



OIA 13-380

23 MAY 2014

### OFFICIAL INFORMATION ACT REQUEST

I refer to your Official Information Act (OIA) request of 28 March regarding the Ministry for Primary Industries (MPI) investigation into the export of indigenous timber. You provided the Ministry with further clarification of your request on 7 April and the Ministry subsequently sought an extension to your request on 17 April.

You have requested the following information referred to in the Ministry's OIA response to dated the 6 July 2012:

1. copies of documents, emails, diary notes, investigator notes, affidavits and other information relating to the "general investigation" – including draft and final reports of the investigation – into indigenous timber;
2. copies of any communications between MPI and external bodies and MPs in relation to the investigation into indigenous timber;
3. any progress reports, reports relating to the "interventions" described in the OIA response; and
4. any reports or scheduling programmes setting out the "closer monitoring" of swamp kauri sawmilling and export participants.

The following information is released to you under the Official Information Act 1982 subject to redactions:

- emails organising a meeting with Marsden Point Port Stevedores;
- meeting minutes between AsureQuality and MPI;
- summary of a meeting with NZ Customs;
- training manual for AsureQuality Forestry Officers; and
- MPI AsureQuality training module presentation.

Information has been redacted from the above documents on the following grounds:

- section 9(2)(a) to protect the privacy of natural persons.

Information relating to the investigation has been withheld under:

- section 9(2)(a) to protect the privacy of natural persons;
- section 9(2)(ba)(i) where information has been provided subject to an obligation of confidence;
- section 6(c) where the release of information is prejudicial to the maintenance of the law including the prevention, investigation, and detection of offences, and the right to a fair trial;
- section 9(2)(g)(i) free and frank expression of opinion; and
- section 9(2)(h) information is subject to legal professional privilege.

You have the right under section 28(3) of the Official Information Act to seek an investigation and review by the Ombudsman of our decision to withhold information / refuse your request. A request must be made in writing to:

The Ombudsman  
Office of the Ombudsmen  
PO Box 10 152  
WELLINGTON

I trust that this information is helpful to you.

Yours sincerely



Aoife Martin  
Director Spatial, Forestry & Land Management

**RE: I'm inducted into the port**

**To:**

**Date:** 14/03/2013 3:17:42 p.m.

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Done. Will be keen to speak to evening shift of stevedores (1830hrs approx start) and morning shift (0600 ish). Might stay the night up there to do that. I have already indicated to the stevedore manager that this will happen sometime in coming weeks. It would be great if you could come (but not compulsory). Are you keen on something like that? Not urgent so could fit in with your schedule.

Cheers

---

**From:**

**Sent:** Thursday, 14 March 2013 9:44 a.m.

**Subject:** I'm inducted into the port

You can do it yourself, go to;

<http://www.northport.co.nz/portinduction/welcome>

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OFFICIAL INFORMATION ACT

9(2)(e)

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**From:**  
**Sent:** Tuesday, 2 April 2013 3:04 p.m.  
**To:**  
**Subject:** Re: stevedores

Yep how long were u thinking at night ?

Sent from my iPhone

On 2/04/2013, at 2:38 PM,

>wrote:

Hi-

How would next Tuesday evening (9<sup>th</sup> approx 7pm)/ Wednesday morning (10<sup>th</sup> approx 630 am) fit with a visit to Northport to speak with stevedores?

If not, then how about the next Tues night, a week later?

(Haven't organised anything with stevedores as yet).

Cheers

[www.mpi.govt.nz](http://www.mpi.govt.nz)

7(2)(c)



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**Sent:** Thursday, 14 March 2013 3:36 p.m.  
**To:**  
**Subject:** RE: I'm inducted into the port

I'm free tomorrow, Tuesday Wednesday next week and I think the following week also

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**Sent:** Thursday, 14 March 2013 3:18 p.m.

**Subject:** RE: I'm inducted into the port

Done. Will be keen to speak to evening shift of stevedores (1830hrs approx start) and morning shift (0600 ish). Might stay the night up there to do that. I have already indicated to the stevedore manager that this will happen sometime in coming weeks. It would be great if you could come (but not compulsory). Are you keen on something like that? Not urgent so could fit in with your schedule.

Cheers

---

**Sent:** Thursday, 14 March 2013 9:44 a.m.

**Subject:** I'm inducted into the port

You can do it yourself, go to:  
<http://www.northport.co.nz/portinduction/welcome>

9 (2) (a)

**From:**  
**Sent:** Wednesday, 18 January 2012 1:10 p.m.  
**To:**  
**Cc:**  
**Subject:** RE: Meeting with NZ Customs Service

Cheers

**From:**  
**Sent:** Wednesday, 18 January 2012 9:27 a.m.  
**To:**  
**Cc:**  
**Subject:** FW: Meeting with NZ Customs Service

Hi  
Summary of our meeting last week with customs.

**Present;**

**Items of discussion;**

- Complaint by Northland Protection Society to Customs on export of swamp kauri
- Forests Act allows export of any indigenous finished products, and sawn or whole stumps from swamp kauri sourced from non-indigenous forest land. It is exceedingly difficult to determine if timber is from a stump or a log for lengths under 3m.
- Overseas demand for swamp kauri is such that we are likely to see increasing demand to export, both within and outside the law.
- Undeclared Export risk.

**Ideas were discussed on possible methods of auditing exports to determine compliance**

- The Customs computerised Export system relies on the exporter/customs agent correctly declaring the export items and approval numbers obtained through the MFM3 process. Exporters must apply for customs clearance at least 5 days prior to the shipping date.

36(c)

36(c)

a

36(c)

Regards

[ Senior Programmes Adviser  
Forest and Land Operations |  
Ministry of Agriculture and Forestry | T

Web: [www.maf.govt.nz](http://www.maf.govt.nz)

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OFFICIAL INFORMATION ACT

## AsureQuality / MAF Meeting Minutes

11 November 2011.

Present:  
MAF

AsureQuality Ltd

- Introductions
- MAF is going through another restructure. The MAF group administering the Forests Act had changed from the Indigenous Forestry Unit (IFU) to Sustainable Programmes in 2008 which has a regionalised North Island/South Island Structure. In the current restructure Forestry Officers will be in the 'Forest and Land Operations Directorate' from 28 November 2011.
- Increasing interest in swamp kauri in North land due to Chinese demand, current activity largely on excavation and milling, but ultimately the intention seems to be to export the timber. This means that MAF and AsureQuality will probably be presented with a greater quantity of marginal cases of stumps / finished products intended for export.
- Over the last two years there has been more diversification of kauri harvesters/ exporters. Also a change with bigger export shipments resulting in containerisation of exports – previously, exports had been mainly palletised. The number of shipments has not increased noticeable to date.
- AsureQuality Processes.
  - AsureQuality receive MFM3, sent to Karin in Mount Maunganui. The MFM3 is assigned a number and flagged for inspection by an AQ Forestry Field Officer.
  - Shipment is inspected before loaded in container. If already loaded in container it is required to be unloaded so it can be inspected properly.
  - AsureQuality return to supervise the loading into the container and seal the container. This seal is then recorded on the phyto cert (if one is required). If a Phyto cert is not required then the seal is not recorded on any official document. Containerisation has given more opportunities for exporters to substitute the inspected shipment with prohibited items.
  - Currently process done via faxing. MAF has no objection to emailing scans of MFM3's providing the scan is of good quality with the exporter's signature clearly visible.
  - MFM3's to continue to be sent to Rotorua and Christchurch.
- AsureQuality previous training
  - attended annual AQ to give discussion on Forests Act.

- MAF resources received to date by AQ Service agreement, flow diagram, and fax of stump determination.
  - Suggested more regular training workshops, not just a PowerPoint of Act but photos of what can/can't be exported, and explanations.
  - Joint MAF/AQ inspections on a regular basis.
- Description on MFM3's is insufficient for;
  - MAF to determine whether its potentially from a stump, and
  - For AQ to reconcile export items with description on MFM3.
  - Recommend MAF requires improved descriptions of exports with dimensions stated.
- Identifying sawn stump timber is exceedingly difficult; some stump lengths can exceed 4m. Some 'stump' flitches being presented for export have straight grain arising suspicion of not being from a stump. AQ need clear direction on action to take in instances such as these.
- MAF/AQ
  - Operational Instruction #11 –AQ Forestry Officers to be accompanied by a fully qualified MAF Forestry Officer.
  - MAF FO to accompany (Unwarranted) during their next inspections.
  - Joint MAF/AQ inspections to occur regularly as the need arises on both wharf and sawmill. So both organisations get to understand the full process and present a united front.
- AQ Forestry Field Staff get together once a year in NI/SI groups. This is the best opportunity for joint refresher training.
- MAF to look at drafting a Standard Operating Procedure for Forests Act Exports. Will consult with AQ in drafting of SOP. If there is a demand for it possibly also Aide Memoir card.
- Undeclared Export Risk
  - Indigenous timber is supposed to be automatically flagged by customs who will then demand an approved MFM3.
  - If an indigenous timber was falsely asserted as exotic and exported to countries that require Phytosanitary, the shipment would be picked up by AQ who would identify the timber as indigenous during the Phyto process. However; if the shipment went via Japan or South Korea which don't require Phyto's there would be no inspection undertaken.
  - If Indigenous timber was falsely asserted as pine, containerised and didn't require a Phyto, AQ wouldn't know it was there.

