



Te rīpoata mō ngā tohutohu me ngā whakataurua ki ngā panonitanga NES-PF

Recommendations and decisions report on amendments to the NES-PF

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Key abbreviations

CCRA	Climate Change Response Act 2002
ECF	Exotic Continuous-cover Forest
ERP	Aotearoa New Zealand's First Emissions Reduction Plan
ESC	Erosion Susceptibility Classification
FENZ	Fire and Emergency New Zealand
LUC	Land Use Capability Classification
NBE Bill	(proposed) Natural and Built Environment Bill
NES	National Environmental Standards
NES-PF	Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017
NPS	National Policy Statement
NPS-FM	National Policy Statement for Freshwater Management 2020
NPS-HPL	National Policy Statement for Highly Productive Land 2022
NZ ETS	New Zealand Emissions Trading Scheme
NZU	New Zealand unit means a unit issued by the Registrar and designated as a New Zealand unit. A unit means a New Zealand unit or an approved overseas unit
RMA	Resource Management Act 1991

Glossary

Afforestation [#]	<p>Afforestation is defined in the current NES-PF as:</p> <ul style="list-style-type: none">(a) planting and growing plantation forestry trees on land where there is no plantation forestry and where plantation forestry harvesting has not occurred within the last 5 years; but(b) does not include vegetation clearance from the land before planting. <p>When used in this report, afforestation also includes afforestation of other forest types, including carbon forests or exotic continuous cover forests, as appropriate in context.</p>
Carbon exotic forest/forestry	<p>In the discussion document ‘National direction for plantation and exotic carbon afforestation’ carbon forestry was described as having a similar meaning to plantation forest as defined in the NES-PF, except that it is a forest that will not be harvested below a certain level of canopy cover.¹ This type of forest is sometimes referred to as ‘permanent exotic forest’.</p>
Exotic continuous-cover Forest	<p>Means an exotic forest that is deliberately established for commercial purposes being:</p> <ul style="list-style-type: none">• at least 1 ha in size of continuous forest cover of forest species; and• a minimum of 75% canopy cover is maintained at all times for any given hectare; and• forestry infrastructure; and• excludes forests types current excluded within the definition of a plantation forest (e.g., forest species in urban areas, nurseries and seed orchards, trees grown for fruit or nuts).
Environment	<p>This document uses the RMA definition of environment which includes—</p> <ul style="list-style-type: none">(a) ecosystems and their constituent parts, including people and communities; and(b) all natural and physical resources; and(c) amenity values; and(d) the social, economic, aesthetic, and cultural conditions which affect the matters stated in paragraphs (a) to (c) or which are affected by those matters.
Exotic forest	<p>Means a forest that consists of more than 50%, by basal area, of exotic forest species.</p>

¹ Permanent forestry in the ETS is for post-1989 forest land that won’t be clear-felled. “Clear-felling” is harvesting or other clearing that leaves less than 30% tree crown cover in any hectare.

Forest species [#]	A tree species capable of reaching at least 5 metres in height at maturity where it is located.
Harvesting [#]	Means: <ul style="list-style-type: none"> (a) felling trees, extracting trees, thinning tree stems and extraction for sale or use (production thinning), processing trees into logs, or loading logs onto trucks for delivery to processing plants; but (b) does not include— <ul style="list-style-type: none"> (i) milling activities or processing of timber; or (ii) clearance of vegetation that is not plantation forest trees.
Indigenous species	Means species of flora or fauna that occurs naturally in Aotearoa New Zealand or arrived in Aotearoa New Zealand without human assistance.
Indigenous forest	Means a forest that consists of more than 50 %, by basal area, indigenous species.
Indigenous forest species	Means a forest species that occurs naturally in Aotearoa New Zealand or has arrived in Aotearoa New Zealand without human assistance.
Land Use Capability (LUC)	Land Use Capability classification is a system in use in Aotearoa New Zealand since the 1950s to try and achieve sustainable land development and management on farms. The system classifies all of Aotearoa New Zealand's rural land into one of eight classes, based on its physical characteristics and attributes.
Low-intensity harvesting [#]	Harvesting where a minimum of 75% canopy cover is maintained at all times for any given hectare of forest land.
National Environmental Standard (NES)	Provides central government the ability to prescribe technical standards, rules, methods, or requirements that apply to regulated parties. Councils must enforce the standards to the extent of their powers.
National Policy Statement (NPS)	Directs councils on how to undertake their planning functions in relation to matters of national significance that are relevant to achieving the purpose of the RMA (for example, by setting objectives and policies that councils must implement in their policy documents and plans).
Plantation forest or plantation forestry [#]	Means a forest deliberately established for commercial purposes, being— <ul style="list-style-type: none"> (a) at least 1 ha of continuous forest cover of forest species that has been planted and has or will be harvested or replanted; and (b) includes all associated forestry infrastructure; but (c) does not include— <ul style="list-style-type: none"> (i) a shelter belt of forest species, where the tree crown cover has, or is likely to have, an average width of less than 30 m; or (ii) forest species in urban areas; or (iii) nurseries and seed orchards; or

- (iv) trees grown for fruit or nuts; or
- (v) long-term ecological restoration planting of forest species;
or
- (vi) willows and poplars space planted for soil conservation purposes.

Pruning and thinning to waste[#] Means pruning plantation forest trees and thinning to waste involving the selective felling of plantation forest trees within a stand where the felled trees remain on site.

Notes:

This is a current definition within the NES-PF.

* This is current definition with the Climate Change Response Act 2002, or secondary regulations under the Climate Change Response Act 2002.

Executive summary

Purpose

This report outlines the policy recommendations and decisions for the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017 (NES-PF) and records the final decisions made by the Minister for the Environment, Minister of Agriculture, Minister of Forestry and the Associate Minister for the Environment (the Ministers). It is published under section 46A(4)(c) / section 44(2)(a) of the Resource Management Act 1991 (RMA).

The report outlines amendments to the NPS-PF. These amendments address policy and technical issues. As part of this work, we have reviewed Government's policy intent for the NES-PF.

Background

The NES-PF came into effect in 2018 to maintain or improve the environmental outcomes associated with plantation forestry activities and increase the efficiency and certainty of managing plantation forestry activities.

The Ministry for Primary Industries and Ministry for the Environment consulted on options to amend the NES-PF between 6 October 2022 and 18 November 2022. The discussion document "National direction for plantation and exotic carbon afforestation" outlined proposals affecting afforestation and the management of plantation and exotic carbon (permanent) forests, and sought specific feedback in a number of areas including:

- managing the environmental effects of exotic carbon forests;
- controlling the location of afforestation (plantation and exotic carbon) to manage social, cultural, and economic effects;
- improving wildfire risk management in all plantation and exotic carbon forests; and
- addressing matters identified through the Year One Review of the NES-PF.

There was broad agreement that the environmental effects of exotic carbon forests should be managed through the NES-PF. There was also general agreement on the need to consider environmental, social, cultural, and economic issues when making afforestation decisions but mixed views on the approaches within the discussion document.

There was wide support for the proposed operational and technical changes to improve the NES-PF, with mixed views on some proposals. In terms of wildfire risk management plans, there was general support from most submitters apart from the forestry sector who opposed the proposal to require wildfire risk management plans.

There were mixed views and a lack of consensus across the iwi/Māori submissions on the proposals consulted on. Disappointment was expressed about the level of engagement, with several submissions advising it was inconsistent with the Crown's obligations, and the detrimental effect of the proposals on the Māori right to exercise tino rangatiratanga on their land. However, officials undertook targeted pre-engagement with stakeholders and Māori in June 2022, ahead of the formal consultation.

A [summary of submissions report](#) is provided on the Ministry for Primary Industries' website.

Recommendations from the MILU relevant to the NES-PF will need to be addressed as a separate package of work and have not been directly addressed within this report. We note the relevance of some Inquiry recommendations and links to the proposed amendments to the NES-PS, as set out in this report (e.g., slash provisions).

Officials' recommendations

Officials have reviewed the feedback received during the consultation. In light of this feedback, officials recommend that the policy objectives of the NES-PF are to:

- maintain or improve the environmental outcomes associated with plantation and exotic continuous-cover forestry activities nationally;
- increase certainty and efficiency in the management of plantation and exotic continuous-cover forestry activities;
- ensure the effects of plantation and exotic continuous-cover forestry activities are effectively managed in a nationally consistent manner;
- enable local authorities to control the location and scale of plantation and exotic continuous-cover afforestation, while recognising the local and national benefits of exotic commercial forestry.

In terms of the regulations, officials recommend changes to the NES-PF to:

1 Expand the types of forests controlled by the NES-PF

Officials recommend that exotic continuous-cover forests (ECFs) are defined within the NES-PF. These forests are to be defined in a similar manner as plantation forests in that they will be exotic forests deliberately established for commercial purposes of at least 1 hectare in size of continuous forest cover of forest species. A minimum of 75% canopy cover must be maintained at all times for any given hectare². If higher levels of harvest are to be undertaken a resource consent must be sought from the council.

So that there is consistency of environmental management irrespective of forest type and as the intentions regarding a forest may change over-time (switching between plantation and ECF or transitioning from exotic to indigenous forest) we recommend that the standards and requirements for forestry activities within the NES-PF should apply equally to ECF, apart from harvest.

We also propose to expand councils' ability to charge for the monitoring of afforestation.³ This change was explicitly proposed by a number of submitters. This will assist councils, who are struggling with capacity and capability, to recover costs from foresters specially since the recently observed significant increase in afforestation.

² This definition will exclude shelter belts, urban forests, nurseries and seed orchards; trees grown for fruit or nuts; long-term ecological restoration planting of forest species; willows and poplars space planted for soil conservation purposes.

³ Charging to monitor permitted activities is currently enabled for four activities – earthworks, river crossing, forestry quarrying, and harvesting (regulation 106 of the NES-PF).

2 Enable councils to have full control over the location of new plantation and exotic continuous-cover afforestation

Officials recommend allowing councils to determine the location of afforestation. This will enable them to consider local issues associated with afforestation. To achieve this, we propose expanding the matters for which councils may make more stringent rules to include all matters in or associated with afforestation.

3 Amend operational provisions in the NES-PF to improve them

Officials recommend a range of amendments to improve the operation of the regulations including:

- minor changes to the slash provisions to provide clarification where necessary;
- changing the wilding tree risk management provisions, including amendments to permitted activity notice requirements and amending property limits for replanting;
- introduce forest planning requirements to ensure compliance with existing requirements;
- minor amendments to sediment provisions to clarify requirements regarding avoidance of effects;
- initial alignment with the national direction on freshwater.

Final decisions from Ministers

The Ministers have agreed to proceed with amending the NES-PF in accordance with the recommendations as set out in this report ([Appendix 1](#)).

Introduction

Context for the proposed changes

The rate of afforestation, and in particular exotic afforestation, in Aotearoa New Zealand has increased and is expected to remain high. This increase is driven by the need to support the transition to a low emissions economy, and the rising price of New Zealand Units (NZUs) under the New Zealand Emissions Trading Scheme (NZ ETS). These drivers are also seeing new types of forests being established – including carbon forests or exotic continuous-cover forests (ECF) and transitional ECFs that are intended to become indigenous continuous-cover forests.

This increased rate of afforestation has and will continue to result in changes in land use. This change in land use will impact the versatility of land, for instance, limiting the availability of that land for other uses and potentially impacting (depending on the location, scale and extent of afforestation) existing community and commercial services, including certain agricultural supply chains that support or depend upon current land uses. This change may also result in either increased or new environmental risks (e.g., wilding trees) and/or changes in environmental services like improved biodiversity, water quality and erosion control outcomes.

Policy problem and opportunities

As more exotic forests are established, the lack of national direction for exotic continuous-cover forests could result in an inconsistency in the rules adopted by each council to manage the effects of these forests. This lack of national direction could also result in different approaches to the management of certain effects of exotic continuous-cover forests even though they may be the same, or similar, to those of exotic plantation forests.

In addition, the current framework is not effective or efficient in managing the environmental effects of forests where the forester's intention changes from an exotic plantation to an exotic continuous-cover forest after establishment.

The key issues identified under the RMA, where:

- The absence of national standards for managing the environmental effects of exotic continuous-cover forests and transitional forests.
- Existing controls in the resource management regulatory system can be used to manage environmental effects of afforestation but they have not been effective for managing its social, cultural, and economic effects.
- The Year One Review also identified changes that would ensure that the regulatory settings remain effective and efficient.

Forestry regulatory system

The forestry regulatory system includes a suite of legislative instruments that provide for the regulation of privately owned indigenous forests, log traders and forestry advisers, forestry elements of the Emissions Trading Scheme (ETS) and the environmental effects controlled through the Resource Management Act 1991 (RMA).

The NES-PF is a national direction instrument under the RMA. National direction generally is intended to achieve the purpose of the RMA. There are a range of types of national direction, the NES-PF is a National Environmental Standard which sets technical standards, methods, and requirements for activities.

The NES-PF uses these standards to manage and control the environmental effects of forestry.

Councils have a statutory requirement to implement national environmental standards. That includes requirements to observe them to the extent of their powers and align their plans with the contents of a standard.

The RMA enables councils to make their own rules to manage forests outside the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017 (NES-PF).

The Government's current policy objectives for the NES-PF are to:

- maintain or improve the environmental outcomes associated with plantation forestry activities
- increase the efficiency and certainty of managing plantation forestry activities.

The NES-PF provides nationally consistent regulations to manage the environmental effects of plantation forest activities. The NES-PF regulations cover eight core plantation forestry activities that have potential environmental effects:

- afforestation (planting new forest)
- pruning and thinning to waste
- earthworks
- river crossings
- forestry quarrying
- harvesting
- mechanical land preparation
- replanting.

Reform of the resource management system

In August 2023, the Government passed the Spatial Planning Act 2023 and the Natural and Built Environment Act 2023. These in conjunction with the Climate Change Adaptation Bill (due to be introduced in 2023), will reform resource management in Aotearoa New Zealand.

The Natural and Built Environment Bill proposes a National Planning Framework. It is anticipated that, over time, the NES-PF will be transitioned into the National Planning Framework.

Climate change

In 2020 the Government published its first National Climate Change Risk Assessment that sets out the priority and significant risks Aotearoa New Zealand faces from the impacts of climate

change. Forestry is a major part of the economy and plays an important role in helping us meet our emission reduction targets.⁴

The Government published its first National Adaptation Plan in August 2022,⁵ which sets out the actions to be taken to address these risks. Forestry adaptation measures, policies and strategies are subsumed within the Natural Environment and, Economy domains of the Plan.

Purpose of the Recommendations Report

This is the recommendations report provided to the Minister for the Environment in accordance with section 46A(4) of the Resource Management Act 1991 (RMA).

The recommendations report contains officials recommended amendments to the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017 (NES-PF).

This report outlines our recommended amendments to the NES-PF. Our recommendations address both substantive and technical issues raised in submissions, to ensure the revised NES-PF achieves the purpose of the RMA in the most effective and efficient way.

