



SUBMISSION ON THE PRIMARY SECTOR DISCUSSION DOCUMENT – PROPOSED CHANGES TO THE NATIONAL ENVIRONMENTAL STANDARDS FOR COMMERCIAL FORESTRY

Introduction

1. Aratu Forests Limited (previously Hikurangi Forest Farms) ("**Aratu**") is a high-quality forestry estate and asset management business based in Gisborne / Tairāwhiti. Aratu is committed to ensuring social, cultural, environmental and economic practices deliver long-term, sustainable outcomes.
2. Aratu is one of the largest forestry estates in Tairāwhiti of New Zealand's North Island and is a significant contributor to the regional economy. We manage around 35,000 hectares of freehold, forest rights and leasehold land. We manage around 27,000 hectares of radiata pine plantation on 35,000 hectares
3. Aratu welcomes the opportunity to submit on the proposed amendments to the National Environmental Standards for Commercial Forestry ("**NES-CF**") by the Primary Sector Discussion Document. We have reviewed the submissions prepared by the Forest Owners Association and New Forests and endorse the comments and amendments sought in those submissions.
4. Aratu regularly engages in consenting and planning processes across the country and relies on robust planning provisions to enable the safe and efficient management of our plantation and native forest assets.
5. Aratu supports the overall intent of the proposed amendments to the NES-CF to restore confidence and certainty in forestry, encourage investment in productive forestry, support increased forestry exports and economic growth, support growing the forestry supply chain and support land-use resilience. However, Aratu considers further refinements and updates to the NES-CF are necessary to make the regulations more workable for the forestry sector.
6. The amendments sought by Aratu are set out in **Attachment A** to this submission.

The importance of a consistent national baseline

7. Regulation 6(1) of the NES-CF currently empowers councils to apply more stringent rules for commercial forestry activities if that rule gives effect to the National Policy Statement for Freshwater Management and policies 11, 13, 15 and 22 of the New Zealand Coastal Policy Statement 2010.
8. The Government is proposing to amend regulation 6(1)(a) to limit the circumstances in which councils can impose more stringent rules to situations where that is required to manage the

risk of severe erosion, and to repeal regulation 6(4A) which provides councils a broad discretion to have more stringent rules regarding aspects of afforestation.

9. Aratu supports the proposed amendments to regulations 6(1)(a) and 6(4A) that intend to provide a more consistent national baseline. Local variation in forestry rules reduces certainty and consistency for the sector. Under the current system, each council can take a different approach to the regulation of forestry (with some councils being more restrictive than others). The complexities and uncertainties involved in navigating these systems directly impact decisions to invest in New Zealand and its forestry sector (due to associated compliance costs). For example:
 - (a) *Resource consent is required in the Gisborne region when harvesting trees on ESC green, yellow and orange zone land when hauler extraction results in the contact with the bed of a river. NES-CF permitted activity status has provision for contact with the bed of rivers which are <3m in width.*
 - (b) *Resource consent required in the Gisborne region when installing and maintaining river crossings in catchments >100ha.*
10. Aratu suggests that Councils should be required to retrospectively bring existing Plan rules and definitions developed via the stringency provisions of the NPS-FW in line with the amended NES-CF to provide greater national consistency and forest sector confidence.
11. Aratu also supports the introduction of Ministerial oversight in terms of the application and interpretation of regulation 6. The introduction of this new power would provide assurance to the sector of **recourse** in the event a council does not apply the regulations as intended.

Erosion

12. Many of the production forests in New Zealand were established on areas that were marginal for pastoral farming, due to either erosion or nutrient issues. Commercial forestry was used as a solution to eroding farmland, meaning that significant areas of commercial forest are located on erosion prone land.
13. Most (if not all) of the recent concerns relating to commercial forest impacts on waterways relate to forestry located on erosion prone land and subsequent impacts of severe weather events on these forests during harvest. Aratu considers it to be more sensible to confine the circumstances in which more stringent rules can be applied to the specific issue being addressed. Specifically:
 - (a) In the regions that have experienced issues with erosion and slash during severe weather events (like Gisborne, Hawkes Bay and Tasman for example), councils have already exercised the right under regulation 6 to apply greater stringency.
 - (b) Regarding areas with relatively low erodibility, such as the Central North Island and large parts of the South Island, Aratu is not aware of any significant risks to water quality from plantation forestry that cannot already be managed under the NES-CF. Many of the councils in these lower erosion risk areas have continued to operate under the NES-CF without requiring the application of stringent rules to be applied. As such, Aratu questions the justification for greater stringency in low erosion risk areas.
14. For these reasons, Aratu generally supports the Government's proposed amendments to the NES-CF to limit the circumstances in which councils can apply more stringent criteria.

