Proposed Amendments to the Resource Management (National Environmental Standards for Commercial Forestry) Regulations 2017

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PRINCIPAL SUBMITTER

- For over 30 years TFL has provided professional forestry expertise in a range of areas including alternative exotic species plantation management, sustainable native forest management and native forest restoration. TFL uses advanced GIS systems.
- Over this time, TFL has carried out work for MAF, MPI, Ngai Tahu, Wellington City, Tasman District and Selwyn District Councils, Meridian Energy, SCION, University of Canterbury School of Forestry, NZ Farm Forestry Association, and over 100 private and corporate clients.
- This submission is lodged with the support of 59 private plantation owners.
- Prior to retiring, the Managing Director of TFL, Roger May, was a member of the NZ Farm Forestry Association for over 40 years and a member of the NZ Institute of Forestry and the international Forest Stewardship Council.
- More recently Roger was a co-author of a paper published in the New Zealand Journal of Forestry Science. Griffiths, J. W., Lukens, C. E., May, R. K. (2020). Increased forest cover and limits on clear-felling could substantially reduce landslide occurrence in Tasman, New Zealand. New Zealand Journal of Forestry Science. Increased forest cover and limits on clear-felling could substantially reduce landslide occurrence in Tasman, New Zealand. | New Zealand Journal of Forestry Science (nzjforestryscience.nz)

Submission on the Proposed Amendments to the NES-CF Regulations 2017

Overview

New Zealand's industrial plantations cover approximately 1.8 million hectares, 90% of which is radiata pine. There are about 13,740 plantation owners with four hectares or more and of these, about 13,500 are small growers (under 1,000 ha). Just 2% of forest owners (those over 1,000 ha) own or manage about 68% of New Zealand's plantation area.

The industrial plantation industry has, for a number of years, been suffering from a significant reduction in social licence. The primary reasons for this loss of public support are the impacts on communities, public and private property, livelihoods and the terrestrial, freshwater and marine environments resulting from logs, slash, debris and sediment exiting the forest during large or extreme rainfall events. This is then aggravated by the use of taxpayer and ratepayer monies in attempts to remedy the damage.

And in this context these impacts are not an Act of God. An act of god is defined in legal terms as: "An accident or event that happens independently of human intervention and due to natural causes such as storm, earthquake etc., which no human foresight can provide against and of which human prudence is not bound to recognise the possibility. It will relieve from absolute liability in tort. But managing a forest is a human intervention.

The fundamental problem is that the dominant business model is based on a relatively low value timber which needs to be clearcut in order to be economic. It is the blanket planting of radiata pine and extensive clearcutting without a comprehensive risk assessment that largely creates this situation, particularly on steep and/or fragile terrain. Furthermore, it is now clear that the large growers, especially those on this type of terrain are at greater risk of generating widespread adverse impacts because of their extensive clearcutting and recent events confirm that this risk is forecast to increase with the increasing frequency and intensity of rainfall events.