The Minister for the Environment makes decisions on the recommendations. The Minister has agreed to proceed with amending the NES-PF in accordance with the recommendations as set out in this report (appendix 1).

A separate decisions report is provided explaining the rationale for any matters where the minister has made a decision that disagrees with a recommendation in this report.

The recommendations report is required to be publicly notified in accordance with section 44 of the RMA. The recommendations report sits alongside other documents that are required to prepare national direction under the RMA, including the summary of submissions and section 32 analysis.

Process for developing the changes

The statutory requirements for developing and amending national direction are set out in the RMA. For the amendments to the NES-PF, the Minister for the Environment chose to establish an officials-led process, in keeping with section 46A(3)(b) of the RMA. This process includes:

- consulting with the public
- receiving written submissions
- providing a report and recommendations to the Minister for the Environment on the submissions and subject matter of the NES-PF.

⁴ Te hau mārohi ki anamata. *Towards a productive, sustainable and inclusive economy: Aotearoa New Zealand's first emissions reduction plan* <https://environment.govt.nz/publications/aotearoa-new-zealands-first-emissions-reduction-plan/forestry/>

⁵ Urutau, ka taurikura: Kia tū pakari a Aotearoa i ngā huringa āhuarangi. *Adapt and thrive: Building a climate-resilient New Zealand – New Zealand's first national adaptation plan* <https://environment.govt.nz/what-government-is-doing/areas-of-work/climate-change/adapting-to-climate-change/national-adaptation-plan/>

This report is informed by (and should be read alongside) the NES-PF section 32 report, which includes the results of the cost-benefit analysis prepared by external consultants. The section 32 report is available on the Ministry for the Environment’s website. The Minister has considered this report and made decisions on the subject matter of national direction.

This report also sits alongside the summary of submissions, which is discussed briefly below and published alongside this report.

An overview of the submissions process

On 6 October 2022, the Ministry for Primary Industries (MPI), Te Uru Rākau – New Zealand Forest Service (TUR), and the Ministry for the Environment (MfE) published the discussion document *National direction for plantation and exotic carbon afforestation*.⁶

The discussion document outlined proposals affecting afforestation and the management of plantation and exotic carbon (permanent) forests, and sought specific feedback in a number of areas including: managing the environmental effects of exotic carbon forests, controlling the location of afforestation (plantation and exotic carbon) to manage social, cultural, and economic effects, improving wildfire risk management in all plantation and exotic carbon forests, and addressing matters identified through the Year One Review of the NES-PF.

Written feedback on the discussion document was sought by 18 November 2022. During the consultation period, officials from MPI, MfE and TUR held public webinars and technical workshops to support the consultation process.

A total of 152 written submissions were received. Each submission was reviewed and a [summary of findings from the written submissions](#) is published on the MPI website. The summary of submissions is an important document and forms part of the package of material that the Minister for the Environment must consider under s46A(4)(c).

Process for developing recommendations and supporting analysis

To develop the recommendations in this report, we considered submissions and refined the policy proposals that were contained in the discussion document.

We note that there has been significant public attention on forestry between when submissions closed and when final decisions are made on the NES-PF. This attention has been driven, in large part, by the weather events of ex-tropical cyclones Hale and Gabrielle, which caused significant damage across the north island, and in particular in Tairāwhiti and the Hawke’s Bay.

These events, and the damage from them resulted in the Ministerial Inquiry into Land Use (MILU), which reported back on 12 May 2023. The substantial proportion of analysis supporting these recommendations was completed prior to the findings being reported back to the Government.

⁶ <https://www.mpi.govt.nz/consultations/national-direction-for-plantation-and-exotic-carbon-afforestation/>

Recommendations from the MILU relevant to the NES-PF will need to be addressed as a separate package of work and have not directly been addressed within this report. We note the relevance of some Inquiry recommendations and links to the proposed amendments to the NES-PS, as set out in this report (e.g., slash provisions).

Limitations and constraints

There have been several limitations and constraints on the analysis and recommendations within this report. These are:

1 Ministerial direction

Two options were consulted on that would enable councils to have greater control over the location of plantation and exotic carbon afforestation. Feedback on these options was mixed and Ministers decided not to consider other national direction options, or other RMA tools to manage local issues associated with afforestation.

2 Consultation scope

The purpose of consultation is to gain information to assist with policy development and to inform stakeholders on proposed changes. The RMA provides a statutory framework to ensure that the public and iwi authorities are notified of proposals, that they are adequately informed of the changes and have “adequate time and opportunity to make a submission on the subject matter of the proposed national direction”.

The discussion document contained a spectrum of proposals. Some related to the overarching regulatory framework, for example, including exotic continuous-cover forests as a type of forests within the scope of the NES-PF. Other proposals were focussed on addressing specific issues, for example, changes relating to the management of slash, wildings, or alignment with other national direction.

Several submitters identified concerns with the regulatory approach to the management of activities rather than the technical change being consulted upon and sought more significant changes to the NES-PF, including substantial reworking of some existing management approaches. For example, these submitters questioned the approach to the management of slash, sediment, and wildings, suggesting that we needed to comprehensively review these provisions. Others were in favour of the status quo.

Officials acknowledge that the context has changed and that some of these issues within the discussion document may be framed differently in light of recent events in the East Coast. However, officials note the statutory requirements limit our ability to make changes; we can only recommend changes on the topic of the consultation.

Our approach has therefore been to make changes where those were a topic of consultation in the discussion document – as we signalled changes to the standards, and submitters requested them – but we have not recommended a fundamental change to the framework of the NES-PF (e.g., a move from a regime that focusses on permitted activities to consents, or the inclusion of cumulative limits) as this was not signalled in the consultation document and will be considered as part of the Government response to the MILU.

3 Significant Adverse effects

The RMA does not allow the Minister for the Environment to allow an activity to be permitted within an NES, if that has significant adverse effect on the environment (s43A(3)).

This requirement applies separately from the broader analysis of efficiency and effectiveness required under s 32 of the RMA, as it sets a bottom line on the activities that may be permitted.

Significant analysis was done on this requirement at the time the regulations were made. That analysis remains relevant and is available on the MPI website.⁷

To avoid repeating this analysis, our approach has been to assess the matters that were consulted on, and for which recommendations are made. Therefore, even if a recommendation is not to proceed with an option, or to proceed only partially, officials are confident that not acting does not result in a significant adverse effect.

Purpose and scope of a revised NES-PF

The intention of the proposed changes is to broaden the purpose and scope of the NES-PF. The driver of this change includes an understanding and recognition of the role exotic forestry will play in delivering on multiple objectives and outcomes at local, regional, and national levels. The current scope of the NES-PF is limited to plantation forestry, and the eight core activities that are managed; this was the original intent of the instrument to focus narrowly on what was then the predominant economic forestry activity (i.e., plantation forestry).

Expanding the scope of the NES-PF to cover all types of exotic forests will reduce this complexity and ensure the environmental effects of ECF are managed in a consistent manner. This was considered within Part A proposals to expanding the scope of the NES-PF to manage 'exotic carbon forests' and provided several options for this to be undertaken, including creation of a bespoke, new, national environmental standard, or including these forests in the NES-PF.

We note this approach creates an apparent inconsistency, where ECF forests are subject to tougher harvesting rules than plantation forests. This is intended, because of the link to the afforestation provisions. If an afforestation consent is required (as is currently the case on red zone land and may be required in other areas because of stringency) discretion is enabled over future harvesting and earthworks effects. A council can then, in an area where conventional harvesting would result in potential adverse environmental effects, specify that a forest is to be managed as an ECF forest.

Operation improvements to the NES-PF

Proposed amendments to operational parts of the NES-PF are recommended to ensure the regulations deliver on policy objectives across the following areas:

- wildfire risk management
- wilding conifer risk management
- slash management

⁷ [Assessment of the implications of changes to the draft National Environmental Standard for Plantation Forestry \(mpi.govt.nz\)](https://www.mpi.govt.nz)

- forest management plans
- operation amendments (including vegetation clearance and significant natural areas).

The recommended changes seek to ensure that the NES-PF remains 'fit-for-purpose' in that it seeks to deliver some of the findings from the Year One Review as well as operational changes identified subsequent to the publication of the review.

No permitted activities in this section will result in significant adverse effects on the environment.

Controlling the location of forests

Proposed changes to enable councils' greater control over the location of forests will require councils to amend their plans. Given that the NES-PF itself will not introduce these standards, there are no significant adverse effects associated with this change.

Relationship to other national direction

This section includes several proposed technical amendments to better align the NES-PF with the recent changes to national direction for fresh water, in preparation for the introduction of the proposed National Planning Framework (NPF).

Proposed changes are focused on matters related to fish passage on river crossing, culvert depth, sediment control measures, and vehicle use in/around wetlands.

Where changes in this section are to, or relate to, permitted activities no significant adverse effects on the environment will result from these changes.

Significant adverse effects test conclusion

The analysis for each proposed change is detailed in the following analysis sections of the report. Further analysis is included in supporting documents, including the s32, regulatory impact assessment and cost benefit analysis.

Officials have evaluated the proposed changes to the NES-PF and determined that if amendments are made as proposed, the NES-PF will limit the requirement for resource consent to the most severe end of the risk threshold and that no significant residual effects will arise from activities that are permitted.

Final decisions from the Minister

The Minister has agreed to all the recommendations presented in this report. A table of consolidated recommendations is provided in Appendix 1.

Part 1: Values and aspirations of Māori in forestry and te Tiriti o Waitangi | Treaty of Waitangi

Context

Around 30% of Aotearoa New Zealand's plantation forestry is estimated to be on Māori land. Compared nationally, a higher proportion of Māori land is suited to exotic carbon forests due to it being on land considered marginal, steep and/or erosion prone. The proposed changes to the NES-PF set out in discussion document are, therefore, of significant interest to Māori.

There is an obligation for the Crown to ensure the NES-PF is amended in a way that is consistent with the te Tiriti o Waitangi | Treaty of Waitangi principles (te Tiriti). Through engagement with Māori, officials identified Māori interests and concerns in the policy proposals and assessed the impact of the policy proposal on Māori rights and interests in forestry.

In addition to the webinars and workshops between 13 October and 14 November 2022, officials held a workshop for hapori Māori on 9 November 2022. Officials also met with members of Waikato-Tainui, Ngāi Tahu and Ngāti Maniapoto on the proposals in the discussion document. In these workshop and meetings, officials sought feedback on how the proposals in the discussion document would affect Māori rights and interests in forestry.

Feedback from submissions

Of the 152 written submissions, 11 were from groups with Māori interests. These included submissions from Post Settlement Governance Entities (PSGEs)⁸, entities with special interests in forestry, and other entities with interests in Māori land. A full list of these submitters is included in the [summary of submissions](#).

The themes emerging from the submissions from Māori are:

- their disappointment with the level of engagement and the inconsistencies with the Crown's obligations
- the potential constraints on the Māori right to exercise tino rangatiratanga on their land arising from the proposals
- the concerns that any new regulatory constraints could discourage continued expansion of plantation forests and, therefore, could unfairly impact Māori commercial interests
- the concerns about the impact of carbon exotic forests and critical of any expansion of plantation forests.

⁸ Note, Te Rūnanga o Ngāi Tahu made two submissions, therefore, the summary of submissions refers to ten Māori entities who made submissions rather than eleven entities.

There is a lack of consensus on the pros and cons of each of the proposals made in the discussion document. The common points raised by Māori submitters were on:

- a lack of clarity on the actual environmental effects of exotic carbon forests.
- a lack of evidence of negative social, cultural and economic effects of increased exotic carbon forestry and plantation forestry on Māori.
- the potential harmful impacts of exotic carbon forests and any expansion of plantation forests, including on employment opportunities and changes to the structure of small rural communities.

MfE, MPI and TUR officials undertook targeted pre-engagement with stakeholders and Māori in June 2022. The aim of this was to gather information, test proposals, and inform the development of the discussion document for public consultation. Eight workshops were held between 7 June and 13 June. More than 100 people were invited from the sector, including 10 te Tiriti partners representing Māori landowners, and Māori with an interest in forests.

Analysis

Recognising and providing for the principles of te Tiriti

The purpose of engagement with Māori on the proposals in the discussion document is to better understand the implications the proposals in this project will have for Māori. The policy development of the proposed amendments to the NES-PF must consider the impact of any new regulatory barriers to Māori over the long term, with the view to support Māori to realise the full potential of their whenua and assets. This will help determine if the right balance has been met between recognising the right of the Crown to govern; and recognising the right of Māori to exercise rangatiratanga over their own land.

Te Tiriti settlement commitments

The government is committed to strengthen the Crown-Māori relationship by having processes and policies that effect to the principles of te Tiriti and meet any post-settlement commitments and legislative requirements.

Te Tiriti settlement agreements may acknowledge requirements for the Crown to consult with the Treaty settlement entity on policies that affect their areas of interest. There is potential for the proposals to amend the NES-PF in a way that may restrict certain land uses on land granted as part of a te Tiriti settlement.

As part of the engagement process, we have engaged directly with the Post Settlement Governance Entities (PSGEs). Ten entities with Māori interests made submissions on the discussion paper. Of these ten, three are PSGEs. Two of these submitters were disappointed at the consultation process that was undertaken for the project which they found to be inconsistent with the Crown's obligations under their respective settlement agreements to work in partnership or in co-management with them.

Appropriately taking into account the rights and interests of Māori in forestry

Māori have substantial and wide-ranging interests in forests and forestry, and therefore, will be significantly affected by the proposals to amend the NES-PF. Development of the proposals will need to ensure the relationship of Māori with their ancestral lands, waters, wāhi tapu and taonga are provided for and protected.

General feedback from the Māori submitters was that it is difficult to provide a response on this project when it is part of number of initiatives to do with exotic carbon forestry and climate change issues.

MPI, MfE and TUR are currently working on better avenues and framework for engaging with Māori on climate change and forestry matters. MPI through Ngā Pou a Tāne, and MfE, through its relationship with the National Iwi Chairs Forum, are both building a stronger framework and avenues for work in the spirit of partnership with Māori on forestry and climate change issues going forward.

MPI also currently works with iwi representatives from across Aotearoa New Zealand through Ngā Pouwhiro Taimatua, the Māori Primary Sector Forum. In addition to these avenues for wider engagement, there is also initiatives to establish a Māori technical advisory group to provide advice to Government on forestry and climate change matters.