## ACTION ITEMS

- AQ of the appointment of Director for Forest and Land Operations Directorate.
- to organise initial refresher Forestry Officer export training for North Island QA/MAF staff, with focus on swamp kauri.
- to undertake joint inspection that includes the swamp kauri stockpile of stumps/flitches at Kumeu Kilns and reach consensus on what items can/can't be exported.

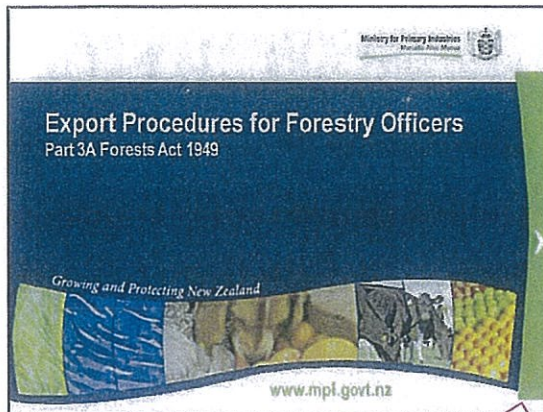


- copy monthly summaries of indigenous timber exports

3, in addition

- MAF to draft a Standard Operating Procedure in indigenous timber exports.
- MAF Land & Forest Operations staff to develop/maintain more regular contact with AQ staff in regard to indigenous forest products export.

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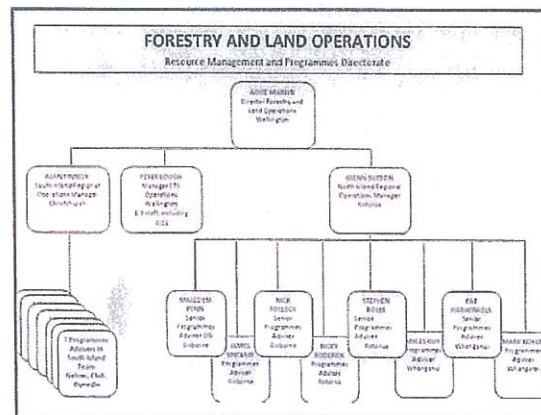


## Coverage

1. Introduction
2. Relevant Legislation
  - 2.1 Definitions
  - 2.2 Export Controls Of Indigenous Timber
  - 2.3 Appointment Of A Forestry Officer
  - 2.4 Powers Of A Forestry Officer
3. Export Procedures
  - 3.1 MFIM3 Approvals
  - 3.2 Finished/Manufactured Timber Products

## MPI Forestry and Land Operations

- Administers the Government Forestry Programmes including;
  - Indigenous Forestry (Forests Act)
    - Export Restrictions
    - Administers sawmills registered to mill Indigenous Timber
    - Issues approvals (SFM Plans, Permits, Milling Statements)
  - Permanent Forest Sinks Initiative
  - Forestry Provisions of the Emissions Trading Scheme
- Has Forestry Officers located in Whangarei, Rotorua, Gisborne, Whanganui, Nelson, Christchurch and Dunedin.



### FORESTS ACT 1949 Part 3A

- MPI Forestry and Land Directorate administers the Forests Act 1949.
- The purpose of Part 3A is:
- "...to promote the sustainable forest management of indigenous forest land" in New Zealand.

### Purpose of Export Restrictions

The export of Indigenous timber is restricted by the Section 67C Forests Act 1949.

The export of indigenous timber has historically been highly controversial. Indigenous timber is regarded as heritage material that should not be exported in low-value added form. The Government considers that indigenous timber production should be a low-volume, high-value business, with an emphasis on domestic use but an opportunity for exporting finished products of high value. (Export Restriction Forestry Amendment Bill (2004) Hon David Swain, on behalf of Hon Peter Hetherington, Minister in charge of the bill)

### 67C Export Controls

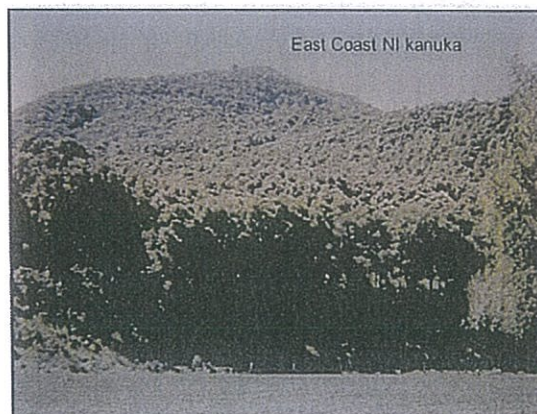
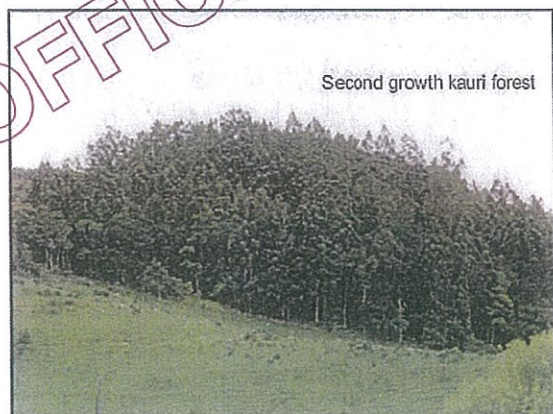
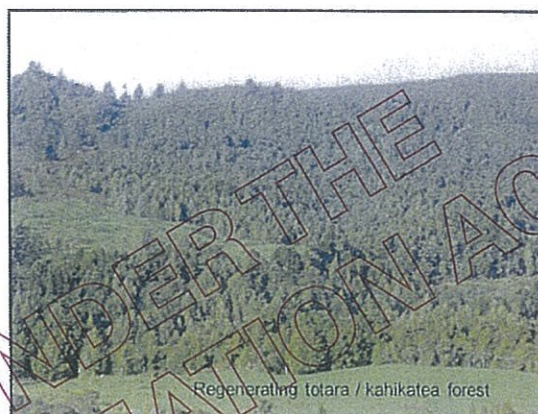
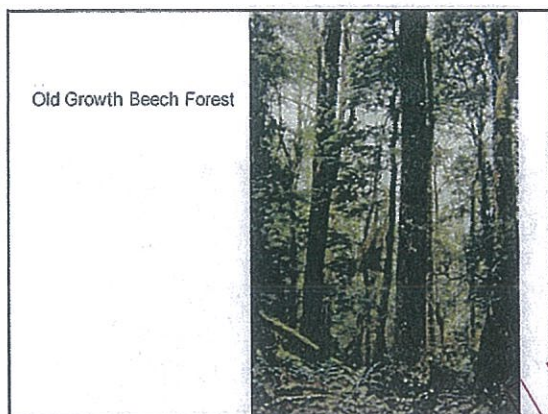
- General prohibition on the export of indigenous forest produce except for the following items:
- Sawn rimu or sawn beech (maximum cross-sectional dimension of 30 000 square millimetres) sourced from a forest managed under an SFM Plan or SFM Permit;
- Any finished or manufactured indigenous timber product regardless of the source of the timber;
- Any personal effects;
- Any stump or root (whole or sawn) from a forest managed under an SFM Plan or SFM Permit.