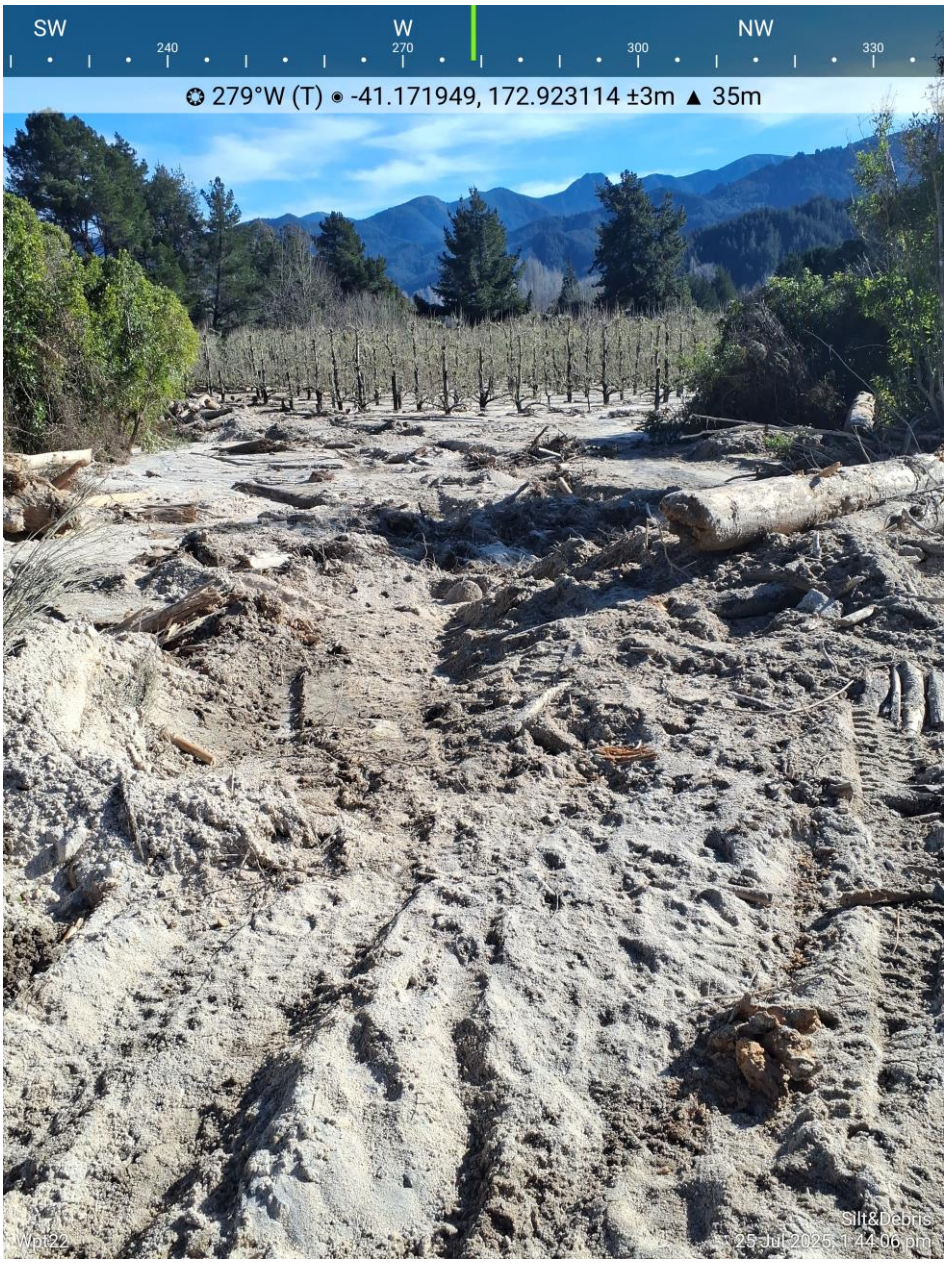
It is of considerable concern that this review does not deal with very important issues that the industry faces. These include:

1. The failure to specify limits to the size and aggregation of clearcut areas on any ESC zone, particularly Orange and Red.
2. The failure to specify any thresholds beyond which low-intensity harvesting must be used.
3. Failure to require forest managers to carry out preliminary risk assessments prior to proceeding with afforestation.
4. Failure to require forest managers to carry out comprehensive risk assessments prior to proceeding with earthworks and/or harvesting.
5. Failure to specify metrics for acceptable levels of sediment discharges to freshwater bodies and the marine environment.

Perhaps with the exception of the proposed slash management options, it would appear that the underlying intent of this review is to ease the overall responsibilities of the forest industry, especially by failing to deal with the bigger issues. The industry and the relevant government departments

must realise that such an approach will not restore the industy's social licence and will ultimately impact all of us.

Therefore there is a need for the National Environmental Standard for Commercial Forestry to be further amended in a way that (a) sets standards that realistically deal with the risks, (b) allows Councils to increase stringency to deal with the those risks in specific situations and thus begin to restore the industry's social licence. Recent events in parts of Tasman make it clear, yet again, that we cannot continue applying the same old industry business model (clear cutting) across all terrain types. Individuals and communities are suffering horrendous impacts and mental anguish which are basically illegal.