Recommendations and decisions

- | | |
|---|-------|
| 1a) Note officials from MfE and MPI engaged with Māori entities with an interest in forestry in the pre-engagement sessions in June 2022 and in the workshops for the discussion paper in October and November 2022. Officials also met with representatives from Waikato-Tainui, Ngāi Tahu and Ngāti Maniapoto separately. | Noted |
| 1b) Note Māori submitters felt disappointed with the level of engagement on the proposals in this report. | Noted |
| 1c) Note officials will continue to engage with Maori stakeholders on forestry, ETS and climate change issues. | Noted |
| 1d) Note through this engagement, officials will seek to ensure the NES-PF is amended in a way that is consistent with the Te Tiriti o Waitangi principles including by identifying Māori interests and concerns and assessing the impact of the policy proposal on Māori rights and interests in forestry. | Noted |

Part 2: The purpose and scope of a revised NES-PF

Intent

The intention of the proposed changes to the regulations is to broaden the purpose and scope of a revised NES-PF such that it supports the delivery of the right type and scale of forests, in the right place.⁹ This is to ensure that commercial forests support our broader objectives for forestry and can deliver on multiple objectives and outcomes.^{10 11}

What did we consult on?

1 Policy objectives of the regulations

The discussion document presented two additional policy objectives for the NES-PF. As detailed within the interim regulatory impact statement (RIS), there are tensions and trade-offs between the objectives in the national and local contexts. The discussion document did not ask any specific questions regarding the proposed additional objectives.

2 Scope of the regulations to manage effects of exotic continuous-cover forests

We asked submitters whether they thought that the NES-PF should be amended to include ECF. The discussion document set out some environmental effects at a high level¹² and how these effects are controlled for plantation and exotic continuous-cover forests. We sought feedback on:

- the environmental effects of ECFs and if these effects should be managed through NES-PF.
- amending regulation to include wind effects as a matter of discretion¹³ to manage potential instability of trees as a result of wind for all forests in red zone land.

⁹ Action 14.1.1 in Te hau mārohi ki anamata Towards a productive, sustainable and inclusive economy Aotearoa New Zealand's First Emissions Reduction Plan <https://environment.govt.nz/assets/publications/Aotearoa-New-Zealands-first-emissions-reduction-plan.pdf>

¹⁰ Te hau mārohi ki anamata Towards a productive, sustainable and inclusive economy Aotearoa New Zealand's First Emissions Reduction Plan <https://environment.govt.nz/assets/publications/Aotearoa-New-Zealands-first-emissions-reduction-plan.pdf>

¹¹ By 2050, Aotearoa New Zealand has a sustainable and diverse forest estate that provides a renewable resource to support our transition to a low-emissions economy. Forestry will contribute to global efforts to address climate change and emissions reductions beyond 2050, while building sustainable communities, resilient landscapes, and a legacy for future generations to thrive.

¹² Appendix C of the discussion document 'National direction for plantation and exotic carbon afforestation'.

¹³ Regulation 17 of the NES-PF outlines the matters that the relevant council can consider when determining to either decline resource consent, or to grant consent and impose conditions.

3 Definitions

The discussion document provided a high-level definition of transitional forests as a type of exotic forest which is intended to transition from predominantly exotic to predominantly indigenous over time, while maintaining a minimum canopy cover. The discussion document did not define different forest management models or detail any additional changes to the definitions, however, as a result of the proposed amendments consequential changes to definitions are now required.

Feedback from submissions

1 Policy objectives

Feedback on the policy objectives noted:

- **The tensions between the objectives and how they would affect the forestry sector.** There is concern that the objectives conflicted with the country's transition to a low emissions economy and the Government's climate change objectives. Others considered that the current settings do not support national policy objectives in Te Mana o te Taiao – Aotearoa New Zealand Biodiversity Strategy (ANZBS) 2020 nor the Emissions Reduction Plan (ERP) 2022 for emissions pricing and forestry.
- **Māori and iwi submissions** focused on how the objectives did not support mana whenua exercising rangatiratanga over their lands – with one submitter noting that 'It does not prioritise and centre Māori interests, communities, tikanga, and mātauranga.' However, half the Māori submitters supported the proposal to include carbon exotic forests in the NES-PF.
- **Alignment with the reformed Resource Management System and other national direction.**

2 Scope of the regulations to manage effects of exotic continuous-cover forests

Key themes from the submissions are:

- **Supporting the amendment of the NES-PF to include exotic carbon forests to manage the environmental effects of exotic carbon forestry.** Cross-regional consistency will be provided for which helps to reduce the cost and time, prevent unnecessary duplication, eliminate existing loopholes and ensure common issues are managed equally.
- **Support for permanent forests to be regulated in either through a separate NES or under the New Zealand Emissions Trading Scheme (NZ ETS).** The primary concern was to avoid scope creep and minimise confusion of application and compliance.
- **Disagreement with the idea that exotic carbon forests and plantation forestry have the same or similar environmental effects.** The reasons supporting this view included, that only similar effects are the requirement for regular access and ongoing maintenance, and that majority of the environmental effects of plantation forests occur around harvest time and relate to sediment and slash.
- **Mixed views on the effectiveness of the regulations.** Those that felt that a single regulatory framework would be ineffective indicated that the regulations should focus on plantation forestry. Those that thought it would be effective thought that it provides a single legislation for all forest types' national direction and centralised regulation, and simplicity and an improvement to the status quo.

- **Some submitters thought that wind effects should be included as a matter of discretion.** Submitters in favour were concerned about the negative effects of windthrow. Those against said that wind speed is not the best indicator of risk. They noted that Aotearoa New Zealand does not have readily available severe wind probability technology to support either councils or prospective forest growers to derive wind risk probability.

3 Definitions

Submitters generally did not support the use of the term exotic carbon forestry and asked that the definition was made more specific. Many opposed to amending the definition of plantation forestry. However, the reasons for supporting this view included:

- that there is a significant difference between the purposes and management of exotic continuous-cover and plantation forests.
- the point at which transitional forest will be considered an “exotic carbon forest” is unclear.
- the use of the word “exotic” which raised questions as to what qualifies as an exotic tree and why this is specified when indigenous forests are not immune to adverse environmental outcomes.

Analysis

1 Policy objectives

The intention of the proposed changes is to broaden the purpose and scope of the NES-PF. The driver of this change includes an understanding and recognition of the role exotic forestry will play in delivering on multiple objectives and outcomes at local, regional, and national levels. There is also an expectation that current demand for exotic afforestation will continue to increase.

The discussion document did not examine the current objectives of the NES-PF but proposed additional policy objectives. Whilst there were no direct questions regarding the proposed policy objectives, most of the comments focused on the tensions between the policy objectives.

Trade-offs, compromise, and conflicts are inevitable when considering the broader role and function forestry is due to play and that some assessments are subjective. Some of these trade-offs and compromises already exist within the current policy objectives of NES-PF. This was commented on by several submitters, for example some indicated that the current regulations promote certainty and efficiency over improving environmental outcomes.

It is recommended that the current policy objectives of the NES-PF are amended to:

- maintain or improve the environmental outcomes associated with plantation and exotic continuous-cover forestry activities nationally.
- increase certainty and efficiency in the management of plantation and exotic continuous-cover forestry activities.
- ensure the effects of plantation and exotic continuous-cover forestry activities are effectively managed in a nationally consistent manner.

- enable local authorities to control the location and scale of plantation and exotic continuous-cover afforestation, while recognising the local and national benefits of exotic commercial forestry.

A reference to exotic continuous-cover forests has been inserted in the current objectives as the regulations will apply to exotic forests that are not intended to be harvested. The new policy objectives have also been refined from those presented in the discussion document. This refinement is editorial, to make them clearer.

2 Scope of the instrument to manage effects of ECF

At present it can be complex to determine to what extent an activity or effect is in or out of scope of the NES-PF, in particular, for proposals that are unusual or not anticipated by national direction or a plan and where there is an element of discretion.

The current scope of the NES-PF is limited to plantation forestry, and the eight core activities that are managed; this was the original intent of the instrument to focus narrowly on what was then the predominant economic forestry activity (i.e., plantation forestry). The NES-PF did not anticipate a range of forest models that have been emerging over the last 5 years.

Expanding the scope of the NES-PF to cover all types of exotic forests will reduce this complexity and ensure the environmental effects of ECF are managed in a consistent manner. This was considered within Part A proposals to expand the scope of the NES-PF to manage 'exotic carbon forests' and provided several options for this to be undertaken, including creation of a bespoke, new, national environmental standard, or including these forests in the NES-PF.

The terminology document was not explicit on every implication of modifying the scope of the NES-PF to include exotic carbon forests and noted that some forest models may vary over time, or as incentives change, for example for transitional forests.

3 Managing effects of Exotic Continuous-cover Forests

Whilst it is noted that not all activities and effects of plantation and ECF will be the same, there are many that are similar, including but not limited to pruning and thinning, development of river crossing and harvest activities.

In general, we consider the effects to be similar. We note some submissions considered that there would be different effects for continuous cover forests, however these different effects generally occurred in specific cases, or at harvest, where we recommend a different management approach between forests.

It is therefore recommended that all activities and effects currently within the regulations apply to exotic carbon forests, however there will be some variations for harvest.

This means that exotic continuous cover forestry will be subject to the existing (and to be modified) standards for:

- Afforestation
- Pruning and thinning to waste
- Earthworks
- River crossings
- Forest quarrying

- Mechanical land preparation
- Replanting
- Ancillary activities
- General provisions

Harvesting (Subpart 6)

The inclusion of ECF in the regulations requires consequential changes to the harvesting standards (Subpart 6) as it is anticipated that some harvesting of timber will be undertaken in forests. The activity conditions will need to be amended to allow low intensity harvesting (maintaining a minimum of 75% canopy cover). It is recommended that new regulations are inserted in regulation 63 such that:

- low intensity harvesting of ECF is permitted in all ESC classes if regulations 64 to 69 are complied with, alongside any forest planning requirements (discussed below)
 - if regulations 64 to 69, or the forest planning requirements are not complied with, a consent is required as a controlled activity with the matters of discretion in 70(4), and an additional matter enabling consideration of any forest planning requirements
- harvesting (other than low intensity harvesting) of an ECF is a discretionary activity (regional).

We note this approach creates an apparent inconsistency where ECF forests are subject to tougher harvesting rules than plantation forests. This is intended, because of the link to the afforestation provisions. If an afforestation consent is required (as is currently the case on red zone land and may be required in other areas because of stringency) discretion is enabled over future harvesting and earthworks effects. A council can then, in an area where conventional harvesting would result in potential adverse environmental effects, specify that a forest is to be managed as an ECF forest.

This enables a council to effectively manage adverse effects of harvest at the afforestation stage. If a consent is granted for afforestation of a plantation forest a consent authority is accepting that future harvesting effects will be permitted or controlled in all but the most severe of cases. However, if consent is granted for a ECF a council is assured that it will have full discretion over future effects from conventional harvesting, as only low intensity harvesting can occur as a permitted activity.

To ensure that this approach works, we also recommend modifications to the matters of discretion associated with afforestation. These are:

- modifications of the matters of discretion in regulation 17(4) which applies when afforestation is occurring on red zone land
 - future harvesting and earthworks effects is made a matter of discretion in its own right, rather than only as a subset of erosion
 - planting location and species is also made a matter of discretion in its own right, rather than just as a subset of erosion. Additionally, this should be expanded to include discretion over planting density and establishment practice
 - add a new matter of discretion enabling any residual risk to downstream communities and infrastructure to be assessed

- a matter of discretion giving council the ability to control which forest type – plantation of ECF forest – to enable the link to be made with the harvesting provisions discussed above
- a new matter of discretion enabling councils to prescribe any ongoing management of the forest required to avoid adverse effects on ecosystems, freshwater, coastal water, communities, and infrastructure.

These matters are considered necessary for the following reasons:

- The changes 1, 2, and 3, in the list above are to enable to have more explicit control over the ‘right’ type of forest on red zone land, recognising that location, species, establishment, harvesting and earthworks can have effects on a range of matters, including communities and ecosystems.
- The new matters in 4 and 5 are to enable a council to define the forest type to minimise future effects, and, noting that some forests may not be harvested in the future, have an opportunity to specify what ongoing management is required.

We note that there remains a gap on the long-term management of ECF in areas where a consent may not be required – green, yellow, and orange zones. While this gap is unlikely to be significant – ongoing management is more likely to be required in the highest risk landscapes – the provision of stringency enables consent authorities to address these cases if required.

Managing wind effects

We consulted on the addition of wind effects as a matter of discretion to regulation 17.

Submissions indicated that wind speed is not the best indicator of risk, which is determined through a combination of geology, topography, species, antecedent moisture conditions and wind strength and direction. Furthermore, Aotearoa New Zealand does not have readily available severe wind probability technology to provide a consistent tool to support either councils or prospective forest growers to derive wind risk probability.

Some plantation forests, notably in the central North Island were significantly affected by high winds during Cyclone Gabrielle in February 2023. However, wind driven landscape impacts were also felt across urban and rural areas in general (roofs lifting, trees on powerlines, trees uprooted, etc.). While high winds of this nature remain a hazard, and may increase, better information, prediction and provision is required across the whole resource management system and should be pursued at that level.

It is considered that at this time wind effects should not be added as a matter of discretion to regulation 17.

4 Definitions

Legislation may contain one or more interpretation sections or clauses, which define specific words and phrases used in the document and may include other matters of interpretation.¹⁴ In the context of the NES-PF, these interpretation section describes and details the types of forests and activities that fall within scope of the regulations as well as other matters. It is vital that these terms are precise and clear to allow consistent application of the regulations.

¹⁴ Glossary – New Zealand Legislation <https://www.legislation.govt.nz/glossary.aspx#>

The definitions and terminologies within the NES-PF are aligned with the Climate Change Response Act (CCRA), and subsidiary instruments made under that Act. For example, the NES-PF definition of forest species is similar as that in the CCRA, as are several exclusions from the definition of plantation forestry.¹⁵

However, this alignment is causing confusion, especially for 'permanent forestry'. Under the ETS a permanent forest must not be clear-felled for at least 50 years. It is therefore not clear if a permanent forest is a plantation forest or will be a permanent feature of the landscape with a continuous canopy cover.

It is recommended that a definition is created to describe exotic forests that are deliberately established for commercial purposes that may, or intend, not to be harvested below 75% canopy cover in any hectare. It is recommended that these forests are termed as 'Continuous-cover forests'. Additional definitions will be required including a term to define exotic and indigenous forests as indigenous continuous-cover forests are not to be regulated through the revised NES-PF.

Timeframes, administrative and transitional provisions

Forests moving in and out of scope of the regulations

Expanding the scope to exotic continuous cover forests but not indigenous continuous cover forests enables a situation where forests can potentially come into and out of scope of the regulations as the forest grows – for example, a forest may be planted as an indigenous continuous-cover forest, with 65% basal area indigenous species, but as it grows, the faster growing exotic species increase in basal area faster than the indigenous, and eventually the forest reaches 51% exotics by basal area.

Conversely, an ECF may be managed over time to transition to indigenous species, as a result of selective harvesting and underplanting. We are aware of a number of persons who intend to undertake this model for the claimed carbon benefits.

We consider that a forest moving into scope of the regulations – the example in the first paragraph in this section – should be captured by the afforestation provisions at the point where the basal area exceeds 50% exotic. This ensures appropriate management of these forests, as some of the effects (such as wildings) will increase in potential severity as the proportion of exotics increases.

