

The *Wilding Tree Risk Calculator* is discussed generally in section 2.5.2 of the [NES-PF User Guide](#), and section 5.1.5.2 of the [NES-PF User Guide](#) provides guidance on completing the calculator for *afforestation* which is also applicable to *replanting*. Specific guidance on the calculator can be found on the *Wilding Tree Risk Calculator* webpage<sup>1</sup>.

The *Wilding Tree Risk Calculator* score only needs to be completed for *replanting* if the trees being replanted are:

1. A *conifer species*
2. A different *species* from the trees most recently harvested on the land.

Regulation 79 recognises it is possible that a change of *conifer species* (or a change from non-conifer to a *conifer species*) could result in an increase in the scale and intensity of adverse effects associated with *wilding conifer* spread. It is therefore not appropriate to assume that existing use rights under section 10 and 20A of the RMA<sup>2</sup> will always apply for *replanting* when this involves a different species than was last harvested. Refer to section 2 of the [NES-PF Consenting and Compliance Guide](#) for more detailed guidance on existing use rights under the NES-PF.

Regulations 79(3) and (4) address situations where a different conifer species has a *Wilding Tree Risk Calculator* score of 12 or more:

- Regulation 79(3) states that *replanting* must not be carried out in an area with a calculator score of 12 or more (if replanting in a different *conifer species*), which is consistent with the permitted activity conditions for *afforestation*; and
- Regulation 79(4) states that this condition does not apply when the tree most recently harvested has the same or higher score than the species proposed to be replanted (i.e. the new species must have a higher score for Regulation 79(3) to apply).

This means that resource consent is only required when the **risk of wilding conifer spread increases** as a result of the new species. *Replanting* a *conifer species* with a calculator score of more than 12 may therefore still be a permitted activity, if the trees most recently harvested also had the same or higher *Wilding Tree Risk Calculator* score.

#### Control measures

Regulation 79(6) states:

*Wilding conifers established in wetlands and significant natural areas must be eradicated—*

*(a) before replanting begins, if the wilding conifer has resulted from the previous harvest*

*(b) at least every 5 years after replanting, if the wilding conifer has resulted from the replanting.*

The purpose of this condition is to control the spread of *wilding conifers* into sensitive and valued receiving environments. *Wilding conifer* is defined in Regulation 3 as ‘*self-established*

<sup>1</sup> Refer: <https://www.mpi.govt.nz/growing-and-harvesting/forestry/national-environmental-standards-for-plantation-forestry/wilding-tree-risk-calculator/>

<sup>2</sup> These sections of the RMA allow lawfully established activities to continue (for a certain period of time) provided the effects of the use are the same or similar in character, intensity, and scale to those which existed before the NES took legal effect.



*conifer species tree resulting from seed spread from plantation forestry, shelter belts, amenity planting, or an already established wilding conifer species tree population’.*

*Wilding conifer* control is only required for *wilding conifers* that result from that previous harvest or the *replanting* activity – foresters are not required to address historical wilding issues that are not related to their *plantation forest*. The reference to all *wilding conifers* being ‘eradicated’ is to ensure the *wilding conifer* is killed and unable to result in further wilding spread. This may be achieved through a range of means (e.g. poisoning, felling). It does not necessarily require the *wilding conifer* to be physically removed from the *wetland* or *significant natural area*. Killing the *wilding conifer* but leaving it in situ may be a preferable technique for both environmental and cost reasons.

Although not stated in Regulation 79(6), *wilding conifer* control is limited to *wilding conifers* on the same property or adjacent properties under the same ownership or management, consistent with Regulation 11(5). The NES-PF cannot require foresters to implement control measures on land in different ownership or management. It also only applies to the property and adjacent properties to where the *replanting* activity is occurring – larger *plantation forests* may comprise of multiple property titles and some of these properties may be some distance away from the *replanting* activity and at different stages of the forestry lifecycle.

### 1.1.7 Controlled activity – Replanting in *red zone*

Regulation 80 requires a controlled activity resource consent when *replanting* is proposed on more than 2ha of *red zone* land (provided regulations 78(2) and (3) and 79 are complied with). A consent requirement for *replanting* on *red zone* land recognises that it is an existing *plantation forest* but, due to the steep and erodible terrain, it may not be appropriate to replant in exactly the same locations as before, or a different species may be better suited to the land slope and soil type. A controlled activity status provides operational certainty to foresters that the land can be replanted as resource consent for controlled activities must be granted.

Regulation 80(2) reserves regional council control to the “*timing, location and species*”. This provides the regional council with a level of regulatory oversight and control over the timing of the *replanting* and the location and species being planted to ensure that this does not increase the risk of erosion and sedimentation effects. While the matters over which control has been reserved to do not specifically state that they relate to erosion and sedimentation effects, this is the purpose of requiring resource consent for *replanting* on very high-risk erosion prone land.

When granting a controlled activity consent, the consent conditions need to be reasonable. A condition that has the effect of frustrating or negating the grant of consent is unacceptable, as established through case law<sup>3</sup>. For example, a condition could not be imposed on *replanting* on *red zone* land that would prevent *replanting* on all land over a certain slope angle that covered most of the area sought to be replanted as it would effectively prevent the consent from being exercised.

---

<sup>3</sup> *Residential Management Ltd v Papatoetoe City* A062/86 (PT). See also *Taranaki RC v Willan* EnvC W150/96 and *Ravensdown Growing Media Ltd v Southland RC* EnvC C194/00