### 67C Export Controls (Continued)

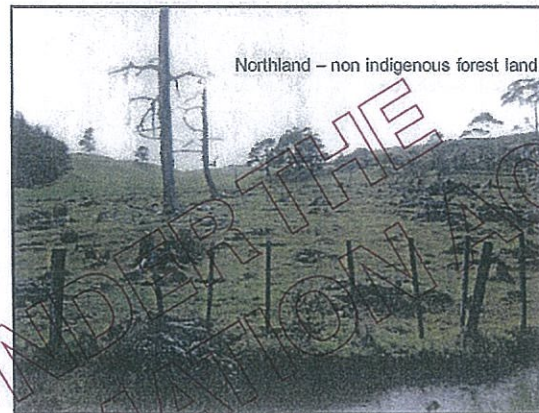
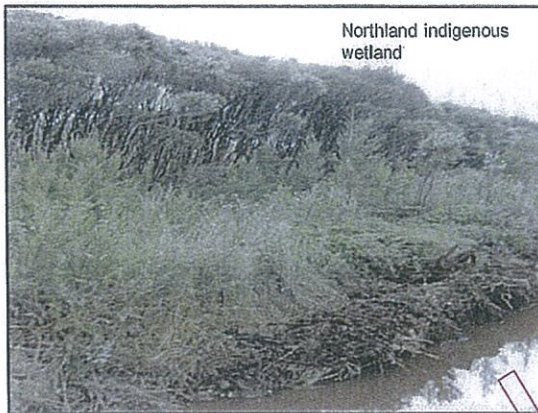
- Any salvaged stump or salvaged root from an area that is not indigenous forest land;
- Any tree fern trunk / part of a tree fern trunk / fibres from a tree fern trunk from a sustainable forest source or where the land is not indigenous forest land;
- Timber from a planted indigenous forest;
- Timber from a forest subject to a forest sink covenant (PFSI).



14/05/2014



14/05/2014



**Coverage contd.**

- Appendix 1: Illustration of a Stump
- Appendix 2: Guidance Note On Interpretation Of Finished Or Manufactured Indigenous Timber Products Proposed For Export
- Appendix 3: Examples Of Finished/Manufactured Indigenous Timber Products Approved for Export
- Appendix 4: Examples Of Indigenous Timber Products Not Approved for Export
- Appendix 5: APPENDIX 8: Clause 3 and Schedule 1 of the MPI/AsureQuality Service Agreement





## Export Manual – Forestry Officers

### 1. Introduction

#### 1.1 Who for?

#### 1.2 AsureQuality – MPI Service Contract

### 2. Relevant Legislation

#### 2.1 Part 3A Forests Act:

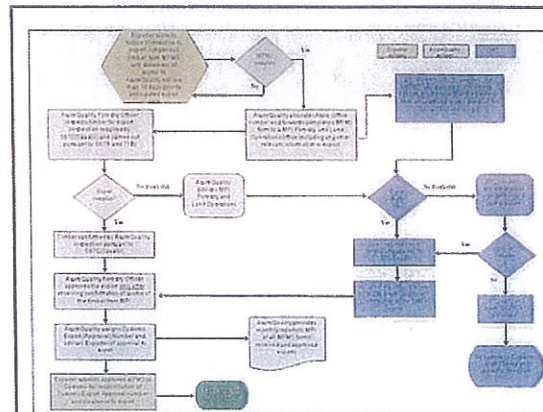
##### 2.1.1 Definitions

##### 2.1.2 Section 67C – Export Controls – Indigenous Timber



## Export Approval Process AsureQuality

- AsureQuality receives MFM3's
- AsureQuality Forestry Officer Inspects – If compliance doubtful photograph and contact MAF Forestry Officer
- MAF confirms source of timber and can provide advise on what does/ does not comply.
- AsureQuality approves export and notifies Exporter



14/05/2014

**Current MFM3**

**Notice of Intention to Export**

**Source** →

**MPI Sign-off** →

**NOTICE OF INTENTION TO EXPORT - FORM 3025**

**EXPORTER'S DECLARATION**

I, the undersigned, being duly qualified to export goods, hereby declare that the goods described in the accompanying documents are of the kind and quantity stated, and are not prohibited or restricted for export.

**IMPORTER'S DECLARATION**

I, the undersigned, being duly qualified to import goods, hereby declare that the goods described in the accompanying documents are of the kind and quantity stated, and are not prohibited or restricted for import.

**DECLARATION OF EXPORTER'S QUALITY**

I, the undersigned, being duly qualified to export goods, hereby declare that the goods described in the accompanying documents are of the kind and quantity stated, and are not prohibited or restricted for export.

**DECLARATION OF IMPORTER'S QUALITY**

I, the undersigned, being duly qualified to import goods, hereby declare that the goods described in the accompanying documents are of the kind and quantity stated, and are not prohibited or restricted for import.

**MPIE1?**

**NOTICE OF INTENTION TO EXPORT - FORM 3025**

**MPI Confirmation Of Source**

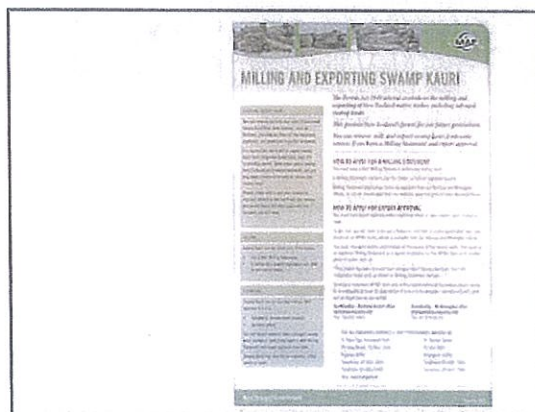
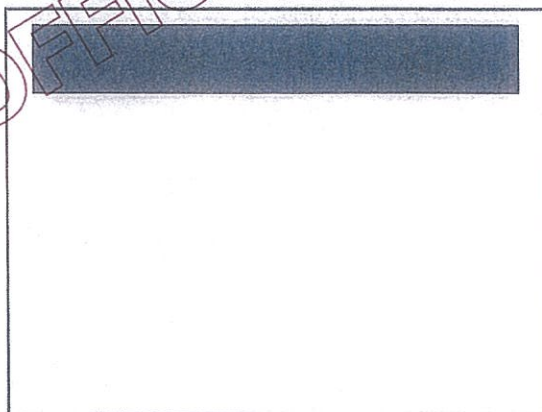
**Assurance Approval**

**DECLARATION OF EXPORTER'S QUALITY**

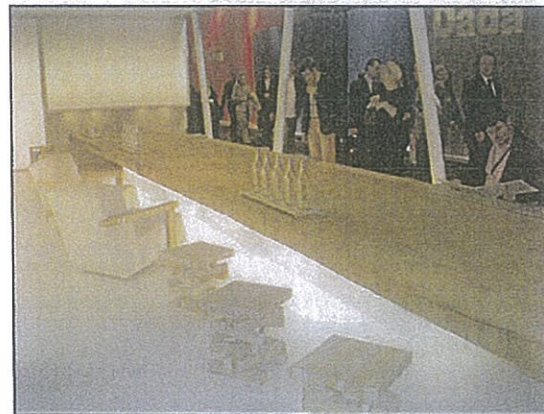
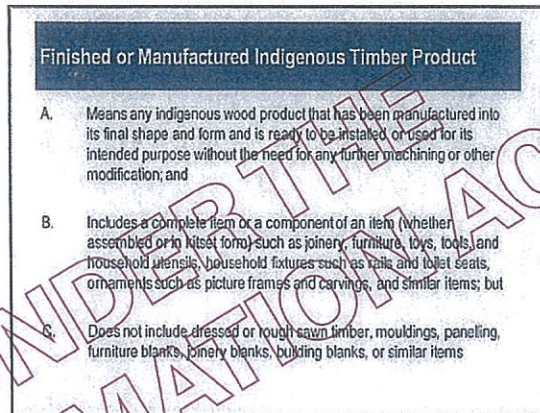
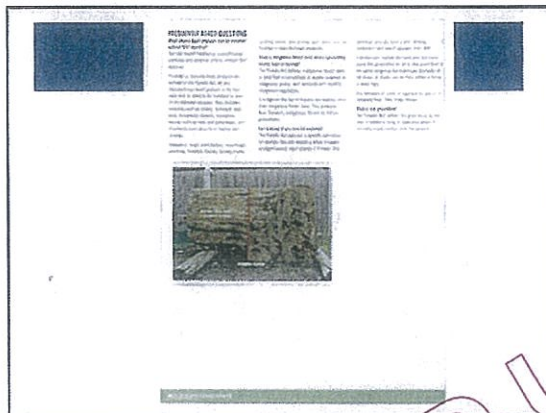
I, the undersigned, being duly qualified to export goods, hereby declare that the goods described in the accompanying documents are of the kind and quantity stated, and are not prohibited or restricted for export.