We do not consider that special management for forests moving out of the regulations is required – these forests are likely to be transitioning to a predominantly indigenous system, which generally has limited environmental effects. However, we note that stringency, or a consent required at afforestation if on red zone enable councils to manage situations where an indigenous forest is not preferable or ongoing management is required.

¹⁵ While similar approaches have been used, the relevant terms are defined within NES-PF and there is no explicit link between the two statutory frameworks. This means that a determination under one statutory framework has direct implications for the other, for example a forest may be regulated by the NES-PF but that does not automatically mean that it qualifies as a forest under the Emission Trading Scheme.

Timing and existing forests

We sought feedback on implementation support needed to expand the scope of the regulation. Many submitters identified capacity and capability within the system as a key issue. To address this, submitters suggested additional funding as well as guidance and technical advice.

There are already workstreams underway to increase capacity and capability across the system and expanding the NES-PF to include exotic carbon forests, does not require councils to consider new activities or effects. However, it is noted that councils may need to consider more consent applications as more forests are within scope.

It is recommended provisions that expand the scope of the regulation come into force 28 days after gazettal. We make this recommendation to avoid a situation where there are a rush of persons seeking to authorise new forests before the regulations come into effect.

We note that the amendments in this section will not affect existing plantation forests, planted after the NES-PF came into force as they have already undertaken afforestation, and there is no meaningful change to the harvesting provisions.

For ECF forests that were planted before these amendments come into force, they will not need to comply with the afforestation provisions, as that activity has already occurred.

Charging for permitted activity monitoring

In response to the proposal to include ECF in the regulations, and improve management of forests at afforestation, a number of submitters suggested that charging needed to be enabled for afforestation.

In the NES-PF, charging to monitor permitted activities is currently enabled for four activities – earthworks, river crossing, forestry quarrying, and harvesting (regulation 106).

These activities generally have a greater environmental risk, stronger requirements in the NES-PF and management plan requirements, that councils may need to monitor. They are also the activities that were understood to have greatest potential environmental effects at the time that the NES-PF was made.

The significantly greater rates of afforestation, and the changes to the afforestation provisions change this context – there will be a significantly greater emphasis on getting afforestation right.

Therefore, we agree with submitters on the need to expand charging. To enable appropriate environmental management at afforestation, councils should be able to recover reasonable costs associated with afforestation monitoring. We note that if we did not enable charging that there would be a stronger incentive to use stringency to require a consent, for which monitoring can then be charged.

Recommendations and decisions

- 2a) Agree that the government’s policy objectives for the NES-PF should be amended to:
- maintain or improve the environmental outcomes associated with plantation and exotic continuous-cover forestry activities nationally
 - increase certainty and efficiency in the management of plantation and exotic continuous-cover forestry activities
 - ensure the effects of plantation and exotic continuous-cover forestry activities are effectively managed in a nationally consistent manner
 - enable local authorities to control the location and scale of plantation and exotic continuous-cover afforestation, while recognising the local and national benefits of exotic commercial forestry.
- Agree/Not agree

- 2b) Note that amending the scope of NES-PF will have consequential impacts, including the type of forests that will be controlled through the regulations, activity status and stringency provisions relating to particular activities and effects.
- Noted

- 2c) Agree that the NES-PF should be expanded to manage exotic forests that are deliberately established for commercial purposes being:
- at least 1 ha in size of continuous forest cover of forest species
 - a minimum of 75% canopy cover is maintained at all times for any given hectare
 - forestry infrastructure
 - excludes forests types current excluded within the definition of a plantation forest.
- Agree/Not agree

- 2d) Note that plantation forests are already defined within the NES-PF.
- Noted

- 2e) Agree to insert the following definitions into the NES-PF to achieve recommendation 2c above:

Term	Definition
basal area*	means the cross-sectional area of the stem of a tree measured over bark at a point that is 1.4 metres from ground level on the uphill side of the tree and expressed in square metres
Continuous-cover forest	means a forest containing forest species that is deliberately established for commercial purpose being: <ul style="list-style-type: none"> (a) at least 1 ha of continuous forest cover of forest species that has been planted and has or may be low-intensity harvested or replanted; and (b) includes all associated forestry infrastructure; but (c) does not include— <ul style="list-style-type: none"> (i) a shelter belt of forest species, where the tree crown cover has, or is likely to have, an average width of less than 30 m; or (ii) forest species in urban areas; or (iii) nurseries and seed orchards; or (iv) trees grown for fruit or nuts; or (v) long-term ecological restoration planting of indigenous forest species; or (vi) willows and poplars space planted for soil conservation purposes.

Exotic forest	means a forest that consists of more than 50 per cent, by basal area, of exotic forest species
Exotic forest species	means a forest species that is not an indigenous forest species
Indigenous forest	means a forest that consists of more than 50 per cent, by basal area, of indigenous forest species
Indigenous forest species	means a forest species that occurs naturally in New Zealand or has arrived in New Zealand without human assistance
Low-intensity harvesting#	Harvesting where a minimum of 75% canopy cover is maintained at all times for any given hectare of forest land
Transitional forest	A forest that has been planted and has or will be change from an exotic forest to an indigenous forest

Note: * These definitions are from the Climate Change Response Act (CCRA), or secondary legislation under the CCRA

This definition is within regulation of 63(3) of the NES-PF

Agree/Not agree

2f) Note the following consequential changes to existing definitions:

Plantation forest	amend the definition to clarifying that indigenous forests planted for long-term ecological restoration are not plantation forestry. This is to ensure that all indigenous continuous cover forests are outside the scope of the regulations
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Noted

2g) Agree to consequential changes to the other definitions to ensure that definitions that refer to plantation forests include appropriate reference to exotic continuous-cover forests. This includes the definitions for: afforestation, earthworks, forest quarrying, harvesting, landing, pruning and thinning to waste, replanting, river crossing, slash, stump line, vegetation clearance, and wilding conifer.

Agree/Not agree

2h) Agree, subject to advice from PCO, to change of the name of the regulations such that they reflect the range of forests covered by the regulations.

Agree/Not agree

2i) Agree that the NES-PF is to manage exotic continuous-cover forests on broadly similar terms to plantation forests.

Agree/Not agree

2j) Agree that exotic continuous-cover forestry will be subject to the existing (and modified) standards for the following, as if they were plantation forests:

- Afforestation (Subpart 1)
- Pruning and thinning to waste (Subpart 2)
- Earthworks (Subpart 3)
- River crossings (Subpart 4)
- Forest quarrying (Subpart 5)
- Mechanical land preparation (Subpart 7)
- Replanting (Subpart 8)
- Ancillary activities (Subpart 9)
- General provisions (Subpart 10)

Agree/Not agree

2k) Agree that harvesting of exotic continuous-cover forests will be subject to the following controls:

- Low intensity harvesting of exotic continuous-cover forests will be permitted in all ESC classes if:

- existing Regulations 64 to 69 are complied with, and
- Any relevant forest planning requirements are complied with (discussed below).
- Low intensity harvesting of exotic continuous cover forests will be controlled in all ESC classes if:
 - any of regulations 64 to 69 are not complied with, or
 - or the forest planning requirements are not complied with.
- If a consent is required for low intensity harvesting due to non-compliance with regulations 64 to 69, it will be a controlled activity; matters of control that will be specified be those in 70(4), and an additional matter enabling consideration of any forest planning requirements.
- Harvesting (other than low intensity harvesting) of an exotic continuous-cover forests is a discretionary activity on a regional level.

Agree/Not agree

2l) Agree to modifications of the matters of discretion in 17(4) which applies when afforestation is occurring on red zone land, as follows:

- Future harvesting and earthworks effects is made a matter of discretion in its own right, rather than only as a subset of erosion;
- Planting location and species is also made a matter of discretion in its own right, rather than just as a subset of erosion. Additionally, this should be expanded to include discretion over planting density and establishment practice.
- Add a new matter of discretion enabling any residual risk to downstream communities and infrastructure to be assessed
- A new matter of discretion giving council the ability to control forest type – plantation or exotic continuous-cover forests – to enable the link to be made with the relevant harvesting provisions (either low intensity or regular) discussed above at (2k).
- A new matter of discretion enabling council to prescribe any ongoing management of the forest required to avoid adverse effects on ecosystems, freshwater, coastal water, communities, and infrastructure.

Agree/Not agree

2m) Agree that wind effects will not be added as a matter of discretion to regulation 17.

Agree/Not agree

Timing, Transitional and Administrative Matters

2n) Note that all provisions in the amended NES-PF will come into force 28 days after gazettal unless otherwise specified.

Noted

2o) Agree to expand the ability for local authorities to charge for the monitoring of a permitted activity to include Afforestation.

Agree/Not agree

2p) Confirm that forests which come into scope of the regulations as a result of the basal area change over time are to be considered as afforesting at the time they come into scope.

Agree/Not agree

2q) Confirm that forests which eventually fall out of scope of the regulations as a result of basal area changes over time need no additional management controls in the NES.

Agree/Not agree

Part 3: Operational improvements

Intent

The recommendations within this section seek to ensure that the NES-PF remains 'fit-for-purpose' in that it seeks to deliver some of the findings from the Year One Review as well as operational changes identified subsequent to the publication of the review.

The areas of proposed changes seek to ensure the regulations deliver on our policy objectives, and are:

- Wildfire Risk Management
- Wilding Conifer Risk Management
- Slash Management
- Forest Management Plans
- Operation Amendments (including Vegetation Clearance and Significant Natural Areas)

3.1: Wildfire Risk Management

What did we consult on?

We proposed that all forests covered by the NES-PF (i.e., forests larger than one hectare) will be required to prepare a wildfire risk management plan and attest to its completeness as part of their NES-PF notification or consent process. We consulted on:

- the inclusion of wildfire risk management plans in the NES-PF
- how these plans would be managed
- whether the role of councils should be limited to ensuring a plan had been developed
- the appropriateness of requiring five-yearly review
- the need for a module consistent with farm plan templates that could be used by farmers with forests to plan for managing wildfire risk
- what implementation support would be needed for the proposal.

Feedback from submissions

The key feedback on fire risk management includes:

- **Agreement that fire planning is important, but views on how planning information should be provided were mixed.** Submitters had differing views around who is responsible for fire planning, and the type of information that should be provided under the NES-PF. A majority of industry submitters said this is a Fire and Emergency New Zealand (FENZ) role and requiring this in the NES-PF would duplicate that role.
- **Suggestions that councils do not have the capability and capacity to manage the proposed wildfire risk management plans.** It was noted that any capability and skills that councils previously had was handed to FENZ. Councils indicated they would need to resource themselves to manage the plans, or contract technical aspects out, to the appropriate people.

- **Submissions noted that Wildfire Risk Management Plans should be required for all kinds of forestry**, including exotic, carbon, and native. Comments suggested that wildfire risk should be addressed as part of the proposed FMP process (under NES-PF Part A). There was some variation around views on the size of block that should be required to have a plan.

Analysis

A continuing theme throughout submissions is that FENZ is responsible for assessing and managing wildfire as part of their statutory responsibility. However, the FENZ legislation does not provide any requirement to manage the environmental impact of a natural hazard. Wildfire is a natural hazard and councils have functions to manage natural hazards under section 6(h) of the RMA. This enables councils to have a role in planning to minimise the environmental impacts of wildfire.

While FENZ does prioritise risk reduction, the legislation does not provide much support to require measures to be taken, monitored, or enforced. In rural areas, FENZ risk reduction is limited to very specific clauses in legislation such as fire season status, fire permit requirements, fire breaks and hazard removal. FENZ legislation has no mandate to manage or mitigate environmental effects caused by wildfire. The introduction of the FENZ legislation in 2017 resulted in all fire permitting responsibilities being removed from councils and many of their skilled staff were consequently employed by FENZ.

Forestry companies suggest that handing some responsibility back to council's clouds responsibilities and results in duplication. One of the outcomes sought by this initiative is that it would support collaboration between agencies to identify and manage wildfire risk at a landscape level, which was noted by many submitters.

Most large forestry companies already have fire risk reduction and management plans, and many are already working with FENZ to share GIS data to assist with fuel mapping and response plans. There was notable commentary through submissions suggesting that permanent (carbon) forestry is a higher risk than managed rotation forestry, although there is currently no evidence to back this opinion. All forest types have significant fuel loads, and this varies across the growing regime of the forest. Requiring wildfire risk assessments only for permanent category forests, covers a small proportion of forests in the New Zealand context and does not assist in landscape level mapping or planning.

If climate predications are correct regarding the potential for an increase in New Zealand's wildfire risk, then all rural activities need to consider their fire risk management practices. Most forest fires start outside of planted forests and are caused by people's activities. There is strong support that something needs to be done about wildfire risk management across all types of 'forestry' particularly in thinking about risk across a landscape, not just within a single forest. However, how that should be achieved is not straightforward.

Requiring a Wildfire Risk Management Plan through the NES-PF regulations is difficult. Under an NES a plan would need to set out how particular standards would be met, but the NES-PF does not have standards for wildfire, and we do not consider these would not be straightforward to write. Without a measurable standard there is no way to monitor whether the required outcome is being met under the regulations.

Moreover, the NES-PF can already provide some of the information that both FENZ and councils need to plan for fire preparedness, including at a landscape level, through notice

requirements for permitted activities. The council would get additional information through a consent process, but the NES-PF doesn't require anything beyond what a normal consent process would require. At afforestation, notice of location, species (through the wilding conifer calculator score) and planting dates must be provided. Notices are public, so FENZ can get this information. Other useful information is also available through council mapping for other purposes (e.g., roading, water sources).

However, additional information about afforestation would provide both councils and FENZ with more useful information for planning purposes, including the protection of the forest, and we consider that this would not be unreasonable or onerous information to provide. In addition to existing requirements, we recommend that at notice of afforestation the following information is required:

- A map of the property boundary showing where the forested area will be, showing access points and gates;
- The size and species of the forest; and
- Contact information for the forest owner.

This information is a basis for understanding where forests are being planted and therefore, where wildfire risk may be located. It would provide basic access information for FENZ to use in the event of a fire, which would benefit the forest owner. A common point from submissions was that a map should be provided in a GIS format, which enables councils to identify locations and data in their GIS system to assist landscape level planning and to be able to share across other agencies or organisations.

When councils receive afforestation notice it would be simple to acknowledge receipt with information and templates to enable forest owners or managers to voluntarily develop a Wildfire Risk Management Plan. Resources and guidance can be developed, in conjunction with appropriate specialists and made available through multiple channels for any landowner that wishes to utilise them. It is worth noting that the Forest Owners Association already has Wildfire Management Risk Reduction Guidelines available as an online document. The proposal was not to ignore these, but to translate the information into usable templates, with simple guidance for people to help them identify risks and plan practical mitigation actions at property level. This could include specific provision for farmers through a template that aligns with farm plans.

