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National direction changes - Amendments to the National Environmental Standards for Commercial Forestry (NES-CF)

Release of information

I would like the identified parts of this submission that have been **underlined and bolded** to be kept confidential and have stated below my reasons and grounds under the Official Information Act that I believe apply, for consideration by MBIE.

I would like identified parts of my submission, **namely my telephone and email**, to be kept confidential because it is unnecessary to include them to obtain the full understanding of Timberland's position and excluding them meets Privacy Act principles.

Introduction

- 1 This submission is made on behalf of CNI Iwi Land Management Limited (CNIILML). CNIILML is a wholly owned subsidiary company of CNI Iwi Holdings Limited (CNIHL). CNIILML manages the CNI Forest Lands on behalf of CNIHL and advances the objectives of CNIHL in accordance with the Deed of Settlement.
- 2 CNIHL is the corporate trustee of the CNI Iwi Holdings Trust (Trust). The Trust is the entity that was established by eight central North Island iwi to receive the forests land settled by the Crown under the Central North Island Forests Land Collective Settlement Act 2008. The CNI Forest Lands were received as part of the settlement by the Trust on 1 July 2009 and are to be held in Trust on behalf of all beneficiaries of the CNI Iwi Collective (in excess of 100,000 people). The eight central North Island iwi referred to above are:

Ngāi Tuhoe; and
Ngāti Manawa; and
Ngāti Rangitihī; and
Ngāti Tuwharetoa; and
Ngāti Whakaue; and
Ngāti Whare; and
Raukawa; and
The Affiliate Te Arawa Iwi/Hapu

- 3 As a result of the prior actions by the Crown in dedicating the land settled to forestry use, the Trust is now the owner of over 176,000 hectares of forested land in the central North Island, held for the benefit of over 100,000 beneficiaries.
- 4 The Trust accordingly has as its key asset land in forestry that is the subject of forest ownership and management under Crown Forestry Licences and forestry rights granted primarily to an investor with an overseas majority ownership.
- 5 The key asset of land is an intergenerational asset. Ensuring flexibility of land use for both current and future generations is of great importance to CNI Iwi Holdings Limited. As mentioned above, the Trust is now the owner of over 176,000 hectares of forested land in the central North Island, being the bulk of the land under the Kāingaroa Forest. Of this, approximately 163,500 hectares is in plantation forest, the remaining 12,500 hectares being riparian margins and indigenous reserves.
- 6 The CNIHL derive their income through land rentals paid by the holders of the Forestry Licences and Forestry Rights. Changes to the rules that affect production forest can affect the land rentals received by CNIHL.

Amendments to the National Environmental Standards for Commercial Forestry (NES-CF) - from MfE discussion document questions

Change proposed	Position	Reason
<p>Q10 re 6(1)(a) Amend 6(1)(a) to be more specific about the criteria for how councils can impose stricter rules than the NES-CF.</p>	<p>Support, with revision</p>	<p>Q10 Does the proposed amendment to 6(1)(a) enable management of significant risks in your region?</p> <p>CNI considers that a narrower set of circumstances for stringency is more appropriate for meeting the intents of the NES-CF, while also accommodating the need to address specific high risk sites.</p> <p>The NES-CF stringency provisions were intended to be for unusual or exceptional circumstances, not for widespread use.</p> <p>The proposed revisions enable councils to be more stringent only if:</p> <ul style="list-style-type: none"> • it is required to manage the risk of severe erosion from a commercial forestry activity in a defined area that would have significant adverse effects on receiving environments including the coastal environment, downstream infrastructure and property; and • it can be demonstrated that the risk cannot be managed through the current rules in the NES-CF; and • an underlying risk has been identified within the defined area (1:10,000 scale or using a 1m² DEM). <p>CNI considers that defining several of the terms in bold above would improve their certainty: “severe erosion”, “defined area” and “underlying risk”. Providing guidance for the other phrases identified in bold above would increase clarity.</p> <p>CNI suggest using the following structure for this provision:</p> <p style="padding-left: 40px;">6 (1) A rule in a plan may be more stringent than these regulations if the rule gives effect <u>is required to—</u></p> <p style="padding-left: 40px;">(a) an objective developed to give effect to the National Policy Statement for Freshwater Management:</p> <p style="padding-left: 40px;">(a) –</p> <p style="padding-left: 80px;">(i) <u>manage the underlying risk of severe erosion from a commercial forestry activity in a defined area that would have significant adverse effects on receiving environments, including the coastal environment, downstream infrastructure and property, and</u></p> <p style="padding-left: 80px;"><u>it can be demonstrated that the current rules in the NES-CF do not manage that risk;</u></p>
<p>Q11 & 12 re 6(4A)</p>		<p>Q11 Does the proposal provide clarity and certainty for local authorities and forestry planning?</p> <p>Q12 How would the removal of 6(4A) impact you, your local authority or business?</p> <p>6(4A) covered an activity which is already addressed in the first three subject areas namely: national instruments, matters of national importance and unique and sensitive environments. It is unnecessary. The removal of 6(4A) clarifies the intents of stringency, set out as three subject areas in the pre-2023 regulations.</p>