However, Aratu considers further refinement is needed to make the new regulations more consistent and workable, including the following:

- (a) **Clarification of key terms:** Several key terms are undefined, making the regulation potentially unclear in its application. An example is the concept of "severe erosion". A clear and consistent definition for "severe erosion" and sufficient guidance as to its interpretation is required to provide more clarity and certainty to both local authorities and to the forestry sector about how the new regulations are intended to be applied. Additionally, the term 'windthrow' needs to be defined to give Council's and the forest sector clarity around the inclusion and application of rules to manage windthrow within the forest and how forestry activities relate to them.
- (b) **Need for a nationally consistent model:** To ensure consistency across New Zealand, Aratu considers there needs to be a nationally consistent model at a suitable scale, to consistently identify areas with a severe erosion risk. A model that could potentially be used is the Landcare Landslide Susceptibility model which has already been completed for several regions, including the Tairāwhiti / Gisborne and Hawke's Regions. The application of any national model would need careful consideration to ensure that the model can account for regional variations in erosion severity and risk and that perverse outcomes for the forest sector are not realised (i.e. regulated land-use change). Additionally, the term 'connectivity' must be defined to ensure consistent application in this context.
- (c) **Use of the phrase "severe erosion from commercial forestry":** It is not appropriate to use terminology such as "severe erosion from commercial forestry" in the regulation. Erosion is a function of geology and occurs irrespective of the land use. Erosion is often the reason for why commercial forestry has been established (ie as an erosion control measure).
- (d) **Retention of conjunctive clauses:** Aratu supports the proposed conjunctive clauses in regulation 6(1)(a). This is important to ensure all conditions must be met for the relevant council to impose rules that are more stringent than the NES-CF.

15. The amendments Aratu seeks to regulation 6(1)(a) are set out in **Attachment A**.

Limited exceptions to national baseline

16. Aratu considers that as much as possible the provisions regulating forestry should be the same across New Zealand. While Aratu also acknowledges there is merit in requiring a bespoke / localised approach in some circumstances, Aratu wishes to emphasise that requiring bespoke solutions (warranting targeted stricter regulation) are the exception and not the rule.
17. Aratu considers it appropriate for Tairāwhiti / Gisborne to be subject to a bespoke, localised approach due to the very specific conditions and extreme events. Aratu would also be concerned if the approach applied there was used as the benchmark for forestry regulation, rather than the exception.

Updates to the NES-CF more broadly

18. Further to the specific amendments being proposed to regulation 6, there is a need for further amendments to the NES-CF. Aratu considers the NES-CF needs further updating and reform

to ensure the standards within it are workable and are able to be met in practice. For example, the current regulations around water turbidity and offsite discharges are practically unworkable and require amendment. Further definition of sediment discharges is required. The NES-CF should further define sediment discharges to account for post-harvest discharges. There is no current provision to account for ongoing sediment discharge caused by weather events during the 'window of vulnerability'. Additionally, discharges of slash below specified and agreed limits (residual slash) need further definition. The forest sector needs a defined and acceptable level of residual material that cannot be removed from a harvested piece of land.

19. The NES-CF should further define the use of a Suitably Qualified and Experienced Person (SQEP) for management plans to better limit the Council's discretion to require different types of SQEPs that do not reflect the qualifications and experience of forestry professionals.
20. The specific amendments Aratu seeks to the NES-CF regulations are set out in the table in **Attachment A**.