**DECLARATION OF IMPORTER'S QUALITY**

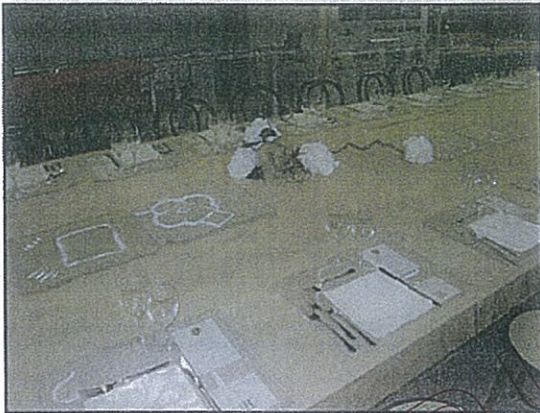
I, the undersigned, being duly qualified to import goods, hereby declare that the goods described in the accompanying documents are of the kind and quantity stated, and are not prohibited or restricted for import.





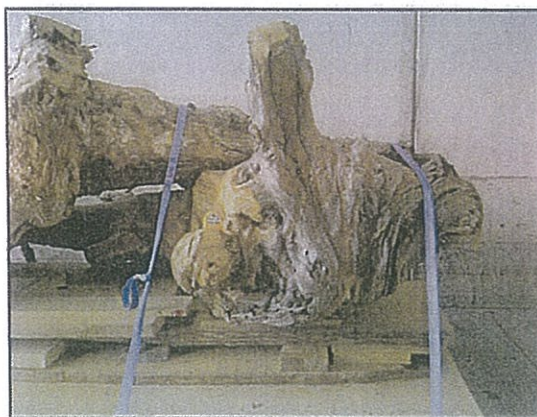


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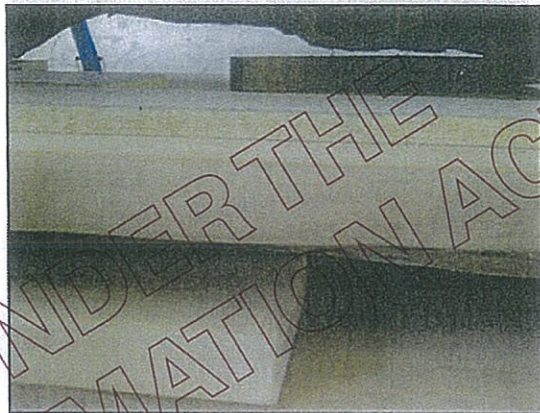


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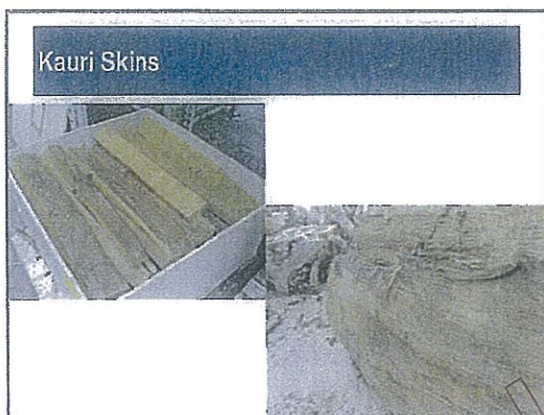




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**MPI Export Contacts**

• Whangarei Office,	Mark Hollis	09 430 7850
• Rotorua Office,	Stephen Rolls	07 921 3412
•	Nicky Rodenick	07 921 3401
•	Glenn Suttie	07 921 3401
• Christchurch Office,	Angelia Lo	
•	Alan Tinne	



A photograph of a large, light-colored industrial building with a dark roof. A yellow measuring tape is visible in the foreground, indicating the size of the building. The background is slightly blurred, showing more of the building and some trees.

C

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MPI Forestry and Land Operations Directorate  
North Island -Telephone: 07 921 3400  
Facsimile: 07 921 3402  
South Island -Telephone : 03 943 3700  
Facsimile: 03 943 3701

Ministry for Primary Industries  
Manatū Ahu Matua



# INDIGENOUS TIMBER and TIMBER PRODUCTS

## EXPORT PROCEDURES MANUAL

for

FORESTRY OFFICERS

MPI and ASUREQUALITY

ADMINISTRATION OF EXPORT CONTROLS PURSUANT TO  
SECTION 67C, Part 3A OF THE FORESTS ACT 1949

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## 1. INTRODUCTION

This manual has been prepared for AsureQuality and MPI Forestry Officers involved in the inspections and approvals of indigenous timber products intended for export. It provides operational procedures and references to the relevant provisions, particularly section 67C, Part 3A of the Forests Act 1949 ( "Forests Act").

It is to be read in conjunction with the Service Contract between AsureQuality New Zealand Limited and the Ministry of Agriculture and Forestry, particularly Clause 3. Services and Schedule 1 (refer Appendix 5).

## 2. RELEVANT LEGISLATION

### 2.1 DEFINITIONS

The following definitions are from section 2 Interpretation of the Forests Act 1949:

**Groundline** in relation to any living or dead tree, means the point at the base of the tree where the tree, when standing, commenced or commences to be naturally in contact with the ground

**Finished or manufactured indigenous timber product—**

- (a) Means any indigenous wood product that has been manufactured into its final shape and form and is ready to be installed or used for its intended purpose without the need for any further machining or other modification; and
- (b) Includes a complete item or a component of an item (whether assembled or in kitset form) such as joinery, furniture, toys, tools, and household utensils, household fixtures such as rails and toilet seats, ornaments such as picture frames and carvings, and similar items; but
- (c) Does not include dressed or rough sawn timber, mouldings, panelling, furniture blanks, joinery blanks, building blanks, or similar items

**Forest produce or forest product** includes trees and other plants and the produce of trees and other plants, and also includes earth, rock, sand, shingle, and minerals when found in or removed from any ... forest land or any other land for the time being administered by the Minister

**Forestry Officer** means—

- (a) The chief executive of the Ministry;
- (b) Any person appointed as a Forestry Officer under section 11

**Indigenous**, in relation to a species of flora or fauna, means a species that occurs naturally in New Zealand or arrived in New Zealand without human assistance

**Planted indigenous forest** means any indigenous timber trees or tree ferns that have been planted on land that was not indigenous forest land immediately before such planting and was not indigenous forest land immediately before the land was prepared for such planting

**Salvaged timber means—**

- (a) Timber from trees that have fallen naturally;
  - (b) Timber from trees that were felled to waste before the 3rd day of July 1989;
  - (c) Stumps remaining from any timber felled before that date;
  - (d) Roots remaining from any timber felled before that date;—
- and **salvaged stump** and **salvaged root** have corresponding meanings

**Secretary** means the chief executive of the Ministry of Agriculture and Forestry or any person delegated by him or her

**Stump** means the basal part of a living or dead tree (whether rooted or uprooted), being the roots and that part of the trunk that extends from the groundline to a point (up the trunk) equal to the maximum diameter of the trunk; and, for the purposes of this definition, any remnant of a tree shall be regarded as part of a complete tree (See Diagram in Appendix 1)

**Timber—**

- (a) means—
  - (i) trees (excluding cuttings, suckers, and shoots); and
  - (ii) woody plants able to be milled; and
- (b) includes branches, roots, and stumps of trees and other woody plants able to be milled, logs, woodchips, wood products, veneer, tree ferns, and tree fern fibre

**Tree fern** means all species of the families Cyatheaceae and Dicksoniaceae

**Trees** includes not only timber trees, but also all other kinds of trees, shrubs, and bushes, seedlings, saplings, cuttings, suckers, and shoots of every description

**Warrant of Authority** means designation under the Forests Act 1949 providing Forestry officer status. The warrant must be carried at all times of duty. This is in the form of a warrant of authority card (or warrant of letter) signed by the Director, Forestry and Land Operations

**Vessel** has the same meaning as in section 2 of the Harbours Act 1950



## 2.2 EXPORT CONTROLS OF INDIGENOUS TIMBER

Section 67C of the Act sets out the provisions relating to the export of indigenous timber as follows:

### **67C - Prohibition on export of certain indigenous forest produce**

(1) No person shall export from New Zealand indigenous timber, except the following:

- (a) Any grade of sawn beech or sawn rimu (other than wood chips), where the Secretary has stated in writing that he or she is satisfied that the timber has been taken from an area subject to, and managed in accordance with, a registered sustainable forest management plan or registered sustainable forest management permit;
- (b) Any finished or manufactured indigenous timber product, regardless of the source of the timber used in the product;
- (c) Any personal effects;
- (d) Any stump or root, whether whole or sawn, where the Secretary has stated in writing that he or she is satisfied that the timber has been taken from an area subject to, and managed in accordance with, a registered sustainable forest management plan;
- (e) Any salvaged stump or salvaged root, whether whole or sawn, where the Secretary has stated in writing that he or she is satisfied that the timber has been taken from an area that is not indigenous forest land;
- (f) Any tree fern trunk or part of a tree fern trunk, or fibres from a tree fern trunk,
  - (i) Where the Secretary has stated in writing that he or she is satisfied that the timber has been taken from an area subject to, and managed in accordance with, a registered sustainable forest management plan; or
  - (ii) From indigenous forest land, where the Secretary has, subject to subsection (2) of this section, given his or her prior written approval to the removal of that timber; or
  - (iii) Where the Secretary has stated in writing that he or she is satisfied that that timber is from land that is not indigenous forest land.
- (g) any indigenous timber—
  - (i) from a planted indigenous forest, if that timber is, or is from, a shrub, bush, seedling, or sapling; or
  - (ii) other than indigenous timber to which subparagraph (i) applies, if the Secretary has stated in writing that he or she is satisfied that the timber has been harvested from a planted indigenous forest; or
  - (iii) harvested from a forest subject to a forest sink covenant established in accordance with Part 3B.