Change proposed	Position	Reason
<p>Q13 – 19 re 69(5-7) Amend 69 to require a slash mobilisation risk assessment (SMRA) for all forest harvests as part of the existing harvest management plan, and/or amend regulation 69(5) to require all slash above an identified size to be removed from the forest cutover. + consequential changes to 66, schedule 2, schedule 6,</p>		<p>Q13. Do you support amendments to regulations 69(5-7) to improve their workability? Yes. The current prescriptive standards are insufficiently targeted to genuine risk, thus requiring removal of slash where its presence would be preferable, and causing unnecessary cost. Implementation is unclear, making it difficult to measure compliance by foresters and regulators.</p> <p>Q14. Do you support:</p> <ul style="list-style-type: none"> • a site-specific risk-based assessment approach or • a standard that sets size and/or volume dimensions for slash removal? <p>Support a site-specific risk-based assessment approach which would determine areas where mobilisation risk is:</p> <ol style="list-style-type: none"> 1. low - to exempt these from (unnecessary) slash removal requirements, 2. high – to ensure that slash management is commensurate with the identified risk. <p>A prescriptive standard was the approach set out in 69(5) – (7) in the NES-CF 2023. Its implementation 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. Its one-size-fits-all approach was a poor match for a risk that is spatially highly variable. The proposal of using a Slash Management Risk Assessment (SMRA) is preferred on the basis that it will tailor slash removal to areas of high risk. The preferred way to incorporate the SMRA template is by reference, as item 15 in Schedule 2.</p> <p>Suggested drafting for the replacement of 69(5) is:</p> <p>(5) On orange zone and red zone land (see regulation 63(2)(b)) slash from harvesting must be removed from any cutover area, unless it is unsafe to do so, to achieve slash levels at or below 15m³ per hectare of cutover, if –</p> <ol style="list-style-type: none"> (a) It is sound wood greater than 3m long with a 10cm SED (or 2m with a 15cm SED); and (b) The Land Use Capability extended legend for the cutover area identifies a severe potential erosion risk for these erosion types: <ol style="list-style-type: none"> (i) Soil slip (ii) Rock fall (iii) Debris flow/avalanche (iv) Debris flow/and (c) The predominant slope of the cutover area exceeds 25 degrees, and (d) There is direct connectivity between the erosion feature and a waterway, such that mobilized debris could enter a waterway

Change proposed	Position	Reason
		<p>Guidance on accepted measurement techniques, e.g. the area over which averaging occurs (suggest 2Ha) is also required.</p> <p>Q15. Is the draft slash mobilisation risk assessment template (in attachment 2.2.1) suitable for identifying and managing risks on a site-specific basis? The proposed SMRA has potential, but would be improved by separating the objective criteria that determine the activity status (e.g. slope criteria, ESC/LUC), from the more subjective harvest planning considerations.</p> <p>Q16. Should a slash mobilisation risk assessment be required for green-zoned and yellow-zoned land? Only if there is evidence that these sites have slash mobilisation issues. CNI is unaware of this being an issue</p> <p>Q17. If a risk-based approach is adopted which of the two proposed options for managing high-risk sites, do you prefer:</p> <ul style="list-style-type: none"> • requiring resource consent or • allowing the removal of slash to a certain size threshold as a condition of a permitted activity)? <p>A combination of the above. The proposed revision to 69(5) sets out the parameters for a PA threshold, while also identifying the route to a consent should that be required.</p> <p>Q18. For the alternative option of setting prescriptive regulations for slash management, is the suggested size and/or volume threshold appropriate? Any size and volume threshold will provide a prescriptive limit. The challenge is to right balance to significantly mitigate risk while not imposing unnecessary cost or depriving the site of the nutrients and biodiversity.</p>
		<p>Q21. Do you support the proposed minor text amendments Yes.</p>