Next steps

21. Aratu would be happy to meet with the Ministry for the Environment to discuss this submission.

Yours sincerely



James Sinclair

Planning and Environment Manager

Aratu Forests Limited



ATTACHMENT A – PROPOSED AMENDMENTS TO NATIONAL ENVIRONMENTAL STANDARDS FOR COMMERCIAL FORESTRY

PROVISION	SUBMISSION	PROPOSAL (RED UNDERLINE AND STRIKEHTROUGH INDICATES SUGGESTED ARATU AMENDMENT, BLACK UNDERLINE AND STRIKETHROUGH IS SUGGESTED IN THE NATIONAL DIRECTION PROPOSAL)
<p>Regulation 3 definition of cutover</p>	<p>The current definition of cutover in the NES-CF is "means the land area that has been harvested, and any adjacent land between the harvested area and any land that would be covered by water during a 5% AEP event, but does not include water bodies or land that would be covered by water during a 5% AEP event"</p> <p>The Government is proposing to update the definition to "means the area of land that has been harvested".</p> <p>Aratu supports the simplification of the definition but suggests a further amendment to clarify that hardstand is not included the cutover area.</p> <p>To distinguish the harvested area from the broader forestry context, Aratu has also suggested the definition be updated to refer to the "piece" of land. This terminology is consistent with usage in the Resource Management (National Environmental Standard for Assessing and</p>	<p>Amend the definition of cutover as follows:</p> <p><u>[means the land area piece of land on which harvest has occurred that has been harvested, and any adjacent land between the harvested area and any land that would be covered by water during a 5% AEP event, but does not include;</u></p> <p>(a) water bodies or land that would be covered by water during a 5% AEP event; <u>or</u></p> <p><u>(b) infrastructure in the harvest area (roads and landings).]</u></p>

PROVISION	SUBMISSION	PROPOSAL (RED UNDERLINE AND STRIKEHROUGH INDICATES SUGGESTED ARATU AMENDMENT, BLACK UNDERLINE AND STRIKETHROUGH IS SUGGESTED IN THE NATIONAL DIRECTION PROPOSAL)
	<p>Managing Contaminants in Soil to Protect Human Health) Regulations 2011, where it serves a similar delineating function.</p>	
<p>Regulation 6(1)</p>	<p>Aratu seeks "from commercial forestry" is removed. Erosion is a function of the geology, occurs irrespective of the land use, and is usually the reason forestry has been established in those areas in the first place, as an erosion control.</p>	<p>Amend Regulation 6(1) as follows:</p> <p>if it is required to manage the risk of severe erosion from commercial forestry from a defined area that will have significant adverse effects on receiving environments, including the coastal environment; downstream infrastructure; or property</p>
<p>Regulation 47(3) and 48(1)</p>	<p>The current wording of Regulation 47(3) and 48(1) includes all the forms of river crossings listed under Regulation 46 but does not include removable instream-structures. This means by default that if any of the regulations for a removeable instream structure cannot be complied with it becomes a discretionary consent.</p> <p>This seems to have been an oversight in the wording of the river crossing regulations and the inclusion would bring a removeable instream structure in line with all other river crossings.</p>	<p>Amend Regulation 47(3) as follows:</p> <p>Constructing, using, maintaining, or removing any river crossing (including a single, double, or battery culvert, drift deck, single-span or temporary single-span bridge, ford, or temporary river crossing <u>or removable in-stream structures</u>) is a controlled activity if regulation 38 is not complied with.</p> <p>Amend Regulation 48(1) as follows:</p> <p>Constructing, using, maintaining, or removing any single, double, or battery culvert, drift deck, single-span or temporary single-span bridge, ford, or temporary river crossing <u>or removable in-stream structures</u> is a restricted discretionary activity if any provision of regulations 38 to 46 is not complied with and the activity is not classified as a controlled activity</p>

