



NES-CF Amendment Submission 2025

Introduction:

Forest Management NZ (FMNZ) manages approximately 65,000 hectares for multiple forest owners ranging from mum and dad investors through to large clients. These forests are predominantly located across the North Island with a small holding in the South Island; currently, conducting operations requires engaging with six different regional councils. The company manages a current annual cut of approximately 1.7million tonnes and employs over 50 staff and a contractor workforce of over 400.

FMNZ is a member of the Forest Owners Association and supports their submission on the development of national direction under the resource management system. FMNZ have chosen to focus on the NES-CF component of the proposed changes and whilst largely in support of the FOA submission we have concerns and recommendations that may differ as noted in the following submission.

FMNZ acknowledge and appreciate the opportunity to submit on the proposed changes to the NES-CF and thank MPI for accepting that change is needed and the work put into this review.

However, FMNZ feel that the proposed amendments to the NES-CF do not meet the objectives¹ set by central government, do not reduce the requirement for resource consents below 2023² levels and do not give the industry the certainty needed to invest and in some case harvest which will have major implications to the GDP and local economies affecting employment, sustainability and businesses.

Points for consideration:

Is the NES-CF still a relevant document:

- At the compliance level GDC refer straight to the RMA with section 13 overriding 68 (5) section, section 15 with regards to any slash AND/or windthrow in a waterway regardless of how it got there overriding 69 (3&4) and section 17 with regards to any debris at risk of mobilization whether that be in a low risk waterway is still contained on the hill (without solid evidence) overriding 69 (5-7)
- We are now being told we must apply for consent to discharge slash (s9 and s15) to a waterbody regardless of whether it is for future removal or mitigation. Additionally apply under s13 if bed disturbance is required.

¹ [Government launches consultation on freshwater national direction | Beehive.govt.nz](#)

² The 2023 amendments introduced reg 69 (5-7), the proposed 2025 amendments may reduce the need for this but none of the other changes immediately reduce the need for a resource consent.

- Inconsistency between the NES-CF and the RMA - example is the waterway definition which do not align:
 - NES-CF: **perennial river** means a river that is a continually or intermittently flowing body of freshwater, if the intermittent flows provide habitats for the continuation of the aquatic ecosystem.
 - RMA: **river** means a continually or intermittently flowing body of fresh water; and includes a stream and modified watercourse; but does not include any artificial watercourse (including an irrigation canal, water supply race, canal for the supply of water for electricity power generation, and farm drainage canal)
- Once a consent is applied for a lot of the baseline as implied by the NES-CF are replaced with much more stringent and in some cases unattainable conditions³
- We are told by regional authorities we must manage to Cyclone Gabrielle sized events which greatly increases management responsibilities within the NES-CF such as slash above the 5% AEP.

Full document review:

The NES-CF is an ambiguous document and open to interpretation and in some cases very restrictive if taken to the letter of the law. Now is an appropriate time to address this.

Foresters (and regulators) need certainty about what they can and cannot do legally with many now living in fear of how the rule may be interpreted by others and that 'doing the right thing' may land them and the companies in serious trouble if it is not to the exact letter of the law as decided by the regulator.

Examples include:

1. 69(3) Slash from harvesting must not be deposited into a water body⁴ with removal covered by 69(4). Under the definition of a waterbody and slash⁵ it is impossible to comply with this regulation. It is also largely unnecessary to comply with as; the risk is very low in the upper catchments to both aquatic life and any possible debris discharge. Unless 69(4) is designed to allow slash to be deposited in a waterway as long as the effects (a) to (d) are avoided – if so, this needs to be made clear.
2. 69(4) ..'slash from harvest must be removed from the land that would be covered by water during a 5% AEP'. I believe the intention of this wording is to describe

³ GDC Standard Consent Conditions

⁴ **water body** means fresh water or geothermal water in a river, lake, stream, pond, wetland, or aquifer, or any part thereof, that is not located within the coastal marine area

⁵ **slash** means any tree waste left behind after commercial forestry activities

the land adjacent to a river, however some councils have interpreted it as any land (e.g. ephemeral channels) that carry water in a 5% AEP event. Additionally using the definition of slash is absolute meaning any tree waste must be removed, this is simply not possible and also ignores the well-researched benefits of LWD in a waterway – a natural and beneficial process in indigenous forests.

3. 68(5) can a machine operate in the bed of a waterway; this is not clear. Note recent JTL vs The Crown Case.
4. 26 and 30(2)(d) – one allows for a discharge, and one doesn't.
5. There is no clarity of where windthrow fits into the regulations reg 69 states 'slash and debris management' but then goes on to only reference 'slash from harvesting'.
6. Schedule 2 3(h) requires '*the design rainfall event size and duration that has been used to design the sediment control measures*' such devices are not designed to meet certain rainfall sizes; they are industry standard best practice as defined in the NZ Forest Road Engineering Manual 2020.

There are more if other examples are required....