In addition to the existing Forest Owners Association *Wildfire Management Risk Reduction Guidelines*, further guidance will be developed if the demand for additional guidance arises.

Councils may require additional support to ensure the receipt of afforestation notices, with information encouraging the forest or landowner to voluntarily complete a Wildfire Risk Management Plan for the forest, is undertaken in an effective and efficient way.

Timeframes, administrative and transitional provisions

It is recommended that these proposed changes regarding wildfire management take immediate effect after gazettal.

Existing activities currently in progress shall continue and not be subject to the new provisions until the next time they are required to (re)submit a notice or plan. For example, if a forest harvest plan is already with councils for consideration, will continue to be assessed under existing provisions.

The implementation of these changes will require forest and landowners be made aware that this information is available to be shared for landscape level planning, emergency response and other purposes.

Recommendations and decisions

Wildfire Risk Management Plans (FRMPs)

- | | |
|--|-----------------|
| 3.1a) Agree to not to proceed with including a requirement for Wildfire Risk Management Plans in the NES-PF. | Agree/Not agree |
| 3.1b) Agree to modify current information requirements for the afforestation notice to include a map of the property boundary and the location of the forest within it, access points and gates; the size and species of the forest; and contact information for the forest owner. | Agree/Not agree |
| 3.1c) Agree that the information referred to in (3.1b) should be provided in GIS format that is easily shared across agencies and organisations. | Agree/Not agree |
| 3.1d) Agree that these information requirements apply to plantation and exotic continuous-cover forests covered by the NES-PF. | Agree/Not agree |

3.2: Wilding Tree Risk Management

What did we consult on?

Proposal 1: to update the Wilding Tree Risk Calculator (calculator) and guidance, and require the submission of a standardised worksheet assessment to councils at least six months prior to planting. Details include:

- update the calculator, guidance and template worksheets.
- require worksheets with supporting information and score to be provided to councils 6 to 8 months prior to afforestation.

Proposal 2: Require all forests to assess wilding tree risk at replanting, where all forests are reassessed for wilding risk and all other afforestation requirements.

Feedback from submissions

The key feedback on wilding tree risk management includes:

Proposal 1: General support for managing wilding risk and for amending the notice period. The forestry sector highlighted that a longer submission period would help to better align afforestation notice with timing of planting.

Proposal 2: There were split views on the proposal to require all forests to assess wilding tree risk at replanting. Those against this proposal raised concerns regarding the inconsistencies with existing use rights allowed for under the Resource Management Act 1991, as well as the

risk of liabilities under the ETS if land no longer meets the wilding risk threshold. Feedback from a submitter in favour of assessment at replanting noted that management of previous rotations should be accounted for in replanting assessments.

Analysis

Proposal One – update the Wilding Tree Risk Calculator and guidance and require a worksheet at least six months prior to planting.

Proposal One would update the calculator based on the most recent research and the supporting guidance. An update of the calculator may affect how the assessments are performed and alter the outcomes of future risk assessments. This update will proceed and does not require a change to the regulations.

Proposal One would also require the submission to councils of a greater level of detail showing how the wilding tree risk assessment was performed via a standardised worksheet of at least six months prior to planting. This would help councils to understand the process and information used for assessment, and the points on the property at which assessments have been carried out. We do not consider this to be a significant change in the requirements for good wilding tree risk assessment, though it will require additional documentation from foresters. Balancing that, it provides greater understanding of risk between councils and foresters, with the objective of reducing wilding risk and signalling where further management is required. Therefore, we recommend that, in addition to updating the wilding tree risk calculator and accompanying guidance, the regulations are amended to require a worksheet style form to be submitted prior to afforestation.

Consultation also asked for views on extending the notification period for wilding conifer scores to no sooner than six months and no later than eight months before afforestation begins. The intention was to provide councils with adequate time to analyse submitted wilding tree risk calculations and assessments if they felt this was necessary, and to ensure that if there were discrepancies, foresters had not already heavily invested in planting material.

Submitters who are against argued that a two-month submission period was insufficient to manage a range of circumstances, and that the current 20-working day minimum reduced flexibility for small woodlot owners. Many pointed out that making the time period as wide as possible ensures that the intent of the proposal, to provide certainty to both council and foresters in the assessment, is better met. Performing a wilding tree risk calculator assessment 8 months prior to afforestation would not affect the wilding tree risk. In favour of maintaining the 20-working day minimum, two regional councils who manage significant forestry estates explicitly highlighted that they felt no need to increase this minimum, reflecting their experience with managing plantation forests.

Proposal One aims to address councils' lack of experience in wilding risk assessment that would limit their ability to process wilding tree risk assessments within the 20-working day minimum by providing comprehensive guidance and making wilding tree risk assessments transparent. No issues were raised with increasing the notification period beyond the current 60 working days maximum. Therefore, we recommend maintaining the 20-working day minimum but extending the maximum time to 8 months. These changes will apply to afforestation notice periods under regulation 10(2) as well as wilding tree risk and control regulations 11(4) and 79(1)(c). To support councils with checking risk assessments, worksheets to be submitted under Proposal One must step out each stage of an assessment and align with supporting guidance material to make it explicitly clear how assessments have been performed.

Proposal Two – Require all forests to assess wilding tree risk at replanting

Proposal Two would require that before any forest is replanted, wilding tree risk must be assessed under the same conditions as afforestation requirements. The site would require a wilding tree risk calculation to be undertaken and if the score was 12 or more, replanting would become a restricted discretionary activity.

More than half of those who submitted on this proposal agreed with Proposal Two. The feedback provided is that evidence of wilding spread from the previous rotations should be included in the reassessment at replanting, to allow for the accounting of previous mitigation measures. Those against cited the legal (and financial) ramifications if a forest registered in the Emissions Trading Scheme (ETS) that has deforestation liabilities, and would no longer meet wilding tree risk conditions for replanting. Second, the proposal being inconsistent with existing use rights allowed for under section 10(1)(a)(ii) of the Resource Management Act 1991.

We recognise these issues raised in the feedback, but this must be balanced against the few cases where a forest's wilding risk may have changed (potentially through no fault of their own). We therefore recommend that a wilding risk reassessment is required at replanting, and that the default consent category is controlled, to guarantee the right to replant while enabling the council to impose conditions for managing wilding spread risk.

There is also a strong support to make minor amendments to regulation 79(6) that sets out replanting requirements for eradicating wildings established in SNAs and wetlands to ensure the same property limits set out in regulation 11(5) apply. This will remove any implication that the regulation is requiring landowners to enter another landowner's property and carry out wilding eradication. **We therefore recommend amending regulation 79(6) to set same property limits set out in regulation 11(5).**

Timeframes, administrative and transitional provisions

We recommend that the requirement for all forests to assess wilding tree risk at replanting (Proposal two) to come into effect 3 months after amended NES-PF is notified after gazettal. The purpose of the three-month lag period is to accommodate the changes to the reassessment process before replanting. All other provisions regarding wilding tree risk management will come into effect 28 days after the amended NES-PF is notified after gazettal.

Recommendations and decisions

Wilding Tree Risk Management

3.2a) The permitted activity notice requirements for wilding tree risk are amended to require a worksheet style form requiring each element of wilding risk to be assessed for each relevant area of forest and setting out how the assessment has been made to be submitted prior to afforestation.

Agree/Not agree

3.2b) The permitted activity notice requirements for wilding tree risk at afforestation and replanting are amended to extend the maximum time for submitting a wilding tree risk score to 8 months.

Agree/Not agree

3.2c) Amend the permitted activity notice requirements for wilding tree risk at replanting only to require all replanting activities to carry out a wilding tree risk assessment and, where a score is 12, or higher than 12, the default resource consent is a controlled activity.

Agree/Not agree

3.2c) Agree that if consent is required under 3.2(c), matters of control will include all the matters in reg 17(1) in NES-PF and an additional matter enabling the council to consider actual spread of wilding trees and measures to mitigate an actual spread that has occurred.

Agree/Not agree

3.2d) Amend regulation 79(6) for replanting to limit it to the same property limits as those set out in regulation 11(5) for afforestation.

Agree/Not agree

3.3: Slash Management

What did we consult on?

We proposed technical amendments to address some of the key findings of the Year One Review, as well as operational amendments identified since the regulations came into force in 2018.

- Amend the slash management regulations to improve clarity.
- Set a standard for managing slash on the cutover, to address risks of it causing slope failure and slash mobilisation.
- Seek feedback on the information required to assess slash risk and manage it, and the best form to receive that information.
- Seek feedback on the current tools and information used to assess the 5 percent annual exceedance probability requirement for managing slash.

Recommendations from the MILU relevant to the NES-PF will need to be addressed as a separate package of work and have not directly been addressed within this report.

Feedback from submissions

The key feedback on slash management includes:

- **Amending the slash management regulations to improve clarity.** There was strong agreement that slash needed to be well managed. Individual proposals received few submissions and there were a range of views about the need for the proposals.
- **Set a standard for managing slash on the cutover, to address risks of it causing slope failure and slash mobilisation.** Strong objections from forestry submitters that slash on the cutover does not cause slope failure and the only way foresters could meet a standard of that nature is to restrict forestry to land that is not erosion prone.
- **Seek feedback on the information required to assess slash risk and manage it, and the best form to receive that information.** Feedback was provided by local government and forestry submitters and covered a range of ideas that will be used to develop guidance.

- **Seek feedback on current tools and information used to assess the 5 percent annual exceedance probability requirement for managing slash.** Feedback was principally provided by forestry submitters who ranged from providing description so the tools and processes they used to those who said that this was a matter of judgement and experience. This information will be used to determine whether further guidance can be provided on determining where the 5% threshold sits on any site.

Analysis

1 Proposal to introduce a reference to slash management in regulation 66 as a means of highlighting the need to plan for it in a harvest plan

Schedule 3 sets out the requirements for harvest plans, and schedule 3(5)(c) specifies the planning that must be included for slash management in the harvest plan. It is argued that the regulations follow a scheme in which regulation 66 is a process standard, and it is not an appropriate place to highlight one planning requirement over others, particularly as it would have no additional regulatory effect. There are opportunities to highlight slash management planning requirements in improved guidance.

We therefore recommend no changes in relation to this proposal.

2 Proposal to amend regulation 69(1) to clarify that it applies to log processing slash that has been produced at or on a landing site

As currently drafted, it could be interpreted that all slash must be placed on stable ground, though 'stable ground' is not defined. The intent of the regulation was to manage processing slash on or near landings to ensure that it is not simply discarded in large quantities without careful attention to its ongoing management. There is also doubt over the meaning of 'stable ground' as in some cases an engineering solution is required to stabilise ground (for example, a bench under a landing) while in others the topography allows for stable storage without an engineered solution. We consider that 'stability' implies that the ground will not fail and result in the slash mobilising, and this should be clarified in guidance.

In many situations judicious use of slash is a useful means of controlling erosion and returning nutrients to the soil, so it would be counterproductive to require all slash to be placed on stable ground (controls to prevent its mobilisation into waterways are set out in 69(3) and (4)).

We recommend amending regulation 69(1) to ensure it refers to slash produced during log processing on or at a landing.

3 Proposal to amend regulation 69(2) to clarify that all slash piles on or around landings need to be managed to avoid collapse, not only those on the edge of landings

The intent of the proposal is to ensure that all slash piles on or around landings be managed to avoid the collapse of slash piles, not that all slash must be managed if it entails no risk. Additional management is not needed where slash is pushed over the edge of the landing and poses little or no risk of movement/collapse and subsequent downstream harm (for example, mobilising into a waterway). Similarly, slash on flat ground does not pose a risk. However, this raises the issue of whether it is the collapse of the pile itself that the regulation manages or the collapse of the ground under the pile and we recommend that this be clarified. Any amendment to the regulations should be tested for practicality.

We recommend amending 69(2) to clarify that it refers to any slash pile on or at a landing that could cause the collapse of the ground under it.

4 Proposal for a minor amendment to clarify (for the avoidance of doubt) that those doing harvest plans are required to manage all slash not just slash for the purpose of protecting the features identified in clause 3(3) of schedule 3

A number of submitters did not think there was an issue with the way the current wording is interpreted the proposal is a minor wording change for the avoidance of doubt.

We recommend amendment of schedule 3(5)(c) to clarify that planning for slash management is not only in relation to protecting the features identified in clause 3(3).

5 Proposal to set a specific management standard for slash on the cutover, to address risks of it causing slope failure or mobilising

In the Gisborne/Tairāwhiti region significant quantities of slash (and in some cases, merchantable logs) have mobilised in several ways during a series of significant rainfall events. It is important to test whether additional standards could reduce this risk. In 2018 mobilisation is known to have occurred where forestry infrastructure (roads and landings) collapsed, with the mobilisation of material present on those sites. There were also a large number of mid-slope failures; when a slope collapses it will take anything growing or lying on the slope with it. In the recent Cyclone Gabrielle mid-slope failure has also been seen under mature plantation and native forest.

Submitters provided three main arguments against this proposal.

- Distributed weight on a slope is not a factor in slope failure.*
- Slopes will fail under any land cover and this is largely out of the control of landowners. Slope failure itself cannot be predicted in a practically meaningful way, and that rainfall effects are also unpredictable (and unavoidable). A requirement to manage to avoid slope failure, given that it is not generally caused by the presence of slash, would be impossible to meet. It was pointed out that the only way for foresters to avoid slope failure is to move to land that is not erosion prone (better LUC classes), though this consultation is proposing to set limits on afforestation of better land so that option may be heavily constrained.*
- Schedule 3 (5)(c)(iv) already requires harvest planners to specify the slash management and procedures to ensure that slash is not mobilised in heavy rain events, and contingency measures for such movement. This requirement extends to slash on the cutover that could mobilise in heavy rain events.*

The only way a forester could comply with the proposed regulation would be to remove all slash from the cutover which, as we acknowledged in the discussion document has several drawbacks.

We accept the evidence provided that the presence of slash on the cutover does not contribute to slope failure in any meaningful way, and do not recommend that standards are put in place to attempt to manage this effect.

However, there is still risk that when slopes do fail, they will entrain anything on the slope, including slash left on the cutover. Red zone land has a higher risk of slope failure than other ESC zones, and harvest on red zone land requires restricted discretionary consent. However, there is no specific standard in regulation 69 that councils can tie conditions to. Although Schedule 3(5)(c)(iv) requires “measures to ensure that slash is not mobilised in heavy rain

events (5% AEP or greater) and contingency measures for such movement” regulation 69 does not require removal except for land that would be covered by water during a 5% AEP event” which would not include many slopes.

One forestry company suggested that a lower limit on the size of slash to be managed on high-risk land (for example, red zone land steeper than a certain slope angle, unless removing it would be unsafe for workers) could be considered. Another suggested a density indicator which would be a function of the depth of woody material and the proportion of natural earth visible. A forester who advocated for alternative harvest regimes suggested that any material over 10 centimetres in diameter and longer than 1 metre should be removed from the cutover and from landings.