PROVISION	SUBMISSION	PROPOSAL (RED UNDERLINE AND STRIKEHROUGH INDICATES SUGGESTED ARATU AMENDMENT, BLACK UNDERLINE AND STRIKETHROUGH IS SUGGESTED IN THE NATIONAL DIRECTION PROPOSAL)
Regulations 69	Aratu supports the removal of "and debris management from the title as "debris" is far broader than slash or even woody debris and is not relevant to the topic of slash management. The remainder of the regulation applies to slash.	Permitted activity conditions: slash and debris management
Regulations 69(5) – (7)	<p>Meeting a prescriptive standard was the approach set out in 69(5) – (7) in the NES-CF 2023. Implementation of that standard lacked certainty and clarity for how to define and measure residual material, it increased costs, it required removal of slash from areas of low/no risk and its one-size-fits-all approach was a poor match for a risk that is spatially highly variable.</p> <p>The proposed approach of using a Slash Management Risk Assessment is preferred on the basis that it will tailor slash removal to areas of high risk.</p> <p>The draft slash mobilisation risk assessment has a dual purpose as both a drafting gate for harvesting activity status, and also to become part of the standard harvest planning process.</p> <p>In Aratu's view some of the criteria are too subjective to be appropriate for determining activity status and this will inevitably lead to debate between forest owners and councils. It is also somewhat unusual to have consent</p>	<p>Amend Regulations 69(5) – (7) as follows:</p> <p><i>(5) On orange zone and red zone land slash from harvesting must be removed from any cutover area, unless it is unsafe to do so, to achieve residual slash levels at or below an average of 15m³ per hectare of cutover, if –</i></p> <ol style="list-style-type: none"> 1. <i>The cutover falls within an area that exceeds the following thresholds:</i> <ol style="list-style-type: none"> a. <i>The Land Use Capability (LUC) unit extended legend description for the area lists any of the following erosion risk types, with a 'potential' erosion severity of 'severe' or above:</i> <ol style="list-style-type: none"> i. <i>Soil slip</i> ii. <i>Rock fall</i> iii. <i>Debris avalanche</i> iv. <i>Debris flow, and</i> <ol style="list-style-type: none"> b. <i>The predominant slope exceeds 25 degrees, and</i> c. <i>There is direct connectivity between erosion features and a waterway, such that mobilized slash could <u>enter</u> into a</i>

PROVISION	SUBMISSION	PROPOSAL (RED UNDERLINE AND STRIKEHROUGH INDICATES SUGGESTED ARATU AMENDMENT, BLACK UNDERLINE AND STRIKETHROUGH IS SUGGESTED IN THE NATIONAL DIRECTION PROPOSAL)
	<p>status determined by a risk assessment carried out, outside of the main regulation.</p> <p>Aratu suggests incorporating the more objective criteria from the Slash Mobilisation Risk Assessment (indicators 1-5) into regulation 69(5)-(7) to create a clear process for determining activity status within the regulations.</p>	<p><i>waterway</i></p> <p>2. <u>This regulation applies to slash that has:</u></p> <ol style="list-style-type: none"> a. <u>A length of over 3m and</u> b. <u>A small end diameter of over 10cm</u>
<p>Regulations 10A and 77A</p> <p>Schedule 3</p>	<p>Aratu supports the removal of a requirement to prepare replanting plans</p> <p>Aratu would support the retention of afforestation plans but with a significant simplification of the contents of afforestation plans, so that they do not duplicate what is already the subject of other regulations (eg. wilding calculations), and only cover what can reasonably be known.</p>	<p>10A (3) An afforestation management plan must include all forest planning <u>the requirements set out in Schedule 3</u> that apply to the afforestation activity.</p> <p>(4) Amendments to the afforestation management plan must be documented and dated, and the relevant council must be advised that an amendment has been made. The amended plan must be made available to the relevant council on request.</p> <p>(5) Afforestation activities must be carried out in accordance with the afforestation management plan.</p> <p>Schedule 3</p> <ol style="list-style-type: none"> 1. replace 1 (g), (h) and (i) with <ul style="list-style-type: none"> (g) the name of the road used for forest access (h) the cadastral and map references, or GIS polygon reference. 2. remove 2 (f), (g), (h), (i), (k), (l), (m), (n) and modify 2 (j) as follows: <ul style="list-style-type: none"> the afforestation area boundary and the areas in which afforestation