Proposed Amendments:

Cutover definition

Support

Regulation 6(1) National instruments:

Amend regulation 6(1)(a) to clarify the conditions under which a rule that is more stringent than the NES-CF can be included in a council plan.

1. FMNZ supports the removal of 6(1)(a & b) as it currently stands in the NES-CF however we have serious concerns about how the proposed amendment will be interpreted and applied by councils.
2. If regulation 69 (5-7) remains in any of the proposed formats (i.e. not fully removed) then this addresses any greater stringency required for severe erosion and therefore do not support the proposed amendment in its current form. A risk assessment which involves erosion risk is part of this condition and therefore will be effectively managed through the NES-CF in all circumstances.
3. FMNZ understand that retirement/transition of high-risk areas and the councils ability to dictate this is one of the reasons to allow for greater stringency, if this is the case then FMNZ propose that IF greater stringency is to be progressed then it

only relates to that land that is specifically for transition (replant and afforestation).

4. FMNZ request that IF the regulation is updated to the proposed in its current form, that the erosion risk analysis process is standardized across the country and must be used by councils to analyze risk with variation of this not accepted to avoid biased assessments from individual councils.
5. Note: FMNZ do not support the use of the Landcare Landslide Susceptibility model as a measure of ‘severe erodibility’. This is a shallow landslide/connectivity model and whilst helpful at defining potential areas of risk in an extreme weather event it is not fit for purpose as an identifier of severe erodibility.

Regulation 6(4A) Afforestation:

Remove regulation 6(4A) that enables a rule in a plan for afforestation to be more stringent or lenient than in Subpart 1 of Part 2 of these regulations.

Support

Regulation 10A Permitted activity conditions: afforestation management plan:

Remove regulation 10A, which requires an afforestation management plan for all afforestation activities as a permitted activity condition.

Support

Regulation 11 Permitted activity conditions: wilding tree risk and control –

Amend regulation 11(4) to: “The relevant regional council and territorial authority must be given the following at the same time as notice is given under regulation 10: (a) the score required under subclause (1) and the calculations used for the final wilding tree risk calculator score and supporting evidence for each calculation.”

Support

Regulation 66 Permitted activity conditions: harvest plan

Amend regulation 66 to include a requirement for a slash mobilisation risk assessment as set out in Schedule 6.

See comments for reg 69

Regulation 69 Permitted activity conditions: slash and debris management

Amend regulation 69 to include a new requirement for a slash mobilisation risk assessment for all forest harvest as part of the existing harvest management plan, carried out in accordance with requirements set out in a slash mobilisation risk assessment template incorporated by reference as item 15 in Schedule 2.

An alternative would be to include the slash mobilisation risk assessment template in the NES itself, possibly as item 15 in Schedule 2.



Amend existing requirements for removal of slash on the forest cutover (regulation 69(5)–(7)) to apply only to those who have assessed mobilisation risk as ‘high’ or require those with risk assessed as ‘high’ to seek controlled resource consent.

There may be consequential changes to terms, including ‘residual material’ and ‘sound wood’ but precise wording will depend on the eventual form and drafting of a new standard.

Amend the title of regulation 69 to remove the words ‘and debris management’, in line with intent of removing ‘woody debris’ from schedules 3, 4, 5 and 6.

Note: Part 2.2 of the package-2-primary-sector-discussion-document⁶ also proposes an alternative option to a risk-based approach to change the volume and size thresholds in the current regulations.

This regulation has caused much consternation to the industry and councils since its introduction. The regulation covers a large amount of low-risk terrain, is largely unachievable due to the extremely small slash size (harvest configurations are designed to extract 2–3-ton stems not small tree branches) without compromising safety or at extreme cost. The rules do not define what a ‘hectare’ is and most important of all is that there is not a suitably accurate way to measure this slash (noting the definition slash from harvesting which does not include wind throw).

FMNZ propose that this rule is removed in its entirety.

IF it is to remain in some form:

1. FMNZ proposes a combination of a residual risk assessment on Red and Orange zoned land to identify high risk AND the change to a more achievable residual slash level of 15m³ made up of material greater than 3.1m and an SED of 10cm or greater. It is absolutely critical that there is a target that is achievable for industry without compromising health and safety or incurring prohibitive costs. Consent must ONLY be needed if this residual slash limit cannot be achieved in **high-risk areas**. There must be no limits on anything other than high risk areas.

The review of the risk assessment is contained below.

The measurement of the residual slash must also be better defined.

Draft slash mobilisation risk assessment:

We may have missed this but what scale is the expectation of use – each setting with a perennial waterway in it or at a catchment over a certain size?