Setting such a specification in a national regulation is difficult without better risk-based information, so expert advice is needed to determine the appropriate requirements for a regulation. However, we recommend that this proposal is taken forward in principle, focusing on removing or minimising slash on slopes that have high risk of failure. Matters that should be considered and informed by expert advice include (but are not limited) to slope, underlying geology, slash size, rainfall event return period, downstream risk, and worker safety.

Timeframes, administrative and transitional provisions

The provisions above will come into effect 28 days after the amended NES-PF is gazetted, unless the activity is being undertaken under an existing harvesting notice or harvesting plan, in which case the change will come into effect when the next notification needs to be submitted to the council.

Recommendations and decisions

Slash Management

- | | |
|---|-----------------|
| 3.3a) Agree to amend regulation 69(1) to ensure it refers to slash produced at or on a landing. | Agree/Not agree |
| 3.3b) Agree to amend 69(2) to clarify that it refers to any slash pile at or on a landing that could cause the collapse of the ground under it. | Agree/Not agree |
| 3.3c) Agree to amend Schedule 3(5)(c) to clarify that planning for slash management is not only in relation to protecting the features identified in clause 3(3), and should consider any relevant environmental effect. | Agree/Not agree |
| 3.3d) Agree that regulation 69 should be amended to require to removal of slash on the cutover that meets certain thresholds, with exact thresholds informed by expert advice (for example, in relation to soil type, slope and fragment size). | Agree/Not agree |
| 3.3e) Agree not to include reference to slash management planning requirements in regulation 66 as that regulation is a process standard and such a change would not introduce any new additional requirement. | Agree/Not agree |

3.4: Forest Management Plans (FMPs)

What did we consult on?

We proposed an amendment to the NES-PF to require FMPs for exotic carbon forests. This was considered an option to regulate exotic carbon forests, and a tool to manage the environmental (biophysical) effects of exotic carbon forestry. We asked submitters:

- whether they agreed with amending the NES-PF
- whether they agreed that FMPs should manage environmental effects only or both environmental effects and forest outcomes
- what content FMPs should require
- how effective FMPs would be
- what implementation support would be required.

Feedback from submissions

The key feedback on FMPs includes:

- **Supporting FMPs for exotic carbon forests being added to the NES-PF.** Reasons included that FMPs clearly outline how environmental effects of these forests will be managed, they could be used as a regulatory tool to hold owners accountable, they could be used for monitoring and compliance, and that it was good practice to have a plan.
- **Supporting FMPs being mandatory for other types of forests, including plantation forests.** Reasons included that it would help address future environmental risks, and that both forests have similar effects.
- **Supporting FMPs to manage both environmental (biophysical) effects and forest outcomes.** Submitters stated that this is because both effects and outcomes can pose environmental and social/community risks. Other reasons included that it was necessary to account for associated risks, and it would assist in identifying and mitigating long term environmental effects, and real costs and benefits. Submitters who disagreed with introducing a requirement for FMPs for exotic carbon forests stated that the New Zealand Emissions Trading Scheme (NZ ETS) is the most appropriate regime to manage the effects of these forests.

Submitters that reviewed table 2 of the discussion document provided a range of comments on the environmental effects that should be managed through FMPs. These can be viewed in the [summary of submissions report](#).

Analysis

Forest management plans (FMPs) to forest planning requirements (FPRs)

Many submitters supported the proposal of FMPs for exotic carbon forests being added to the NES-PF. The NES-PF already has plan requirements for the activities of forestry earthworks, quarry erosion and sediment management, and harvest. These are required to set out how standards will be met through a site-specific assessment of risk and specifying how standards will be met. Councils may require these plans and foresters must comply with the plans, and

as such are part of the regulatory regime for monitoring and compliance. We do not recommend consulting on FMPs again because we are not recommending any new standards or requirements.

Following further analysis, officials consider that FMPs should be renamed to accurately reflect the scope of the planning requirements recommended. Officials consider that the purpose of plans in the NES-PF is to demonstrate how compliance with existing regulatory requirements is achieved. Therefore, officials recommend that the plans be collectively referred to as forest planning requirements (FPRs) and individually as a forest planning requirement (FPR). FPRs will incorporate existing management plans required by the NES-PF into an integrated regime, alongside new requirements and updated versions of some requirements that sit better in a management plan.

Officials recommend FPRs to achieve lifecycle management of the forests rather than FMPs, because a single FMP could not adequately address the effects over the lifecycle of the forest, and because some of our existing plans (harvest, forestry earthworks management and quarry erosion and sediment management) require significant detail that is best undertaken immediately prior to the activity being carried out.

Many submitters were supportive of FMPs being mandatory for other types of forests. Officials recommend that plans under the FPR regime should apply to both ECFs and plantation forests. To have different requirements for different types of forests would run a significant risk of developing a set of regulations that cannot be implemented and lacks consistency, or risk potential loopholes where planning requirements were different for each forest. The FPR regime recognises that not all content is required for each forest type, e.g., there is no requirement to prepare an earthworks plan in an ECF that is not undertaking earthworks.

Effects to be managed need to be aligned with the scope of the resource management regime i.e., environmental matters only. Officials consider that forest outcomes should not be managed under the FPR regime. Due to the NES-PF being an RMA instrument it can only manage matters within the scope of the Act. Managing forest outcomes lies outside of this scope, therefore, cannot be included in the proposed FPRs. Pests and weeds should not be managed under the FPR regime because they would be better managed by other legislation, noting that we have some relevant provisions under the NES-PF. Forest disease should not be managed under the FPR regime because the risk can often heavily rely on spread across neighbouring forests which cannot be managed with the NES-PF. Therefore, forest disease is better managed under other legislation such as the Biosecurity Act 1993. Cumulative impacts on surrounding communities should not be managed under the FPR regime, due to these effects being difficult to manage under the NES-PF and requiring assessment on a case-by-case basis.

We do not consider the additional requirements to be substantive. Officials consider that a FPR should be required by permitted activity conditions for each of the following activities:

- afforestation and replanting
- earthworks
- harvest
- forest quarrying.

We recommend FPRs apply to these activities on the basis that these are the activities with the most potentially significant environmental effects, and where the evidence needed to

demonstrate compliance with the permitted activities is more complex and needs to be supported by the greater evidence required in an FPR.

A range of views were expressed regarding the effectiveness of amending the NES-PF to require FMPs for exotic carbon forests. A management plan as a permitted activity will struggle to achieve a more robust approach. We did not consult on significantly changing the activity requirements.

Schedule 3 of the NES-PF already sets out forestry earthworks management plan and harvest plan specifications and Schedule 4 sets out quarry erosion and sediment plan specifications, and these will be substantially incorporated into the FPR regime. The requirement to prepare and provide the FPR will be linked to the notice requirement for the relevant activity.

All information supplied through the NES-PF, irrespective of whether it is in general content or specific content, should be supplied in sufficient detail to demonstrate compliance with the permitted activity standards associated with the activity and enable audit of the management practices to be carried out, either on site or remotely. General content will need to be provided for all FPRs and this is set out in Table 2. Specific content will be required for each FPR and this is set out in Table 3. More detail is provided below.

General content requirements

We recommend that, irrespective of the activity that triggers the FPR, general content is provided. This enables administration and monitoring of the plans. This section will contain person and property details, map and location details, spatial information, activity description requirements, and management requirements for all FPRs including requirements for managing environmental (biophysical) effects on SNAs and water quality and sedimentation. See Table 2 for details of information required under general content. Some of the information requested in general content is currently required to be submitted with existing plans within the NES-PF.

To improve usability and enable better aggregate information, we also recommend that the information required by the mapping clauses generally be submitted in a GIS compatible format, to enable councils to access and record information recorded in the maps easily.

Specific plan requirements

Afforestation and replanting plan

Officials recommend adding an afforestation and replanting plan to the NES-PF schedule to manage environmental (biophysical) effects for afforestation and replanting activities. Currently, afforestation and replanting activities do not have plans to demonstrate compliance with permitted activity standards in the NES-PF and this has been identified as a gap by officials.

Map requirements

In addition to complying with the general map requirements, when submitting a map for afforestation and replanting, the map should also include specific map requirements as set out in Table 3. These extra requirements are considered necessary detail to enable councils to understand where and when afforestation or replanting in their region will be completed. This will also enable councils to understand the potential impacts on the landscape and community.

Activity description

The activity description will require further information in addition to the general requirements, noting that these requirements are adapted from the existing requirements. This description is required because it will provide the key information on the activity which management requirements will be linked to. See details in Table 3 for additional activity description requirements.

Management requirements

The FPR will require foresters to describe what management requirements they need to undertake to comply with existing regulatory requirements, so that afforestation and replanting activities are managed effectively.

For the afforestation and replanting plan, we recommend adding the following clauses:

- water quality, sedimentation, and erosion
- wildings.

The activities of afforestation and replanting can have an impact on the effects listed above. Therefore, including management requirements for these effects will demonstrate compliance with the relevant permitted activity standards and enable auditing to be carried out. See details in Table 3 for additional information on the requirements.

Forestry earthworks plan

The activity description and management actions described below incorporate the requirements of Schedule 3, in particular clause 4. The intent of all existing requirements will be retained during drafting.

The forestry earthworks plan will incorporate the general content required by all plans under the FPR regime.

Activity description

The activity description will require further information in addition to the general requirements, noting that these requirements are adapted from the existing requirements. This description is required because it will provide the key information on the activity which management requirements will be linked to. See details in Table 3 for additional activity description requirements.

Management requirements

The FPR will require foresters to describe what management requirements they need to undertake to comply with existing regulatory requirements, so that forestry earthworks activities are managed effectively.

For the forestry earthworks plan, we recommend adding the following clauses:

- water quality, sedimentation, and erosion
- indigenous birds
- fish species
- other indigenous species (fauna only).

The activity of forestry earthworks can have an impact on the effects listed above. Therefore, including management requirements for these effects will demonstrate compliance with the relevant permitted activity standards and enable auditing to be carried out. See details in Table 3 for additional information on the requirements.

Harvest plan

The activity description and management actions described below incorporate the requirements of Schedule 3, in particular clause 5. The intent of all existing requirements will be retained during drafting.

The harvest plan will incorporate the general content required by all plans under the FPR regime.

Activity description

The activity description will require further information in addition to the general requirements, noting that these requirements are adapted from the existing requirements. This description is required because it will provide the key information on the activity which management requirements will be linked to. See details in Table 3 for additional activity description requirements.

Management requirements

For the harvest plan we recommend adding the following clauses:

- slash
- water quality, sedimentation, and erosion
- indigenous birds
- fish species
- other indigenous species (fauna only).

The activity of harvesting can have an impact on the effects listed above. Therefore, including management requirements for these effects will demonstrate compliance with the relevant permitted activity standards and enable auditing to be carried out. See details in Table 3 for additional information on the requirements.

Quarry erosion and sediment management plan

The activity description and management actions described below incorporate the requirements of Schedule 4. The intent of all existing requirements will be retained during drafting. The quarry erosion and sediment plan will incorporate the general content required by all plans under the FPR regime.

Activity description

See details in Table 3 for additional activity description requirements. These are required because these descriptions will provide the key information on the activity which management requirements will be linked to.

Management requirements

For the quarry erosion and sediment management plan, we recommend adding the following clauses:

- water quality, sedimentation, and erosion.

The activity of forest quarrying can have an impact on the effects listed above. Therefore, including management requirements for these effects will demonstrate compliance with the relevant permitted activity standards and enable auditing to be carried out. See details in Table 3 for additional information on the requirements.

Table 2: General content requirements for all FPRs

Plan details	Requirement
Person and property	<ul style="list-style-type: none"> • Details of the person and property where the activity will take place: <ul style="list-style-type: none"> – the plan and notice date – the name of and contact details for the landowner or their agent – the name of and contact details for the forest owner (if different) – the name of and contact details for forest manager/or relevant manager for the activity (if different) – the contact details for service—postal address, email, contact phone(s) – the region and district in which the forest is located – the name of the road used for forest access and rural number of entry point – the forest name or property location identifier – the cadastral and map references, or GIS polygon reference.
Map and location	<ul style="list-style-type: none"> • Map and location details, which will include general information about the forest and site, including, and need to comply with the following requirements, and show the following information: <ul style="list-style-type: none"> – a scale not less than 1:10 000 – the computer freehold register – the date – a north arrow – the external property boundaries within 200 m of the activity area – the contour lines at less than or equal to 20 m intervals – the erosion susceptibility classification (NESPF overlay map) – the location of any significant natural areas and vegetation clearance areas – any waterbody, including: <ul style="list-style-type: none"> • wetlands larger than 0.25 ha and lakes larger than 0.25 ha • rivers to their perennial extent • rivers where the bankfull channel width is 3 m or more • any outstanding freshwater body or water body subject to a water conservation order • the coastal marine area • any setbacks from these hydrological features – any registered drinking water supply, including drinking water sources for more than 25 people within 1 km downstream of the activity – location of any forestry infrastructure including existing and/or proposed: <ul style="list-style-type: none"> • roads, tracks, landings, firebreaks, and river crossings (permanent and temporary), fuel storage and refuelling sites, end-haul deposit sites, and slash storage areas.

Plan details	Requirement
	<ul style="list-style-type: none"> The map will also include spatial information associated with the activity, which is discussed in each section below.
Activity	<ul style="list-style-type: none"> Activity description including, in general terms, subject to any more specific requirements: <ul style="list-style-type: none"> what activity is occurring where the activity is taking place when the activity commences and ends how the activity is being undertaken
Management	<ul style="list-style-type: none"> Management requirements common across all plans: <ul style="list-style-type: none"> Significant Natural Areas: Each plan must describe how any significant natural areas identified above are: <ul style="list-style-type: none"> to be avoided when undertaking a forestry operation, and the operational restrictions, including restrictions on afforestation/replanting, earthworks operations, or harvesting as applicable, required to achieve this protection. Water quality and sediment: <ul style="list-style-type: none"> for sites with a waterbody, identify the risks downstream of the operation, should material be mobilized, including woody debris, slash or sediment, to any— <ul style="list-style-type: none"> public roads and other infrastructure downstream properties including dwellings downstream river, lake, estuary or sea downstream drinking water supply the proposed heavy rainfall contingency and response measures, including— <ul style="list-style-type: none"> specific triggers or thresholds for action maintenance, post-event monitoring and remedial works.