(2) Before giving approval under subsection (1)(f)(ii) of this section, the Secretary must be satisfied that the area concerned can continue to supply an annual or periodic non-diminishing yield of tree fern trunks in perpetuity.



- (3) *No indigenous timber (other than personal effects and any finished or manufactured indigenous timber products) may be exported from New Zealand—*
- (a) *unless—*
- (i) *a notice of intention to export has been given to the Secretary in a form approved by the Secretary; and*
  - (ii) *the notice of intention includes or is accompanied by a statement of the source of the timber; and*
  - (iii) *the timber has been presented to a Forestry Officer for inspection and he or she has inspected and approved it; and*
- (b) *until the expiry of a period (if any) specified for the purposes of this paragraph in the notice of intention.*

67C subsection (1) specifies that no indigenous timber may be exported from New Zealand unless it fits within the criteria of one of the exceptions listed in subsection (1).

Subsection (3) further stipulates that no indigenous timber other than personal effects or finished/manufactured products may be exported without a prior notice of intention to export. The notice of intention to export must include a declaration of the source of the timber.

The notice of intention to export form is currently the form entitled "MFM3". The requirement for the Secretary to state in writing that the timber has come from an approved source has been delegated to Programmes Advisors within MPI's Forestry and Land Operations Directorate. The Programmes Advisors are warranted Forestry Officers.

The approval of a MPI Forestry Officer on the MFM3 form as "Source Confirmed" shall be deemed notice in writing from the Secretary that the timber is taken from an approved source.

Note also under subsection (3) that any/all indigenous timber product(s) must be inspected by a Forestry Officer before being able to be approved for export.

## **2.3 APPOINTMENT OF A FORESTRY OFFICER**

Section 11 of the Act provides for the appointment of Forestry Officers. The Minister and his delegated representative may appoint as a Forestry Officer for the purposes of the Act, any person appointed under the State Sector Act 1988 or employed in a State enterprise and may prescribe the functions and powers of a person so appointed. As such, certain employees of AsureQuality are appointed as Forestry Officers and provided with sufficient powers to carry out their functions specifically under Section 67C of the Act.

Forestry Officers are responsible for inspecting and approving the export of indigenous timber. That responsibility cannot be met by anyone who is not an appointed Forestry Officer.



Forestry Officers will be provided with a warrant of authority identifying them and providing evidence of appointment. There is a requirement for the warrant of authority to be presented during inspections.

The roles of MPI and AsureQuality Forestry Officers (AQFO) differ, as follows:

- MPI Forestry Officers are responsible for assessing a MFM3 and confirming or otherwise, the source of the timber under Part 3A of the Act.
- AsureQuality Forestry Officers are responsible for receipt of a MFM3, inspection of the indigenous timber intended for export and approval to export.

## **2.4 POWERS OF A FORESTRY OFFICER**

The legal authority to carry out the functions in relation to Section 67C of the Act is derived from the powers conferred on a Forestry Officer by Section 67R of the Act and qualified by Section 71B as follows.

### **67R - Powers of entry and seizure**

*For the purposes of this Part of this Act, the Secretary and any Forestry Officer shall have power—*

- (a) *To enter any land, premises, vehicle, conveyance, ship, aircraft, railway, railcar, or bulk cargo container for the purpose of inspecting any indigenous timber from any indigenous forest land or seeing whether any such timber exists there; and*
- (b) *To search therein for any indigenous timber; and*
- (c) *To enter any indigenous forest land; and*
- (d) *To require the production and surrender of any document relating to indigenous timber; and*
- (e) *To seize any indigenous timber that he or she reasonably believes is about to be, is being, or has been milled or exported, or has been felled or harvested, in contravention of this Part of this Act.*

### **71B - Restrictions on exercise of power of entry**

- (1) *Notwithstanding any other provision of this Act but subject to subsection (2) of this section, any provision in this Act or any regulations made under this Act giving any person the power to enter any land or premises ..., vehicle, conveyance, ship, vessel, aircraft, bulk cargo container, railway, or drilling rig without the consent of the owner or occupier shall be subject to the following conditions:*
  - (a) *Entry shall only be made by the person or class of persons specified in the relevant provision or any member of the Police authorised by the person or a member of that class of persons:*
  - (b) *Reasonable notice of the intention to enter shall be given unless the giving of the notice would defeat the purpose of the entry:*
  - (c) *Entry shall be made at times reasonable in the circumstances:*



- (d) The person entering shall carry a warrant of authority or be working under the direction of a person holding such authority which shall be produced on initial entry and, if requested, at any subsequent time:
- (e) Entry—
- (i) Into any dwellinghouse; and
  - (ii) On to any land or into premises, vehicle, conveyance, ship, vessel, aircraft, railway, or drilling rig to obtain evidence of an offence—
- shall be made following application in writing on oath by an authorised person to a District Court Judge, Justice of the Peace, Community Magistrate, or Registrar or Deputy Registrar of any Court, who, if he has reason to believe that entry is necessary, may issue a warrant directed to the authorised person by name directing him to enter for the stated purpose:
- (f) Every person shall have the same privileges in relation to—
- (i) The production to an authorised person of any books, accounts, vouchers, records, or documents; and
  - (ii) The furnishing to any authorised person of any information or particulars; and
  - (iii) The answering of any questions put by any authorised person under this Act—
- as witnesses have in Courts of law.
- (2) The conditions specified in subsection (1) of this section, other than that specified in paragraph (a) of that subsection, shall not apply in circumstances where there are reasonable grounds to believe—
- (a) That there is an immediate danger to life or property; or
  - (b) That immediate entry is necessary to contain, eradicate, or prevent—
    - (i) Repealed.
    - (ii) Fire,—
 in order to avert serious damage to or destruction of any forest or forest produce:
  - (c) Repealed

Section 67R(a) provides a Forestry Officer with the power to enter any land, premises and other specified places including shipping containers to inspect indigenous timber as required by Section 67C(3)(a)(iii).

Section 67R(d) further provides the power to require the production and surrender of any documents relating to indigenous timber and Section 67R(e) provides the power to seize indigenous timber the Forestry Officer reasonably believes is not authorised under the Act.

It is not intended for AQFO's to invoke powers under Section 67R(d) and (e). They should notify the relevant Regional Manager within the Forestry and Land Operations Directorate of any possible breaches of the Act (see point 4; *Schedule 1* of the MPI/AsureQuality Services Agreement in Appendix 5).

Only a warranted Forestry Officer can exercise the power of entry to inspect.

The powers provided for under Section 67R are restricted by the provisions of Section 71B. Entry (and as such inspection) can only be made by a Forestry Officer (the Act does provide for entry power to Police acting under Forestry Officer's authority but this would not generally be relevant to inspections for export).

Notice of intention to inspect (the export consignment), at a reasonable time, shall be given to the exporter/property owner/occupier unless such notice would defeat the purpose of the inspection.

Entry shall be made at times reasonable in the circumstances. An inspection during normal business hours would satisfy this requirement.

All Forestry Officers shall carry their warrant of authority which is to be shown to any person present and/or having control of that indigenous timber for export and to any such person if subsequently requested.

Entry for the purposes of gathering evidence in relation to offences against the Act requires a search warrant and should not be undertaken by an AQFO. In situations where a breach of the Act is suspected, the AQFO must notify the relevant MPI Regional Manager.



### **3. EXPORT PROCEDURES**

#### **3.1 MFM3 Approvals**

The following procedures are to be used by MPI and AsureQuality Forestry Officers in the course of inspecting/approving indigenous timber product exports that require MFM3 approval. The procedures are summarised in the flowchart at the end of this section.