PROVISION	SUBMISSION	PROPOSAL (RED UNDERLINE AND STRIKEHROUGH INDICATES SUGGESTED ARATU AMENDMENT, BLACK UNDERLINE AND STRIKETHROUGH IS SUGGESTED IN THE NATIONAL DIRECTION PROPOSAL)
		<p>and replanting is occurring; and 2(k) the forest species to be afforested or replanted:</p> <p>1 remove 3, 4 and 6</p> <p>Revise 5 to state: The information required by clauses 1 to 4 <u>and 2</u> must be submitted in a GIS-compatible format, if requested by the relevant council.</p>
Regulation 71A(b) -	Aratu supports the typographical change to correct the regulation to reflect the intent.	<p>Low-intensity harvesting is a permitted activity in all erosion susceptibility classification zones if—</p> <p>a) regulations 64 to 69 are complied with; and</p> <p>b) any relevant forest planning requirement is not complied with.</p>
Regulation 79 Permitted activity conditions: wilding tree risk and control	<p>Aratu supports the proposed changes.</p> <p>In addition when replanting in the same location with the same species, the activity is effectively permitted under regulation 79(4). In this situation the only way the wilding risk could possibly have increased is if adjacent land has been cleared of forest vegetation or has been retired from grazing. If there has been no change to the surrounding land use the calculation is redundant and should not be required.</p>	<p>Amend Regulation 79(5) further as follows:</p> <p>Regulation 79(5) The relevant regional council and territorial authority must be given the following no more than 8 months before replanting is carried out <u>at the same time as notice is given under regulation 78A</u>: the score required under subclause (1) and the calculation sheet used to provide that score <u>calculations used for the final wilding tree risk calculator score and supporting evidence for each calculation</u>. <u>The calculation is not required to be undertaken in the event replanting is occurring in the same location with the same species and there has been no change in the land use on adjacent land.</u></p>
Regulation 97(1)	Regulation 97 addresses discharges under section 15 of the Act. It permits discharges of sediment associated with forestry activities - such as harvesting - when those activities themselves are permitted under the regulations.	(1) Any discharge of sediment <u>and slash</u> into water or on to land.....

PROVISION	SUBMISSION	PROPOSAL (RED UNDERLINE AND STRIKEHROUGH INDICATES SUGGESTED ARATU AMENDMENT, BLACK UNDERLINE AND STRIKETHROUGH IS SUGGESTED IN THE NATIONAL DIRECTION PROPOSAL)
	<p>Regulation 69 sets out the permitted activity conditions for slash and debris management. Specifically:</p> <ul style="list-style-type: none"> • Reg 69(3) and (4) prohibit the deposition of slash in water or on land where it may enter water, except under certain conditions. • Reg 69(4) identifies scenarios where slash deposited in a water body or on land does not need to be removed, effectively allowing slash to remain in place under defined circumstances. <p>As a result, there are situations where slash may lawfully enter water or land adjacent to water, without triggering removal requirements.</p> <p>However, Regulation 97 does not explicitly address lawful discharges of slash to water that comply with Regulation 69. Unlike sediment discharges - where incidental effects are clearly managed within the permitted activity framework - Regulation 97's silence on slash has led to confusion. Some Councils suggest that even if slash deposition meets the permitted activity conditions in Regulation 69, a discharge consent may still be required due to the lack of express provision.</p> <p>97 (7) should be extended to allow defined and accepted discharges of sediment and slash during the 'window of vulnerability' to protect the forestry sector when applicable standards have been met and residual slash</p>	



PROVISION	SUBMISSION	PROPOSAL (RED UNDERLINE AND STRIKEHROUGH INDICATES SUGGESTED ARATU AMENDMENT, BLACK UNDERLINE AND STRIKEHROUGH IS SUGGESTED IN THE NATIONAL DIRECTION PROPOSAL)
	<p>accumulations remain in situ in the harvested piece of land.</p>	
<p>Draft Slash Mobilisation Risk Assessment</p>		
<p>1 ESC rating</p>	<p>Aratu seeks the actions required for an area that has an ESC rating as a red zone require further assessment as a first step, rather than automatically proceeding to a resource consent. Some red zone forests have no slash mobilisation risk (eg sand and pumice country forests) and a resource consent is unnecessary. Additionally, up to 2ha of red zone land can be harvested within a 3-month period as a permitted activity.</p>	<p>Green = low slash risk (no further action) Yellow = low slash risk (no further action)</p> <p>Orange: Further assessment required.</p> <p>Red = high slash risk – resource consent <u>Further assessment required</u></p>