Table 3: Specific requirements for FPRs

Plan details	Requirement
Afforestation and Replanting	
Map	<p>In addition to complying with the above requirements for maps and including all the general information, when submitting a map for afforestation and replanting, the map should also include:</p> <ul style="list-style-type: none"> the afforestation area boundary which shows the area(s) where afforestation and replanting is occurring the species to be afforested the year/season where planting is expected to occur (if afforestation is occurring) assessment areas for wilding conifer risk calculator.
Management	<p>For the afforestation and replanting plan, we recommend the following additional management requirements, above those required by general content:</p> <ul style="list-style-type: none"> Water quality, sedimentation and erosion, this clause will require: <ul style="list-style-type: none"> a description of the erosion and sedimentation effects of afforestation and replanting, including those that arise over the lifecycle of the forest or until a subsequent forest planning requirement is triggered. information and monitoring requirements. Wildings, this clause will require: <ul style="list-style-type: none"> foresters to submit the wilding risk calculator

Plan details	Requirement
Afforestation and Replanting	
	<ul style="list-style-type: none"> – a description of: <ul style="list-style-type: none"> • any adjacent properties under same ownership • when wildings inspections are undertaken • how removals will occur.
Forestry earthworks	
Activity	<p>In addition to the general requirements, the following specific information is required [noting that this has been adapted from the existing requirements]:</p> <ul style="list-style-type: none"> • describe the scope of work covered by the earthworks (including estimated earthworks cut and fill volumes, by ESC zone if there is more than one) • whether the earthworks are for maintenance, upgrade, road widening, realignment, or new work • the anticipated construction time for forestry earthworks and stabilisation • the design rainfall event size and duration that has been used to design the runoff control measures and sediment control measures referred to below.
Management	<p>For the forestry earthworks plan, we recommend the following additional management requirements, above those required by general content:</p> <ul style="list-style-type: none"> • Sediment, erosion and water quality, this clause will require: <ul style="list-style-type: none"> – management practices that will be used to avoid, remedy, or mitigate risks due to forestry earthworks that have been identified on the map, including: <ul style="list-style-type: none"> – the proposed erosion and sediment control measures to be used and the situations in which they will be used. • Indigenous birds, this clause will require foresters to describe procedures in place and followed to: <ul style="list-style-type: none"> – confirm and recognise the presence of indigenous bird species identified in section 102(1) – identify affected nest sites – provide relevant staff with training on recognising the presence of indigenous bird species if encountered during the plantation forestry activity – avoid or mitigate adverse effects on affected nest sites and indigenous bird species. • Fish species, this clause will require: <ul style="list-style-type: none"> – with reference to the map, a description of the relevant species identified in the Fish Spawning Indicator (FSI) and/or by any specific surveys under regulation 97 – confirmation of areas and periods where disturbance is not permitted – procedures in place to avoid disturbance, including sequencing of harvesting and earthworks and operational restrictions. • Other indigenous species (fauna only), this clause will require foresters to: <ul style="list-style-type: none"> – identify threatened or at-risk species present within operational area – demonstrate measures to mitigate adverse effects on these.
Harvest	
Activity	<p>In addition to the general requirements, the following specific information is required [noting that this has been adapted from the existing requirements]:</p> <ul style="list-style-type: none"> • the harvesting method, whether ground-based or hauler, or any other method, and the hauler system type • the planned timing, duration, intensity, and any proposed staging of the harvest.
Management	<p>For the harvest plan, we recommend the following additional management requirements, above those required by general content:</p>

Plan details	Requirement
Afforestation and Replanting	
	<ul style="list-style-type: none"> • Slash. This clause will require the content currently included under clause 5(c) of schedule 3, with any modifications to give effect to changes of the slash provisions. • Sediment, erosion and water quality, this clause will require: <ul style="list-style-type: none"> – management practices that will be used to avoid, remedy, or mitigate risks due to harvest that has been identified on the map, including: <ul style="list-style-type: none"> • the proposed erosion and sediment control measures to be used and the situations in which they will be used. • Indigenous birds, require foresters to describe procedures in place and followed to: <ul style="list-style-type: none"> – confirm and recognise the presence of indigenous bird species identified in section 102(1) – identify affected nest sites – provide relevant staff with training on recognising the presence of indigenous bird species if encountered during the plantation forestry activity – avoid or mitigate adverse effects on affected nest sites and indigenous bird species. • Fish species, this clause will require: <ul style="list-style-type: none"> – with reference to the map, a description of the relevant species identified in the FSI and/or by any specific surveys under regulation 97 – confirmation of areas and periods where disturbance is not permitted – procedures in place to avoid disturbance, including sequencing of harvesting and earthworks and operational restrictions. • Other indigenous species (fauna only), this clause will require foresters to: <ul style="list-style-type: none"> – identify threatened or at-risk species present within operational area – demonstrate measures to mitigate adverse effects on these.
Quarry erosion and sediment	
Activity	<p>In addition to the general requirements, the following specific information is required [noting that this has been adapted from the existing requirements]:</p> <ul style="list-style-type: none"> • any water table that the quarry may intercept • the amount, timing, and duration of quarrying.
Management	<p>For the quarry erosion and sediment plan, we recommend the following additional management requirements, above those required by general content:</p> <ul style="list-style-type: none"> • Sediment, erosion and water quality, this clause will require: <ul style="list-style-type: none"> – Details of the erosion and sediment control measures to be used, including— <ul style="list-style-type: none"> • methods used to maintain stability of any cut faces • methods used to manage overburden, including stability and erosion of exposed soil • restoration of the quarry after quarrying ceases • corrective action processes. • the proposed erosion and sediment control measures to be used and the situations in which they will be used.

Timeframes, administrative and transitional provisions

If an existing harvest plan, forestry earthworks management plan, or quarry erosion and sediment management plan were submitted under the original regulations, then that plan is applicable until the activity is completed or renotification would have been required.

Irrespective of the above, if notice for an activity expires within less than 6 months after gazettal, the old rules apply.

Recommendations and decisions

Forest Planning Requirements (FPRs)

- 3.4a) Agree to introduce forest management requirements which will be named 'forest planning requirements' (FPRs), in order to accurately reflect the scope of the requirements recommended.
- Agree/Not agree
- 3.4b) Agree to require that FPRs apply to both exotic continuous-cover forests and plantation forests.
- Agree/Not agree
- 3.4c) Note that schedule 3 of the NES-PF already sets out forestry earthworks management plan and harvest plan specifications and schedule 4 of the NES-PF sets out quarry erosion and sediment management plan specifications, and these will be substantially incorporated into the FPR regime.
- Noted
- 3.4d) Agree that a FPR should be required by permitted activity conditions for each of the following activities:
- afforestation and replanting
 - earthworks
 - harvest
 - forest quarrying.
- Agree/Not agree
- 3.4e) Agree to the general content requirements, including person and property, map, activity and management details for all FPRs listed in table 2.
- Agree/Not agree
- 3.4f) Agree to the specific map, activity and management requirements for each FPR listed in table 3.
- Agree/Not agree
- 3.4g) Note that all information supplied in the FPRs, irrespective of whether it is in general content or specific content, will need to be supplied in sufficient detail to demonstrate compliance with the permitted activity standards associated with the activity and enable audit of the management practices to be carried out, either on site or remotely.
- Noted

3.5: Operational amendments

What did we consult on?

We consulted on a range of operational and technical changes that were intended to improve the functioning of the regulations without significantly changing the policy intent. These relate to existing regulations across the following areas:

- River Crossings

- Treaty Settlement Areas
- Notice periods
- Traffic management
- Erosion Susceptibility Classification
- Sediment management
- Health and safety
- Charging to monitor permitted activities
- Vegetation Clearance and Significant Natural Areas

Feedback from submissions and analysis across the following operational amendments is set out in Appendix 2.

Timeframes, administrative and transitional provisions

The provisions above will come into effect 28 days after the amended NES-PF is gazetted.

Recommendations and decisions

River Crossings

- | | | |
|-------|---|-----------------|
| 3.5a) | Agree to clarify that a natural ford is a river crossing (for example, by adding a natural ford to the definition of a river crossing in regulation 3), and that use of a natural ford needs to comply with any relevant permitted activity conditions. | Agree/Not agree |
| 3.5b) | Agree to clarify the existing 20 axle movements exclusion as a permitted activity threshold for using a ford. | Agree/Not agree |
| 3.5c) | Agree to amend the definition of 'existing river crossing' in regulation 3 to remove the exclusion of fords. | Agree/Not agree |
| 3.5d) | Agree in principle to the inclusion of a new river crossing activity ('temporary structure') to be included in the regulations, subject to expert advice on permitted activity conditions. | Agree/Not agree |
| 3.5e) | Agree in principle to the inclusion of a new river crossing activity ('double culverts') to be included in the regulations, subject to expert advice. | Agree/Not agree |
| 3.5f) | Agree to amend Schedule 2 of the regulations by deleting documents 3 and 5 and including a new document, the NIWA Regional Flood Estimation Tool. ¹⁶ | Agree/Not agree |
| 3.5g) | Agree to not proceed with amending regulation 31(4) and proceed with amending regulation 46(1)(c) to clarify that it refers to internal diameter. | |

¹⁶ <https://niwa.co.nz/natural-hazards/hazards/floods>

Treaty Settlement Areas

- 3.5h) Agree to amend the regulations to enable Treaty of Waitangi Settlement Areas relating to outstanding waterbodies to be a matter of discretion for resource consent processes, wherever discretion over effects on an outstanding waterbody is already enabled.

Agree/Not agree

Notice periods

- 3.5i) Agree to amend the notice periods for earthworks and forestry quarrying in green and yellow zones to require notice at least 10 and no more than 60 working days before the date on which they are to begin.

Agree/Not agree

- 3.5j) Do not proceed with amending regulations 25(2) and 64(2) to enable councils to waive the minimum 20-day notice period when unforeseen circumstances require foresters to start operations earlier than planned, as the requirement is uncertain.

Agree/Not agree

- 3.5k) Amend the regulations to clarify that where notice of more than one activity is being provided at the same time for the same forest, a joint notice is allowed.

Agree/Not agree

- 3.5l) Note that officials will provide guidance material on annual notice for plantation forestry activities, including where areas of activities are not contiguous in the same forest.

Noted

Traffic management

- 3.5m) Agree to repeal regulation 57, due to the unclear link with council rules on traffic generating activities, and its insufficiently certain approach.

Agree/Not agree

Erosion Susceptibility Classification

- 3.5n) Agree in principle to amend the regulations to enable a council, whatever is contained in the Erosion Susceptibility Classification incorporated by reference as item 1 in Schedule 2, to rely on remapped erosion susceptibility zones for forestry activities if they are:

- Undertaken and provided by a suitably qualified person as defined by criteria to be determined and
- Undertaken in accordance with set processes and reporting requirements to be determined.

The criteria, process and reporting requirements will be incorporated by reference in Schedule 2 of the regulations.

A limited, targeted consultation process, including at least all submitters on this proposal and all regional councils, is required to confirm the criteria, process and reporting requirements before recommending to the Minister for the Environment that it be incorporated by reference in the regulations.

Agree/Not agree

Sediment Management

- 3.5o) Agree not to proceed with the minor change, clarifying discharge permit relationship as consulted on.

Agree/Not agree

3.5p) Agree not to proceed with the minor change to the sediment regulation as consulted on.

Agree/Not agree

Charging for Monitoring Permitted Activities

3.5o) Agree not to proceed with the technical change attempting to better clarify relationship between administrative fees and monitoring.

Agree/Not agree

Vegetation Clearance and Significant Natural Areas

3.5q) Agree to add in a standard for vegetation clearance that occurs as a result of afforestation. Regulation to state that afforestation must comply with any relevant term or condition of a plan which restricts vegetation clearance within that area.

Agree/Not agree

3.5r) Agree that, if 3.5q results in a consent being required for afforestation, consent is required on the same terms as the relevant plan.

Agree/Not Agree

Part 4: Controlling the location of forests

Intent

The intent of the recommendations is to enable councils to control the location of plantation and exotic continuous-cover forests within their areas through rules within their district or regional plans.

What did we consult on?

We consulted on two broad approaches that could be used to control the location of plantation and ECFs to manage social, cultural and economic effects. They are:

Option One: Local control – rules in district or regional plans

This option would enable councils, and support communities, to determine the location of new forests.

Option Two: National direction – consent requirement

Councils would use a consent requirement to manage the social, cultural and economic effects of plantation and ECF afforestation. We also consulted on different approaches and requirements for a resource consent application.

Feedback from submissions

- **Social, cultural and economic effects of plantation and exotic carbon forests should be managed through the resource management system.** There was agreement from a range of submitters, that the social, cultural and economic effects of plantation and exotic continuous-cover forests should be managed through the resource management system because there is no other regulatory system that can balance these effects. It was also raised by councils if these effects weren't managed through the RMA system, they are unlikely to be managed effectively through other mechanisms.
- **Support for the options presented was varied.** Submitters were split between the options, with Option One receiving slightly less support. Some local government preferred Option One and thought it would enable a local approach that is tailored to the needs of the community. Submitters felt that national direction is needed given there is an immediate need to address the issues arising from the land use conversions to carbon forestry. Some noted that it will take a while until regional and district councils create the rules.
- **Status quo was the general preference from the forestry sector.** Some submissions from the forestry sector did comment that particular forest types may be 'inappropriate', particularly 'plant-and-leave' carbon forestry.

Analysis

Local control or national direction

Officials recommend a local control approach (Option One) to control the location of plantation and ECF afforestation. Local control would strengthen councils' abilities to make their own rules, specific to the land-use in their district, a matter that many submitters mentioned to be important. This option allows for rules to be more adaptable to the area and for councils to apply stringency where councils see it is suitable to do so.

Allowing councils to make more stringent rules to control the location of forests for social, economic and cultural effects will control some of the displacement of highly productive land.

This approach has the advantage of recognising that not all communities and regions are significantly affected by, or concerned about, exotic afforestation, and that some may only be concerned about some types of forest, on certain types of land. It provides for a more tailored approach than a national consenting option and avoids unnecessary administrative and compliance costs.

Additionally, local control enables councils to differentiate between forest types as appropriate in their areas. For example, some areas may be well suited to production forests, while other areas may only be suitable for ECF. Local control enables these types of nuanced land use conversations to be undertaken at the appropriate local level rather than attempting to address the issue consent by consent.

The ability to develop local plan rules supports regional spatial planning and aligns with the proposed new resource management system, whether that planning is carried out under the RMA or the proposed NBE Bill. It is consistent with the resource management reform emphasis on planning rather than a consent by-consent approach to land use change.

Local plan rules developed by councils would send clear signals to the forestry sector and landowners and support meaningful consent decisions that reflect local circumstances and priorities. It is likely this approach will be effective in responding to national objectives for climate change mitigation and forestry.

Local control can duplicate effort and lead to inconsistent outcomes between regions. This would undermine one purpose of the NES-PF, which was to make rules for plantation forestry consistent across the country, based on evidence of environmental effects, and would add complexity for the forestry sector and landowners.

There would be less certainty than the NES-PF currently provides about whether a particular site could be afforested, which may increase the cost and risk for foresters and dampen sector and investor interest. It could also create consistency problems where a forest spans several council boundaries and there are different rules in the district plans of each local authority. There is also the risk of local plan rules discouraging exotic afforestation in areas that could be suitable, hampering the achievement of national forestry objectives. There is no evidence that this is happening, but if a significant number of councils introduce rules this may become a challenge.