3.1.1 The AQFO must ensure that the Exporter has provided a fully completed MFM3 form that has sufficient details to enable the stated export product(s) to be reconciled with the actual.

3.1.2 The critical details to be included on every MFM3 include:

- A description confirming the source of the timber (can be attached as a separate document)
- A description of the product(s) e.g. or furniture blank or rusticated table top from a swamp kauri stump.
- Quantity of product (volume; number of pieces)
- Dimensions
- Any particular markings

The form must be returned to the Exporter if it is not completed as required.

3.1.3 The Exporter must present the MFM3 at least 10 days before the intended date of export.

3.1.4 Once satisfied that the MFM3 is fully complete, the AQFO forwards the form to MPI Forest and Land Operations staff at either the Christchurch or Rotorua Regional Offices :

- Christchurch – Phone: 03 943 3700; Fax 03: 943 3701
- Rotorua – Phone: 07 921 3400; Fax: 07 921 3402

3.1.5 Scanned or faxed copies are acceptable provided they are of good quality and in particular; the Exporter's signature is clearly evident.

3.1.6 MPI staff assess the MFM3 to check that the product is from a legitimate source in accordance with the Forests Act

3.1.7 As part of the approval process, the AQFO must inspect all proposed exports requiring MFM3 to verify compliance with the Forests Act.

3.1.8 Inspections should be carried out prior to the product(s) being loaded into a container otherwise the contents of the container must be readily accessible to enable a thorough inspection.

3.1.9 In situations where there is a high risk of product substitution, the AQFO should observe the loading and sealing of the container .

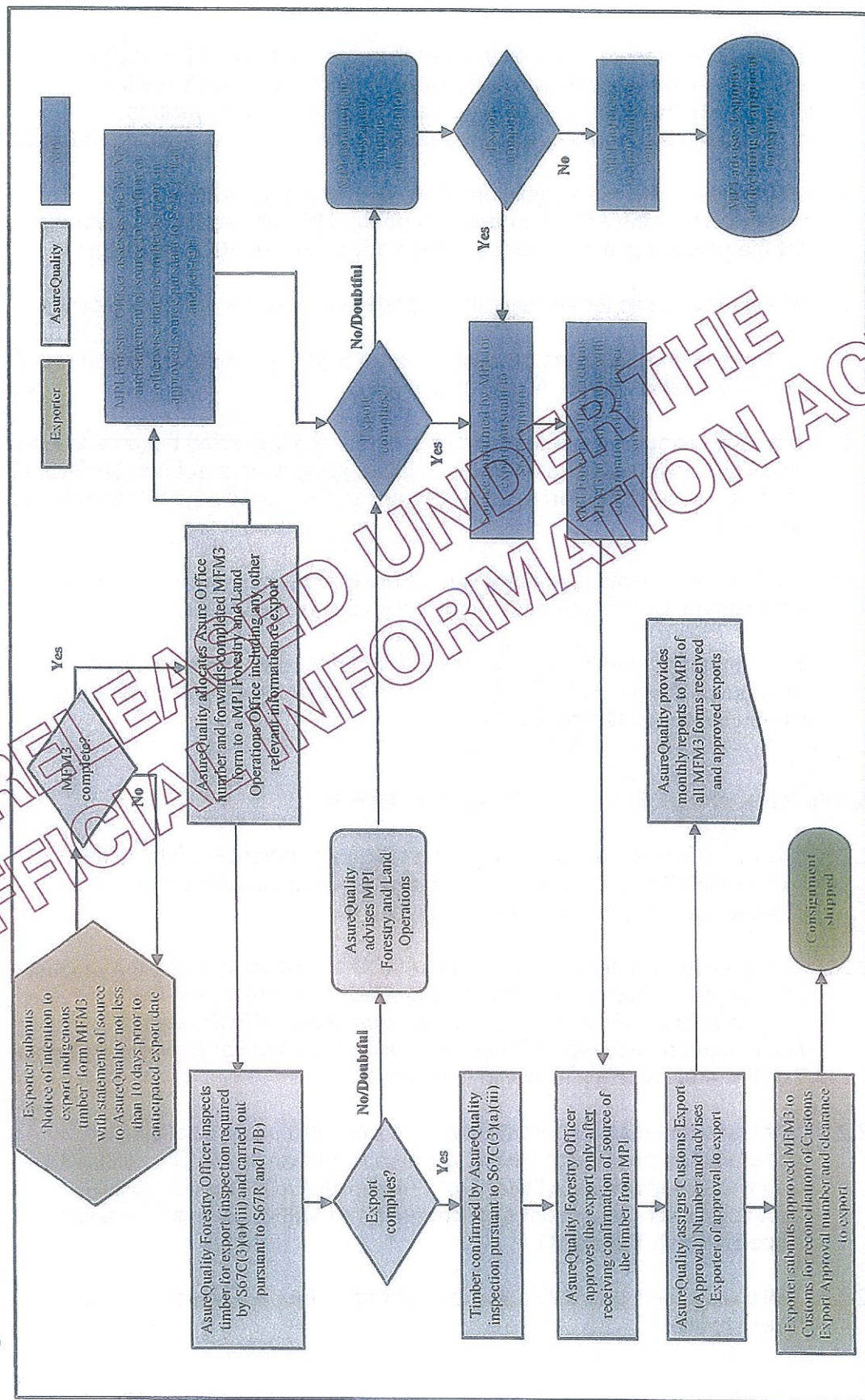
- 3.1.10 The AQFO determines whether or not the proposed export is compliant. In situations of non-compliance or doubt, the AQFO must notify the MPI Regional Manager or his/her delegate. The AQFO should include photographs of the product(s) in question as part of that notification process.
- 3.1.11 MPI will deal with the matter from thereon, which may include a joint inspection with the AQFO. In cases of doubt, MPI will determine whether or not the product(s) is compliant and then advise the AQFO, accordingly.
- 3.1.12 MPI is responsible for advising the Exporter in situations of non-compliance.
- 3.1.13 Having confirmed that the product is from a legitimate source, MPI returns the verified MFM3 to the AQFO for approval.
- 3.1.14 THE AQFO approves the MFM3 only after having inspected the product and receiving confirmation from MPI as to the legitimacy of its source. The AQFO assigns a customs export (approval) number and advises the Exporter of the approval.
- 3.1.15 The Exporter submits the approved MFM3 to Customs for reconciliation of the Customs Export approval number and clearance to export.
- 3.1.16 Each month, AsureQuality provides the MPI Forestry and Land Operations' Regional Managers with a summary of all MFM3 forms received for that month showing dates of approval.

### **3.2 Finished/Manufactured Products (non-MFM3).**

- 3.2.1 Exports of finished or manufactured indigenous timber products do not require MFM3 approval. However, they are commonly subject to phytosanitary inspections by AsureQuality.
- 3.2.2 During phytosanitary inspections the AQFO should verify that the proposed export is a finished or manufactured product in accordance with the Forests Act. Refer to the *Guidance Note On Interpretation Of Finished Or Manufactured Indigenous Timber Products Proposed For Export* in Appendix 2 of this manual to assist with this process.
- 3.2.3 In the event that an inspection reveals an export is not a finished or manufactured product or there is uncertainty, then the AQFO notifies MPI who will then investigate the matter. Again, the AQFO should provide photographs of the product(s) in question and MPI may undertake a joint inspection with the AQFO.
- 3.2.4 MPI will advise the AQFO and the Exporter of the outcome of any such investigation



### 3.3 Indigenous Timber Exports (MFM3) – Process Chart





APPENDIX 1

Illustration of A Stump





## APPENDIX 2 Guidance Note on Interpretation of Finished or Manufactured Indigenous Timber Products proposed for Export<sup>1</sup>

1. Section 67C of the Forests Act 1949 prohibits the export of certain indigenous forest products and specifies which timbers may be exported.
2. Section 67(1) (b) allows the export of.. *any finished or manufactured timber product, regardless of the source of the timber used in the product.*
3. A "finished or manufactured" timber product as defined in the Act:
  - (a) Means any indigenous wood product that has been manufactured into its final shape and form and is ready to be installed or used for its intended purpose without the need for any further machining or other modification; and
  - (b) Includes a complete item or a component of an item (whether assembled or in kitset form) such as joinery, furniture, toys, tools, and household utensils, household fixtures such as rails and toilet seats, ornaments such as picture frames and carvings, and similar items; but
  - (c) Does not include dressed or rough sawn timber, mouldings, panelling, furniture blanks, joinery blanks, building blanks, or similar items;]
4. Forestry officers (FO) inspecting proposed exports will decide whether a timber product is *finished or manufactured* strictly in accordance with the above definition on a case by case basis.
5. Under paragraph (a) of the definition:
  - The product must be an indigenous timber product;
  - It must be in its final shape and form;
  - It needs to be ready to be used for its intended purpose without any further modification.
6. If a FO does not believe the product can be used for its intended purpose without further machining or modification it is NOT *finished or manufactured*.
7. Conversely if a FO is satisfied that the product can be used for its intended purpose without further machining or modification it CAN be accepted as *finished or manufactured*.
8. Painting, staining or varnishing is excluded from further modification. That is, a product can be accepted as a finished product if it is unpainted, but in all other respects is in its final shape and form.
9. Paragraph (b) of the definition provides guidance on the kinds of products which may be considered *finished or manufactured*. These are all clearly completed items or components of completed items which require no further finishing or manufacture. There will be many more examples than those listed.

