

In Confidence

Office of the Minister for the Environment

Chair

Cabinet Economic Growth and Infrastructure Committee

A Proposed National Environmental Standard for Plantation Forestry

Proposal

1. This paper provides an update on progress made on a proposed National Environmental Standard for Plantation Forestry (the 'NES') and fulfils a requirement to report back on the outcomes.
2. The paper seeks Cabinet's agreement to defer further work on the proposed NES and review the need for it or alternatives when the major resource management reforms scheduled for 2013 have been completed.

Executive summary

3. On 18 August 2010 the Cabinet Economic Growth and Infrastructure Committee agreed to the Ministry for the Environment publicly releasing the discussion document "Proposed National Environmental Standard for Plantation Forestry" [CAB Min (10) 30/7 refers].
4. The policy objective of the proposed NES is to bring about a more consistent and appropriate plantation forestry management framework, while facilitating the sustainable management of natural and physical resources.
5. Issues of inconsistency across local government districts and regions are not confined to the forestry sector. I regularly hear concerns that resource management processes are cumbersome, costly and time-consuming, and that the system is uncertain, difficult to predict and highly litigious.
6. I released a discussion document proposing a package reforms the Resource Management Act (1991) (RMA) for public consultation on 28 February 2013. The proposed reforms aim to reduce inconsistency by producing fewer, better resource management plans and through the use of a national template. The package also includes proposals to improve national consistency and guidance on nationally significant matters.
7. The current version of the NES comprises rules for eight activities related to forestry, across four erosion susceptibility classes, which would largely override rules in district and regional plans. Some of the proposed NES regulation addresses land use effects on water quality, particularly sedimentation effects arising from harvesting and earthworks. The work overlaps the water reform being considered by Government and risks being inconsistent if progressed separately and in advance of this policy reform.
8. Since the last report-back to Cabinet on the NES development in September 2011 there has been considerable further work done on the cost benefit analysis

but there are still costs and benefits that are difficult to measure. The work has not resolved questions around whether the NES would provide a net benefit.

9. The proposed NES has been in development since 2009 but is still not ready due to complex issues raised by stakeholders, particularly in relation to workability and certainty.
10. I propose that the NES development work is deferred until these 2013 resource management reforms are completed. The need for the proposed NES can then be reviewed.

Background

11. The New Zealand Forest Owners Association (NZFOA) has long been a champion of more consistent regulatory treatment of forestry activities across districts and regions, and see an NES as a key vehicle for achieving this.
12. In 2009 the previous Minister for the Environment asked the Ministry to scope the extent to which a National Environmental Standard under the RMA could increase consistency in the way that plantation forestry is managed through regional and district plans around New Zealand.
13. Most forestry activities are permitted under regional and district plans but conditions required to comply with permitted activity rules vary around the country. Examples of activities which require commonly resource consent in regional plans are earthworks, some elements of harvesting, and quarrying.
14. On 18 August 2010, the Economic Growth and Infrastructure Committee (EGI) agreed to the release of a discussion document on the proposed NES [CAB min (10) 30/7]. The proposed NES would set regulations for the main stages of the forestry cycle (afforestation, harvesting, replanting and earthworks) and for two key associated activities, quarries and river crossings (culverts, bridges and fords). These regulations would primarily address the effects of forestry on soil erosion and water quality.
15. Cabinet requested a report back on the outcome of the consultation and with recommendations on a proposed NES by February 2011. In October 2010 EGI extended the report back to April 2011 [EGI Memo (10) 26/1], and then to September 2011 [EGI memo (11) 3/1] in order that a second round of consultation be undertaken. An erosion susceptibility classification and mapping exercise was completed to ensure that the NES adopted a risk-based approach, given the variability of soil type and landform across the country.
16. In September 2011 the Minister for the Environment reported to the EGI Committee on the results of the public consultation and a cost benefit analysis [EGI(11)188]. The cost-benefit ratio ranged from 0.3 to 0.9, depending on the scenario modelled. Though some benefits could not be monetised it was considered that they were unlikely to change the balance of the monetised costs. On 14 September 2011 EGI directed the Ministry, in conjunction with other relevant agencies and key stakeholders, to review the cost-benefit analysis and evaluate potential options to improve the cost-benefit ratio, and the Ministry was directed to report back by 1 March 2012 [CAB Min (11) 34/8].
17. On 9 March 2012 EGI noted advice from the Minister for the Environment that the review of the cost benefit analysis (CBA) identified significant costs from