Risk Indicator	FMNZ Comments
----------------	---------------

⁶ [package-2-primary-sector-discussion-document.pdf](#)

1. ESC	<p>Agree that Green and Yellow require no further action. Agree Orange and Red require further assessment. <u>Disagree</u> that Red defaults to resource consent. Due to the mapping scale there are parts of the red zone that will not meet the high-risk criteria.</p> <p>Most importantly, as noted above industry needs an achievable target of residual slash giving companies the opportunity to remove slash to these levels in high-risk areas also negating the need for a resource consent.</p>
2. Orange Zone ESC unit LUC erosion rating	No issues – agree process needed
3. Mass movement erosion type	No issues – agree process needed
3a. Gully erosion	No issues – agree process needed
4. Slope	<p>Predominant slope is probably the best way to avoid microanalyses of slopes, however, there needs to be a step in here that then allows areas of that predominant slope to be targeted as ‘high risk’. E.g. if the predominant slope is 30 degrees but the top third is <25 degrees then the area of high risk for increased slash removal only applies to bottom 2/3. More analysis is required for the 25- and 30-degree triggers for risk as they seem very low, anything <30 degrees should be classified as low risk.</p>
Waterway Classification	<p>At this point there needs to be something about the catchment and its ability to mobilise any woody debris that may enter the waterway based on the size of the catchment. E.G >50ha high risk of mobilisation downstream and at some point <50ha the risk becomes very low.</p> <p>Should the Melton Ratio be located here?</p>
5. Direct connectivity of the erosion feature to a stream or river	The Hugh Smith morphometric connectivity layers model could be used for assessment where it is available, however where it is not available it would be very subjective and would require its own risk assessment.
6. Direct proximity to offsite ‘infrastructure’, a significant	<p>Below 30 degrees (as per above).</p> <p>Given the remote locations of a lot of forests most ‘adjacent properties’ would not have this infrastructure. Does it need to specify a distance to the named infrastructure?</p>

<p>natural area, or a lake, wetland or estuary</p>	<p>Probably need to define what ‘directly affected’ means as this could be somewhat subjective.</p>
<p>7. Connectivity to downstream infrastructure (roads, bridges, settlements) and sensitive areas such as beaches and fisheries used by people</p>	<p>It’s not clear how this relates to indicator 6. The infrastructure and sensitive areas only need to present and not necessarily affected as in indicator 6. Agree that High = slash removal (if an achievable target is implemented as above) or seek resource consent. This seems to be the end of the tool? How do the rainfall and Melton ratio then fit into it?</p>
<p>8. Rainfall – high intensity or extended rainfall is strongly correlated with increased susceptibility to landsliding; 10 strong flood flows will mobilise and transport slash in waterways</p>	<p>This is correct but struggle to see how it influences the result of the above analysis.</p>
<p>9. Catchment factor to signal how mobilised material from a single site may contribute to cumulative harm. This is a function of: – size of harvest site – proportion of catchment within window of vulnerability</p>	<p>Aa above, do not see how this fits into the overall risk rating above. If the Melton Ratio is <0.5 does it override the analysis above and is therefore classed as low risk?</p>

<p>10. Slope features that indicate increased risk</p>	<p>As above, do not see how this fits into the overall risk rating above. Does the reduced risk with concave or divergent slopes override risk rating?</p>
--	--

Regulation 71A(b) Permitted activity exotic continuous-cover forests

Amend regulation 71A(b) to remove the word ‘not’ so that an activity is permitted if “any relevant forest planning requirement is complied with”

Support

Regulation 77A Permitted activity conditions: replanting management plan

Remove regulation 77A that requires replanting plans.

Support

Regulation 79 Permitted activity conditions: wilding tree risk and control

Amend regulation 79(5) to reduce extraneous wording in 79(5)(b) and link the required activity to the notice requirement.

Support

Schedule Updates

See comments above.

NES-CF implementation

Statutory implementation Changes to regulation 6(1)(a) and regulation 6(4A) will require some councils to carry out plan changes to create alignment of more stringent rules with the new intent and wording. Section 44A of the Resource Management Act 1991 enables this work to be undertaken without a Schedule 1 plan change, either in accordance with a specification in the NES, or as soon as practicable after the date it comes into force

Request that the NES-CF overrides all regional plans with immediate effect.

Non-statutory implementation Te Uru Rākau – New Zealand Forest Service will update NES-CF user guidance following amendment of the NES-CF. Guidance on new slash requirements may include workshops and webinars with industry and councils to ensure they understand how to apply the slash mobilisation risk assessment appropriately and with common understanding of intent and the practical issues in addressing slash risk, and of monitoring risk until it reverts to pre-harvest levels.

The entire user guide should be reviewed.

Workshops with industry AND councils are extremely important so that we are both aligned.



Conclusion:

To reiterate FMNZ appreciate the opportunity to submit on the proposed RMA amendments. At this point the industry is in turmoil within the Gisborne District (and we are starting to have concerns in other areas), and changes need to enable operations to continue, which is critical for forest owners, contractors, staff, the wider community and the country. The industry accepts that woody debris has and still is a real issue however stopping operations is not the answer – the changes must be well researched and achievable to the industry. To achieve good environmental outcomes, the NES-CF needs to make the council enable good practice, not stop operations.

Please feel free to get back to FMNZ if you have any questions or if we can add more details to any area.

9(2)(a)

General Manager Harvesting

FMNZ

9(2)(a)

Environmental Manager

FMNZ