<sup>1</sup> Reference: Swamp Kauri – Export of Finished or Manufactured Goods; George Capes, MPI Legal 19 December 2011.



10. Paragraph (c) attempts to further clarify by stating what is not in the definition. Dressed or rough sawn timber that is not in its final shape and form is not *finished* or *manufactured*. Similarly, mouldings and panelling do not qualify and neither do the various blanks cited. The reason for all these products being outside the definition is because further work needs to be undertaken on each of them to make a "final shape and form" product.
11. If no further manufacture, modification or finishing is needed to these products then they are "finished products". Thus planks of dressed or rough sawn timber do not meet the definition but a kit set pergola made of timber components (dressed or rough sawn), cut to length, in final shape and form so that it can be assembled as part of a plan without further modification meets the definition of a finished product.

**Examples of Finished Products which have been accepted by MPI**  
(in the case of examples 13 to 16, after comprehensive checks):

12. All items listed under Paragraph 3(b) above
13. A wooden tongue and groove floor which has been cut to length according to a floor plan provided and which can be assembled from its component parts without further modification.
14. A Kauri tree trunk manufactured into an ornamental "temple pole" for decorative/religious purposes.
15. Kitchen fit outs using finished indigenous timber components specified in a design plan.
16. A complete shop interior fit-out (boutique clothing store).

**Note:** In each of examples 13 – 16 MPI requested and received detailed plans and specifications concerning the product and how and where it was to be used / displayed. Generally these were treated as one-off exports and not to be regarded as precedents for future exports in bulk.

If Assurance officers encounter such examples / requests for endorsement, they should be referred to MPI.

**Examples of Products Which Do Not Meet the Definition of Finished or Manufactured:**

17. All items listed in paragraph 3(c) above which by definition are not in final shape and form.
18. Items such as "ancient kauri" timber planks which are represented as "rusticated table tops" but which the Forestry Officer inspecting reasonably believes are merely planks being exported for further sawing/manufacture.



**What do I do if an Exporter asks for advice on whether a product meets the definition of "finished or manufactured"?**

19. Explain the legal definition of a finished or manufactured product and whether the product meets the other export requirements as to species and source (refer to the definition in paragraph 4 above and to section 67C of the Forests Act).
20. Ask the exporter to provide documentation to support any claim that the end use of the product is such that it requires no further finishing or modification. This may include design plans and / or information on who the end user is (are they a supplier or user of finished items?) and orders received for the finished items. Note this information must be supplied on a voluntary basis. There is no obligation for an exporter to supply any documentation or approval for finished or manufactured items.
21. You may point out that it is an offence to export any indigenous timber in contravention of Section 67C punishable by a fine of up to \$200,000 on conviction (sections 67T(a) and 67U(1)).
22. If you are unsure – contact a MPI Regional Manager, Forest and Land Operations or contact the Technical Advisor Forestry Operations.

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**APPENDIX 3: EXAMPLES OF FINISHED/MANUFACTURED INDIGENOUS TIMBER PRODUCTS APPROVED FOR EXPORT**