carbon liabilities triggered under the Climate Change Response Act 2002 (CCRA). Because the review of the CCRA would have a significant impact on the CBA and the viability of the proposed NES, the report back was extended to May 2012 [EGI memo (12) 3/1]. The original CBA was revised in light of the CCRA amendments but the cost benefit ratio was still less than one. A further extension was granted to September 2012 [EGI memo (12) 12/1] to allow the Ministry for Primary Industries to consider aspects of the CBA that could influence the final result. As a result of their contribution the best-case benefit-cost ratio of monetised effects increased to 1.2.

18. On 17th September 2012 an extension to the report back was granted to March 2013 to accept an offer from Regional Council's Chief Executives to refine the proposed policy and consider cost-benefit implications of any alterations. They set up a small policy group comprising regional council and forestry sector professionals which was to report back to my officials by the end of 2012.
19. The policy group reported back to the project's Main Working Group on 12 December 2012. They identified issues with the CBA and said further work was required to bring the NES proposals to a level of detail that would enable them to be drafted as regulations. While there was consensus support for what the NES was trying to achieve in that consistency has merit in itself, some participants expressed doubt as to whether the proposal was the most effective means of achieving it.
20. Stakeholder reaction to putting the work on hold will be mixed. A collaborative approach has been taken in developing the NES in which a small group of key stakeholders has invested considerable time and energy. Developing the NES through this process has also advanced thinking on a number of forestry issues, such as the management of higher altitude planting with the potential to spread (i.e. wilding pine). There is likely to be disappointment from this group if the NES does not progress.
21. However, there a wider set of stakeholders with interest in the NES, and amongst this group—particularly the local government sector—consensus is still lacking as to the merit of the proposal.

Key issues with the proposed NES

22. Key issues associated with the proposed NES are that:
 - a. There are legitimate reasons for some of the differences between plans (such as variations in community expectations, values and sensitivities of receiving environments) that supports the need for local variation and flexibility.
 - b. There are concerns about the scale of erosion susceptibility mapping which underpins the regulatory approach of the NES. The mapping relies on existing land use inventory data, which was originally collected at a scale of 1:50000 (or 1:64000). While a third of New Zealand is mapped to a larger scale, the degree of accuracy needed is more in the order of 1:10000. The limiting factor is the availability of base data. Updating the data is a significant exercise but is likely to be necessary in order for the regulation to have sufficient certainty.

- c. The regulation will be lengthy and complex as it addresses eight activities over four erosion susceptibility classes and will need to factor in local geographic variability.
 - d. The NES is likely to establish a permitted baseline for some activities such as earthworks and culverts, affecting the conditions that would then apply when the same activity is undertaken for other purposes, such as agriculture or subdivisions. Such a matter may be more appropriately dealt with through a national planning template as proposed in the resource management reform package.
 - e. Plantation forestry does not currently create a large number of consents required from local government with the exception of Gisborne which is due to the amount of land there with very high erosion susceptibility. However the number of consents is expected to increase with the maturing of the 'small holder' estate.
 - f. It is more appropriate and efficient to address water quality issues through integrated reform rather than through a sector-based NES. The water reform program includes a workstream that is considering options for managing land use effects on water quality. Taking a sector-based approach could weaken opportunities for more strategic and integrated national direction on land use and water quality. An outcome of the permitted activity rules in the NES could be that forestry activities are treated differently from other activities and regional councils' ability to allocate limits on sediment loads in water bodies may not be equitable because of the separate set of rules applying to forestry.
23. A discussion document was released in February 2013 outlining a package of proposals to revamp the resource management system. Proposals aim to increase certainty and predictability and reduce costs while continuing to protect environmental outcomes.
- One of the proposals would combine all planning instruments in a district (or broader area by agreement) into an easy-to-use format that would provide applicants with one document for the planning rules that affect their properties and activities. A national template, with some standard terms and definitions and, potentially, rules for particular activities would remove unnecessary inconsistency and improve the ease of understanding and usability of plans.
 - The package also includes proposals to improve national consistency and guidance on nationally significant matters.
24. I consider that it is most efficient to allow the 2013 resource management and water reforms to be completed, assess their impact and then review whether the need for an NES remains.
25. In the meantime there is an opportunity for officials from the Ministry for the Environment and the Ministry for Primary Industries to work with the industry and other stakeholders to build on the work done to date by exploring alternative or complementary measures to address forestry issues. Examples of such work could include:

- Development of recommended terms and conditions for forestry activities,
 - Development of a process to address scale issues in the erosion susceptibility mapping,
 - Progression of the concept of Audited Self Management where companies have approved systems of risk management which is externally audited, and
 - Investigation of best/good practice guidelines suitable for release on the Quality Planning website, which could be industry-led and could suggest consent conditions
26. In relation to the next steps with this proposed NES there are four policy options. These are:
- a. Option One: Defer further work on with the proposed NES for plantation forestry and review the need for it when the major resource management reform scheduled for 2013 has been completed.
 - b. Option Two: Withdraw the proposed NES for plantation forestry and replace with a package of guidance and suggested plan provisions for local authorities (which could include plan policies and objectives, unlike the NES).
 - c. Option Three: Instruct MFE to carry out further development of the proposed NES for plantation forestry, including allowing technical and planning professionals to recommend a set of standards and terms for permitted activities. This would require a further extension of six months to the report-back to the EGI Committee.
 - d. Option Four: Accept the existing proposed NES for plantation forestry and send for legislative drafting.

Consultation

27. There has been extensive consultation to date on the proposed NES.
28. A collaborative approach was initiated in late 2010 to redesign the proposal. Working groups included representatives from large-scale forestry companies, farm foresters, local and central government, environmental NGOs and crown research institutes.
29. The following departments and agencies have been consulted on this paper: Department of Conservation, Ministry of Business, Innovation and Employment (Economic Development and Labour sections), Land Information New Zealand, Ministry for Primary Industries, Ministry of Culture and Heritage, Ministry of Foreign Affairs and Trade, Ministry of Justice, Department of Internal Affairs, Ministry of Transport, Te Puni Kōkiri, the Treasury.
30. The following department has an interest and has been informed: Department of Prime Minister and Cabinet.
31. The following interest groups have been consulted: New Zealand Transport Agency through the Ministry of Transport.

Financial implications

32. This paper does not contain specific recommendations on expenditure or revenue.

Human rights

33. There are no inconsistencies with the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

Gender implications

34. There are no gender implications associated with this paper.

Disability perspective

35. There are no implications for people with disabilities in this paper.

Legislative implications

36. Legislative implications will not be clear until the reforms for land and water management and the 2013 RMA package are complete.

Regulatory impact analysis

37. A regulatory impact statement (RIS) is not required for this paper.

Publicity

38. The Ministry will be informing parties who submitted on the NES proposal and the working groups of the Cabinet decision. There is no other publicity proposed for this paper.

Recommendations

39. The Minister for the Environment recommends that the Committee:
1. note on 18 August 2010, the Economic Growth and Infrastructure Committee (EGI) agreed to the Ministry for the Environment publicly releasing the discussion document “Proposed National Environmental Standard on Plantation Forestry” [CAB min (10) 30/7].
 2. note that the objective of the proposed National Environmental Standard for Plantation Forestry is to bring about a more consistent and appropriate plantation forestry management framework while facilitating the sustainable management of natural and physical resources
 3. note that consultation undertaken between 2010 and 2012, working group discussions and cost-benefit analyses have highlighted concerns about whether the proposed National Environmental Standard for Plantation Forestry is fit for purpose
 4. note that there is currently a discussion document on resource management out for public consultation and a white paper on water reform receiving public feedback. These reforms could impact on the viability and necessity of the proposed National Environmental Standard for Plantation Forestry
 5. agree to defer further work on the proposed National Environmental Standard for Plantation Forestry and review the need for it once the 2013 resource management and water reforms have been completed
 6. invite the Minister for the Environment to report back to the Economic Growth and Infrastructure Committee (EGI) on progress by 30 June 2014

Hon Amy Adams
Minister for the Environment

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