One of many damaged properties July 2025 – an orchard in Riuwaka

Question Number	Question	Response
10	Does the proposed amendment to 6(1)(a) enable management of significant risks in your region?	No, not in this region or any region where afforested slopes are steeper than 25 degrees. (a) We do not support the proposal that stringency can only be applied where there is a risk of 'severe erosion'. Most clearcutting operations result in some degree of sediment discharge, both periodic and cumulative. Councils must be allowed to set rules that deal with sediment that impact freshwater and marine habitat and values provided those rules are set and based on evidence-based measurable thresholds for, but not limited to, sediment bedload, suspended sediment, and dissolved oxygen and at relevant sampling sites. (b) This provision is not supported because the current rules in the NES-CF are not fit for purpose in managing the adverse effects of sediment discharges to freshwater or the marine environment. The NES-CF rules (26, 46, 56, 65, 74 & 90) state that there shall be no conspicuous change in colour or visual clarity after reasonable mixing. This requirement is totally subjective, is completely unfit for purpose and there is evidence that it is not monitored by forest owners or Councils. Therefore Councils must be required to set rules that properly deal with sediment that impacts freshwater and marine habitat and values. (c) This provision is only supported because forest managers need to know where the risk of operations could result in surface erosion, landslides, debris flows, debris floods as part of completing a comprehensive risk analysis. Note there is always an underlying risk in most terrain but particularly in steep/fragile terrain.
11	Does the proposal provide clarity and certainty for local authorities and forestry planning?	We do not support the proposal to remove regulation 6 (4A) because it does not provide clarity or certainty. In fact it is likely to ultimately have the opposite effect. The purpose of this regulation is to allow Councils a degree of control in permitting, controlling or declining afforestation plans. It is important to acknowledge that many plantations around the country have been planted on land that is not suited to the common business model (planting radiata pine and clearcutting). Furthermore, there is a natural expectation (in most instances) that the forest owner will at some point harvest those trees. However, if a preliminary risk assessment was to be carried out as part of a due diligence exercise, then the risk of future adverse effects will be reduced.

12	How would the removal of 6(4A) impact you, your local authority or business?	This question is unnecessarily narrow. It needs to include impacts on communities, public infrastructure and the environment. Achieving 'çertainty' for the industry is not the only objective. Regulation 6 (4A) must be retained but a Council's rules for more or less stringency needs to be based on a risk assessment of the form of forestry being proposed. For example, afforestation of radiata pine on steep and/or fragile terrain and intended to be clearcut has a completely different risk profile than afforestation using higher value species on the same terrain but harvested using continuous cover systems. *Why is there no question relating to the proposal to remove Reg 10(a)?* The proposal to remove Reg 10 (a) is not supported. As submitted above, Councils need to understand the forest planting/replanting plan and the proposed management (not just the afforestation plan) in order to assess the need for control. This regulation is not redundant – it is needed in order to avoid planting on land that (a) should not be planted for production at all or (b) should not be clearcut.
13	Do you support amendments to regulations 69(5-7) to improve their workability?	No, we do not support the amendments. I have done a tour of the Motueka region affected by the recent floods. While there has been some slash and debris (rocks and other non-woody material) washed down and deposited outside the forest boundaries (homes, paddocks, orchards), the major impact has been the deposition of sediment (sand, silt and clay). This is widespread and is up to a metre thick in places. What is noticeable is the low volumes of woody material left on the clearcut slopes. The implication of this is that the current rule ie. 69 (5) is working reasonable well. What isn't working are any measures to prevent the mountains of sediment exiting the forest boundary.
14	Do you support a site-specific risk-based assessment approach or a standard that sets size and/or volume dimensions for slash removal?	More specifically, we support a site-specific risk assessment to be carried out for **ALL** potential risk elements of forest management including sediment deposition, impacts on freshwater and the marine environment, not just slash mobilisation. The results of this assessment need to be reflected in the management plan under Reg 66. Therefore Reg 66 needs to be amended to include the requirement for a comprehensive risk assessment in any ESC zone. Guidelines will also be required to explain what an assessment needs to contain, how it is to be carried out and the thresholds that match mitigation measures to the degree of risk.