Table Tops Made From Logs

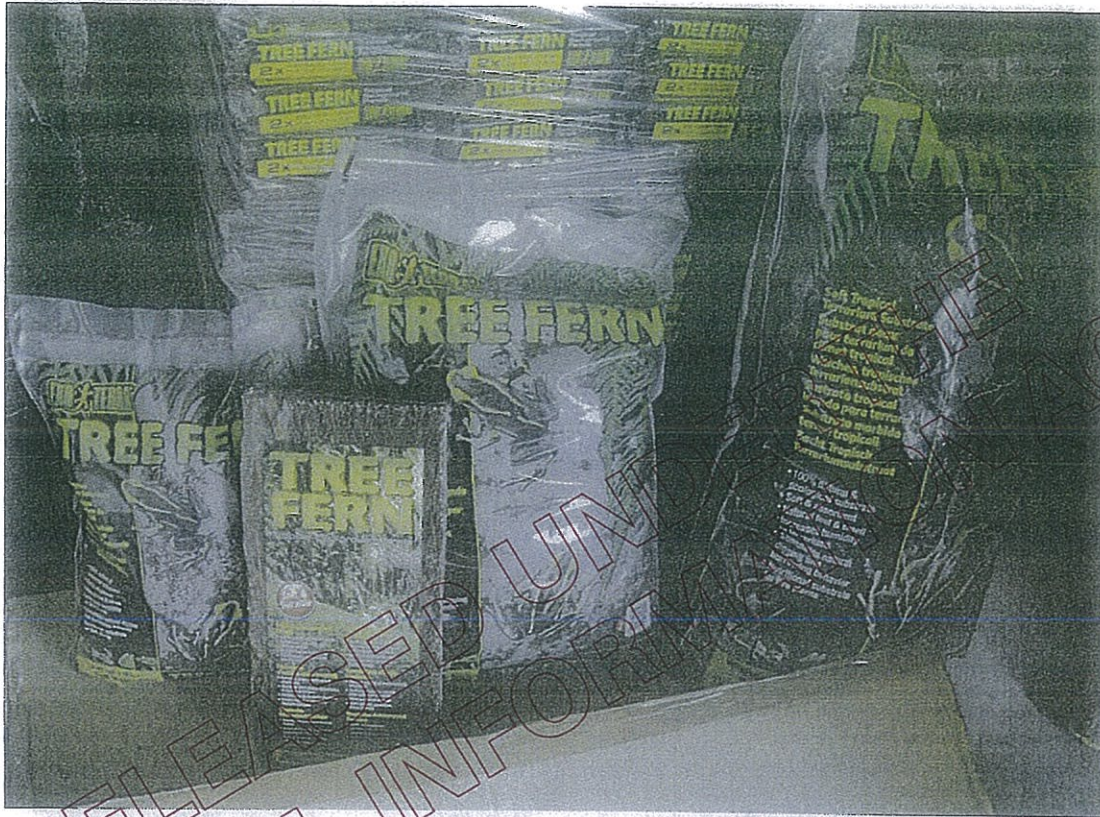




# Table & Stools Made From Stumps



## Tree Fern Substrate For Terrariums





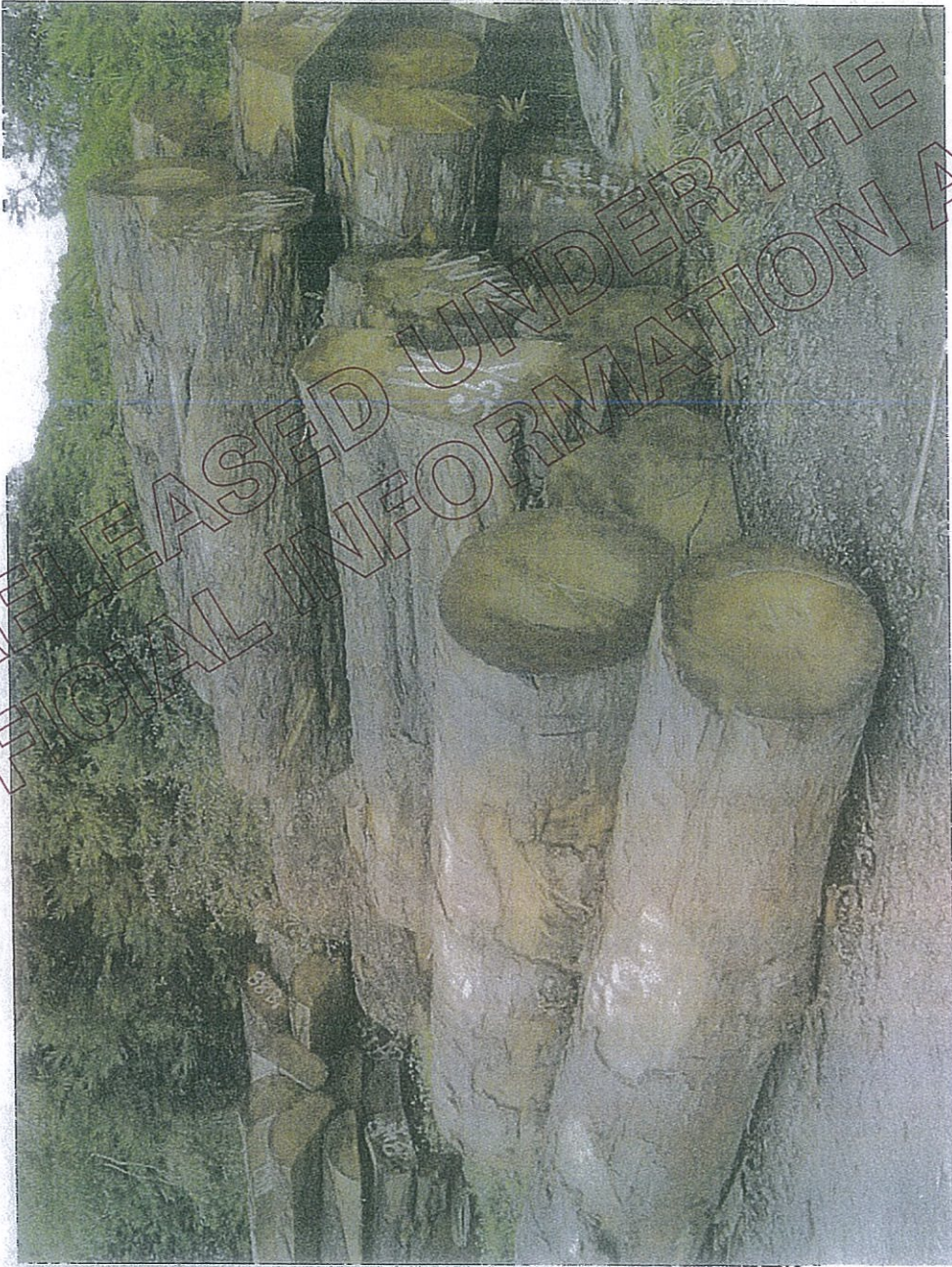
APPENDIX 4: EXAMPLES OF INDIGENOUS TIMBER PRODUCTS NOT APPROVED FOR EXPORT

Kauri "rusticated table tops", which are indistinguishable from sawn timber, should be refused for export unless from a stump or root.  
Note that sawn beech or rimu timber is permitted for export when harvested pursuant to an approved SFM Plan or Permit and an approved Annual Logging Plan.





Prohibited Items: Indigenous Logs





Prohibited items: Kauri wood turning blanks (if sourced from logs)



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## APPENDIX 6:



# MILLING AND EXPORTING SWAMP KAURI

### SOURCING SWAMP KAURI

You can remove the trunk and roots of preserved swamp kauri from some sources, such as farmland, provided you have all the necessary approvals, and permission from the landowner.

It is against the law to mill or export swamp kauri from indigenous forest land, even if it is privately owned. Some areas where swamp kauri is found are protected wetlands, and you may need a resource consent to remove the swamp kauri.

Please check with us and your district or regional council to find out if you can remove the swamp kauri, and what approvals and consents you will need.

### MILLING

Swamp kauri can be milled only if the timber:

- has a MAF Milling Statement;
- is milled at a sawmill registered with MAF to mill native timber.

### EXPORTING

Swamp kauri can be exported without MAF approval if it is a:

- finished or manufactured product;
- personal effect.

You can export whole or sawn salvaged swamp kauri stumps or roots if you have a MAF Milling Statement and export approval from MAF.

Swamp kauri logs may not be exported, either whole or sawn.

*The Forests Act 1949 sets out controls on the milling and exporting of New Zealand native timber, including salvaged swamp kauri.*

*This protects New Zealand's forests for our future generations.*

*You can remove, mill, and export swamp kauri from some sources if you have a Milling Statement and export approval.*

### HOW TO APPLY FOR A MILLING STATEMENT

You must have a MAF Milling Statement before any milling starts.

A Milling Statement confirms that the timber is from an approved source.

Milling Statement application forms are available from our Rotorua and Whangarei offices, or can be downloaded from our website: [www.maf.govt.nz/news-resources/forms](http://www.maf.govt.nz/news-resources/forms)

### HOW TO APPLY FOR EXPORT APPROVAL

You must have export approval before exporting whole or sawn swamp kauri stumps or roots.

To get this, you will need to fill out a Notice of Intention to Export application form (also known as an MFM3 form), which is available from our Rotorua and Whangarei offices.

You must also send written confirmation of the source of the swamp kauri. This could be an approved Milling Statement or a signed declaration on the MFM3 form or on another piece of paper, such as:

"This timber has been sourced from salvaged kauri stumps and roots from non-indigenous forest land, as stated on Milling Statement number..."

Send your completed MFM3 form and written confirmation of the swamp kauri's source to AsureQuality at least 10 days before it is due to be exported. AsureQuality will carry out an inspection on our behalf.

**AsureQuality - Auckland Airport office**  
verify@asurequality.com  
Fax: 09-257-0601

**AsureQuality - Mt Maunganui office**  
phyto@asurequality.com  
Fax: 07-575-8110

**FOR ALL ENQUIRIES CONTACT A MAF PROGRAMMES ADVISER AT:**

Te Papa Tipu Innovation Park	35 Norfolk Street
99 Sala Street, PO Box 1340	PO Box 503
Rotorua 3040	Whangarei 0140
Telephone: 07-921-3400	Telephone 09-430-7850
Facsimile: 07-921-3402	Facsimile: 09-430-7849
Web: <a href="http://www.maf.govt.nz">www.maf.govt.nz</a>	

New Zealand Government

November 2011



## FREQUENTLY ASKED QUESTIONS

**What swamp kauri products can be exported without MAF approval?**

You can export finished or manufactured products and personal effects without MAF approval.

Finished or manufactured products are defined in the Forests Act, as any manufactured wood product in its final state that is ready to be installed or used for its intended purpose. This includes products such as joinery, furniture, toys, tools, household utensils, household fixtures such as rails and toilet seats, and ornaments such as picture frames and carvings.

Dressed or rough sawn timber, mouldings, panelling, furniture blanks, joinery blanks,

building blanks, and similar kauri items are not finished or manufactured products.

**What is indigenous forest land, where harvesting swamp kauri is banned?**

The Forests Act defines indigenous forest land as land that is completely or mostly covered by indigenous plants, and wetlands with mostly indigenous vegetation.

It is against the law to harvest any swamp kauri from indigenous forest land. This protects New Zealand's indigenous forests for future generations.

**Can a stump of any size be exported?**

The Forests Act sets out a specific definition for stumps. You can export a whole or sawn salvaged swamp kauri stump if it meets the

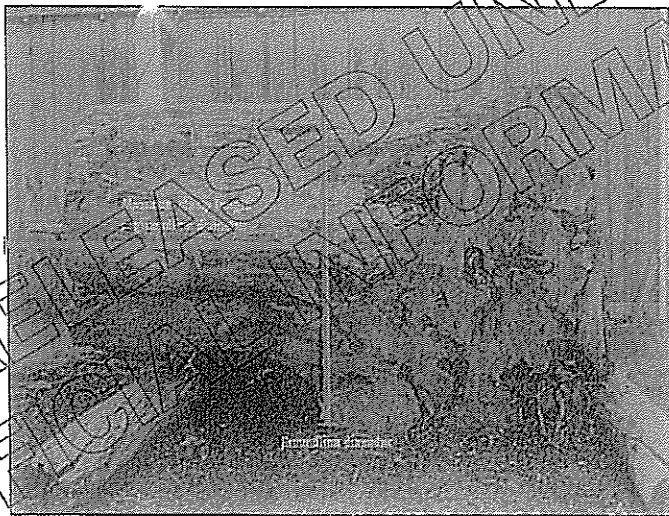
definition and you have a MAF Milling Statement and export approval from MAF.

A stump can include the roots and the trunk above the groundline as far as the point that is the same length as the maximum diameter of the trunk. A stump can be from either a living or dead tree.

Any remnant of a tree is regarded as part of a complete tree. (See image below).

**What is the groundline?**

The Forests Act defines the groundline as the base of either a living or dead tree where it naturally meets contact with the ground.



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