15	Is the draft slash mobilisation risk assessment template (provided in attachment 2.2.1 to this document) suitable for identifying and managing risks on a site-specific basis?	The short answer is no, it is not. The problem with the slash mobilisation regulations, both current and proposed, is that they ignore the other more significant impact of inundation (sediment) of property outside and downstream of the plantation. Slash mobilisation is always accompanied by sediment so it is logical to deal with them together. Furthermore, sedimentation and inundation often occur without slash mobilisation. However, there is currently no mechanism in the NES-CF to properly deal with this issue despite it being illegal under current law to allow sediment to spread to other property. Therefore the issue of **any** material leaving the forest boundary should be dealt with in a comprehensive risk assessment. Attachment 2.2.1 has elements of a reliable risk assessment methodology but contains major deficiencies. Firstly it contains a filter using the ESC. The ESC is known to be unfit for purpose and is acknowledged to be so by the original authors. The ESC is based on the NZLRI polygons. In the North Island, the average size of LUC6 and LUC7 polygons is 197 ha with a SD of 472 ha. In the South Island the average size of LUC6 and LUC7 polygons is 254 ha with a SD of 442 ha. Clearly these polygons are large and do not have sufficient resolution to accurately predict erosion susceptibility. In other words, it is almost inevitable that any single ESC polygon will contain a range of slopes and slope stability and therefore contain areas that require the forest manager to adjust the management plans if adverse effects are to be avoided. And as a further example of flaws in the proposed risk assessment template, the risk indicators 2, 3, & 3a all use the erosion type from the NZLRI. As above, the LRI does not have sufficient resolution to accurately gauge the risk. 'Direct proximity' in risk indicator 6 needs to take account of the extent potential flooding with different levels of rainfall events. Furthermore, the slope threshold also needs to take account of the slope length. There are software packages now available which, based on a DEM of suitable resolution (GSD 5 m), can better predict slope stability. This approach will provide the forester with more reliable harvest planning information than just slope angle. The same applies to risk indicator 7. Furthermore, it is completely unnecessary for beaches and fisheries "… to be used by people." for the indicator to be relevant. The use of HIRDS is mentioned in risk indicator 8. However, it is now clear that HIRDS considerably underestimates the intensity and frequency of rainfall events. A more reliable approach is to obtain and analyse rainfall data over at least the last 5 years from weather stations closest to the harvest site. Analysing the data to identify instances of more than 20 mm per hour, > 50 mm per day and > 100 mm per 48 hours (or such like) provides a better idea of the risk.

		Use of the Melton Ratio is discussed in risk indicator 9. This analyse is already available for a few parts of the country (eg. Marborough). In general, it is not a process that an individual forester would carry out because it is usually performed over one or more high order catchments. However, the results of a Melton Ratio analysis can be clipped to the relevant area of interest including the forest area. Risk indicator 10 is irrelevant if slope stability software is used.
16	Should a slash mobilisation risk assessment be required for green-zoned and yellow-zoned land? If so, please explain the risks you see of slash mobilisation from the forest cutover that need to be managed in those zones?	Yes. The reason is that (a) the deposition of slash and sediment should be dealt with in the same risk assessment process because issues with slash do not arise without sediment and (b) sedimentation of freshwater, if not inundation of land outside the forest boundary, can and does occur in any of the ESC zones where earthworks and harvesting are carried out.
17	If a risk-based approach is adopted which of the two proposed options for managing high-risk sites, do you prefer (ie, requiring resource consent or allowing the removal of slash to a certain size threshold as a condition of a permitted activity)?	Firstly the rules need to cover both slash and sediment and should not just apply to so-called high-risk sites. All site have risks. Therefore both options need to be reflected in the rules so that beyond a certain risk threshold(s), different rules apply including the requirement to obtain a consent.

18	For the alternative option of setting prescriptive regulations for slash management, is the suggested size and/or volume threshold appropriate?	Although the 10 cm and 2 m rule appears to be working well out on the cutover we are not averse to increasing the 2 m specification to 3 m provided the 15 cubic metre per hectare limit is maintained.
19	Do you support the proposed definition of cutover to read “cutover means the area of land that has been harvested”?	No, because as it stands, any logs or slash that have moved outside of the ‘cutover’ would not be required to be removed.

Clear-cutting in Tasman – it works well but only until the next deluge arrives. Then the locals bear the brunt.