It will take time for councils to develop plan rules, and the objectives and policies to implement them. We expect, however, that rules developed by councils will be more enduring and effective than national consenting as they will be supported by relevant plans.

Another downside of local control is that it is still resource intensive to develop the district dependent rules, and this has inhibited councils from doing this in the past. The intention with strengthening the rules in relation to local control in the NES-PF is that it would be coupled with stronger national guidance and reference material to support councils who wish to make changes to their district plans.

What type of forests and land should be managed through local control?

Following consultation and further analysis, officials recommend that local control should be enabled for both ECF and plantation forests.

To have different requirements for different types of forests would run a significant risk of developing a set of regulations that cannot be implemented and lacks consistency. It also risks the creation of potential loopholes where planning requirements are different for each forest.

We also note that enabling local control only for ECF but not plantation forests would result in no change from the status quo (as ECFs are currently out of scope).

What effects do we want to manage for afforestation?

Existing controls in the resource management regulatory system can be used to manage environmental effects of afforestation but they have not been effective for managing its social, cultural, and economic effects.

The effects of plantation and permanent exotic afforestation are specific to the situation and location. Although afforestation is a real concern for some councils and communities, for others it is an opportunity.

As is the case at present, plan rules can be developed as a result of council land use planning. However, with the ECF now in scope of the NES-PF, the location of them can also be managed through district plan rules. Although there is no obligation for councils to make such rules (and supporting objectives and policies), those for whom exotic afforestation is an issue could choose to do so.

The NES-PF will be amended to enable councils to make decisions on the location of new forests, by:

- making it more explicit that councils have the ability to make rules for afforestation in relation to effects that are not within the scope of the regulations (application - clause 5), and
- allowing councils, if they choose, to make more stringent or more lenient rules for the NES-PF activity of afforestation, for both plantation and exotic carbon forests (stringency – clause 6).

Councils will be able to introduce new rules, policies and objectives in a district or regional plan to control the location or scale of plantation and exotic carbon afforestation, to reflect local priorities and aspirations. They may choose to differentiate between areas of land, scales of afforestation, forest types and other distinguishing factors they consider important eg, to restrict afforestation in an area it considers should not be used for carbon forestry (eg, highly productive land) due to potential adverse effects on local communities. The new rules could be more stringent than the NES-PF which might permit forestry in this area.

Timeframes, administrative and transitional provisions

We sought feedback on implementation support needed to support councils to introduce new rules, policies and objectives in a district or regional plan to control the location or scale of plantation and exotic carbon afforestation. Many submitters highlighted the need for expertise and resource within council to support local control alongside technical advice. Many considered there was a lack of capability and capacity within councils and there is need for more support and funding to ensure that expertise is present. This would support matters like community engagement, s32 analysis, increased resource contests, and cross regional forestry was accounted for.

Enabling councils to have full control over the location of new forests is an optional provision and requires council RMA plans to be changed in order to implement it. There are however no timeframe constraints on this proposal.

Recommendations and decisions

Controlling the location of forests

4a) Agree to enable councils to have full control over the location of new plantation and exotic continuous-cover forests.

Agree/Not agree

4b) Note that councils are already empowered to make more stringent rules for a number of matters, as specified in regulation 6 of the NES-PF.

Noted

4c) Agree to expand the matters that councils may make more stringent rules for to include all matters in or associated with sub-part 1 of the NES-PF, including, but not limited to:

- more stringent rules for plantation and exotic continuous-cover forests (ECF) generally.
- more stringent permitted activity standards.
- additional matters of discretion if consent is required.
- modifying the activity status of afforestation, or some types of afforestation, provided that activity status is more stringent.

Agree/Not agree

4d) Note that more stringent rules, even if solely applied to the activity of afforestation, may result in additional management requirements over the life of the forest.

Noted

Part 5: Relationship to other national direction

Intent

These recommended changes provide consistency with other national direction.

What did we consult on?

The discussion document included several proposed technical amendments to better align the NES-PF with the recent changes to national direction for fresh water, in preparation for the introduction of the proposed National Planning Framework (NPF). The consultation focused on matters related to fish passage on river crossing, culvert depth, sediment control measures, and vehicle use in/around wetlands. The discussion document did not provide explicit reference to other national direction.

Feedback from submissions

There is general support from submissions on aligning the NES-PF with the objectives and policies of the NES-F. In particular:

- **Fish passage on river crossings.** Comments that were not in favour questioned the reliability of the FSI tool due to possible data gaps in the supporting science, or the clarity of the fish passage rules.
- **Culvert depth.** Submitters had split views on this matter. Those against cited the impracticality of current regulations and noted that minor changes to the requirements would have minimal impacts as riverbeds are dynamic environments.
- **Sediment control measures.** Submitters are generally in favour of aligning the definition of 'sediment control measures'. Those against pointed out that even land under regenerating indigenous cover would struggle to meet the proposed requirements. Several submitters from the forestry sector suggested amending elements of the three parts of the definition to reflect practical limitations.
- **Vehicle use in/around wetlands.** The forestry sector was divided on this matter. Key matters raised from submissions included:
 - the misalignment of the definition of “wetlands” (NES-PF) and “natural wetlands” (NES-F)
 - maintaining recognition that geological land types under forest can result in many damp areas forming an area that could be classed as a “natural wetland”
 - the necessity and practicality of cleaning equipment when entering a forest.
- **Other issues raised.**
 - increasing setbacks from natural wetlands at afforestation to 15 m to address adverse effects that can affect their functioning and size, including competing water source, excessive shade, and effects from acidity of pine

- broaden fish species beyond mudfish within the disturbance of wetland permitted activity conditions for reg 97(5)
- amendments should only apply to areas of plantation forest, and not regenerating areas not in productive use
- full alignment across all forestry structures with NES-F fish passage requirements
- the NES-PF should protect all wetlands, not just those greater than 0.25ha
- protection of ephemeral water bodies and non-fish species
- fords should not be permitted in the presence of At-Risk species, not just those that are threatened.

Analysis

The NES-PF was designed to be generally aligned with national direction that existed at the time it came into force, the most notable being the interactions with the NPS-FM and NES-DW. This was achieved by establishing standards for permitted activities. However, the NES-PF also recognised that often stricter standards would be needed, particularly for addressing complex problems such as water quality and quantity effects. The NES-PF therefore enable local authorities to set rules to achieve the requirements of other national direction.

Fish passage on river crossing

We discussed the necessity of amending regulation 40(1) to state: *...river crossing, or where the regional council has determined that fish passage must be restricted*. Submitters not in favour questioned the wider settings, such as the reliability of the national data sets used by the Fish Spawning Indicator in assessing where fish species exist.

We recommend taking the proposal forward to add sentence to regulation 40(1) to state: *“...river crossing, or where the regional council has determined that fish passage must be restricted”*.

Culvert depth

The proposal was to amend the regulation on culvert invert to ensure that 25% of the diameter is located below the riverbed level (currently 20%). Those against cited the impracticalities of achieving or maintaining the 25% requirement due to substrate constraints and variabilities over time due to natural processes.

We recommend taking the proposal forward to amend regulation 46(1)(f) to 25%. An advice note is necessary to highlight conditions where achieving or maintaining 25% is not possible, and that best endeavours to achieve 25% embedment should be made.

Sediment control measures

We proposed aligning the definition of sediment control measures in the NES-PF with the NES-F.

Those who opposed pointed out that requiring sediment to effectively be stopped was not practically achievable under any landcover, as only the coarse fraction of suspended sediment drops out of suspension. Some were concerned that the new definition will be interpreted in a way that would make the regulations impractical.

The definition in the NES-F is clear that measures or structures do one or more of three listed functions. Part (b) of the NES-F definition is identical to the definition already used in the NES-PF. However, there were no submissions that provided any evidence that the definition of 'sediment control measures' in the NES-PF is not working.

We recommend taking the proposal forward to amend the definition of sediment control measures in the NES-PF to be the same as the NES-F.

Vehicle use in/around wetlands

The NES-PF currently has two exemptions which permits vehicles to operate in/around wetlands. The discussion document proposed to align the NES-PF and the NES-F to manage the use of machinery and vehicles in/around wetlands.

The NES-PF reliance only on the RMA definition is more restrictive over the NES-F definition, in that it doesn't carry any of the exclusions under the NPS-FM.

Submitters questioned how any changes to the regulations would apply to the current settings within the NES-PF that only apply to wetlands larger than 0.25ha. The forestry sector raised workability issues with several parts of the proposed amendment wording. They questioned whether machinery within a plantation forest would be required to be cleaned multiple times (part (a)), although part (c) allows for machines to enter wetlands, the word 'prevent' should be replaced with 'minimised', and if machinery breaks down, part (d) does not allow for its repair within the wetland and therefore creates a risk of greater damage through the recovery process.

The proposal did not suggest changing the regulations that apply only to wetlands greater than 0.25ha. The definition of 'natural inland wetland' means a wetland defined in the RMA, but carries additional exclusions highlighted in the NPS-FM. Amending the regulations to refer to a 'natural inland wetland' still maintains the exclusion settings of the NES-PF of wetlands smaller than 0.25ha. The proposal to carry over the NES-F general conditions in regulation 12 does not address machinery use in setbacks, therefore will not affect the relevant NES-PF regulations that manage machinery use in setbacks that are more restrictive.

The NES-PF has limited permitted activities within wetlands. A river crossing (as defined in the NES-PF and includes fords) must not be constructed in a wetland larger than 0.25, or within a wetland of 0.25ha or less, where the river crossing extends over more than 20m in length within the wetland (regulation 43(a) & (b)). The NES-PF does not permit machinery or vehicles to operate in wetlands unless undertaking wilding conifer control (regulation 11(5)), in which minor use of machinery may be involved. Amending the NES-PF to the proposal will therefore affect regulation 11(5) for wilding tree management. As machinery use is likely to be minor, mostly limited to handheld machinery, the cleaning and maintenance requirements will be relatively minor and infrequent.

We recommend taking the proposal forward to amend the NES-PF to be consistent with regulation 12 of the NES-F, which applies to machinery use in wetlands. This includes reference to natural inland wetlands to carry forward the exclusions identified in the NPS-FM.

Integrated management of national directions

The discussion document did not explicitly seek public views about ways the national directions may interact. However, some submissions have raised the importance of the aligning parts of national directions, such as through the alignment of definitions to avoid ambiguity at implementation.

However, aside from freshwater matters, there are other possible ways the NES-PF may interact with other proposed and existing national directions. They are:

- **NPS for Indigenous Biodiversity:** The NPSIB aims to protect biodiversity on private and public land), made under the Resource Management Act 1991. The policy provides clarity on how indigenous biodiversity should be managed, and will require councils to identify, map and manage or avoid effects on significant natural areas (SNAs) to protect them from new use and development. Current lawful uses of land, such as farming activities, can continue in and around SNAs, as long as they do not increasingly degrade the SNA's biodiversity values. Some primary production activities, such as plantation forestry have specific management pathways to continue while managing the biodiversity.
- **NPS for Highly Productive Land:** The objective of the NPS-HPL is to protect highly productive land for primary production that rely on the soil resource, both for now and for future generations. Forestry activities are considered as primary production, but they typically occur on land that is not regarded as highly productive. However, there may be circumstances where they occur on highly productive land.
- **National environmental standards for storing tyres outdoors:** This NES provides nationally consistent rules for the responsible storage of tyres, which would affect the forestry sector either dealing in or using large vehicle tyres. There may be instances where tyres may need to be moved to meet the setback requirements or alternatively bunding to prevent run-off in an event of a fire.
- **NES for electricity transmission activities and NPS on electricity transmission:** These national directions provide a framework of consent requirements for existing electricity transmission lines and give guidance for the management of the national grid. Any transmission line that passes through a plantation forest could also be subject to this national direction and may have effect on forestry activities.

Finally, there have been significant amendments to the RMA, for example the introduction of the Freshwater Farm Plans (Part 9A).

We recommend providing an explicit reference in the NES-PF that would enable councils to consider the NES-PF with other existing national directions when developing their plans. This is to ensure implementation consistency and minimise Resource management systems risks. However, we note that providing a comprehensive list to all possible interactions is not necessary as it results in provisions that are complex and unhelpful. Further to an explicit reference, implementation guidance will be provided to councils to ensure that councils implement all national directions equally. The section 32 report will also address these matters.

The proposed Natural and Built Environment Bill (NBE Bill) which is the primary replacement of the RMA will require the intent of all existing national directions be transitioned into the NPF. Amending the NES-PF to address this interaction would better facilitate the future transition into the NPF.

Timeframes, administrative and transitional provisions

These recommended changes provide consistency with other national directions and there are no timeframe constraints on these proposed changes, and therefore they should take immediate effect.

Infrastructure built prior to these provisions will continue to be lawful, as long as they comply with relevant local government rules. For example, existing regional plan rules could vary from these provisions and new infrastructure will need to comply with the new provisions.

Recommendations and decision

Recommendations to align with other national directions

- 5a) Agree to taking the **fish passage on river crossing** proposal forward to add sentence at the end of regulation 40(1) to state, at the end of the existing regulation: "...river crossing, or where the regional council has determined that fish passage must be restricted".
Agree/Not agree
- 5b) Agree to amend the regulation on **culvert depth** (reg 46(1)(f)) to 25%, while noting that where achieving or maintaining 25% is not possible due to bed substrate that maximum possible embedment must be achieved.
Agree/Not agree
- 5c) Agree to amend the amend the **definition of sediment control measures** in the NES-PF to be the same as the NES-F.
Agree/Not agree
- 5d) Agree to amend the NES-PF to be consistent with regulation 55(12) of the NES-F, that applies to **machinery use in wetlands**, by incorporating those requirements into the general provisions. This includes reference to natural inland wetlands to carry forward the exclusions identified in the NPS-FM.
Agree/Not agree

Appendix 1: List of Recommendations

Part 1 Values and aspirations of Māori in forestry and Te Tiriti o Waitangi | Treaty of Waitangi – Recommendations and decisions

- 1a) Note officials from MfE and MPI engaged with Māori entities with an interest in forestry in the pre-engagement sessions in June 2022 and in the workshops for the discussion paper in October and November 2022. Officials also met with representatives from Waikato-Tainui, Ngāi Tahu and Ngāti Maniapoto separately.
- Noted
- 1b) Note Māori submitters felt disappointed with the level of engagement on the proposals in this report.
- Noted
- 1c) Note officials will continue to engage with Maori stakeholders on forestry, ETS and climate change issues.
- Noted
- 1d) Note through this engagement, officials will seek to ensure the NES-PF is amended in a way that is consistent with the Te Tiriti o Waitangi principles including by identifying Māori interests and concerns and assessing the impact of the policy proposal on Māori rights and interests in forestry.
- Noted

Part 2 The purpose and scope of a revised NES-PF – Recommendations and decisions

- 2a) Agree that the government’s policy objectives for the NES-PF should be amended to:
- maintain or improve the environmental outcomes associated with plantation and exotic continuous-cover forestry activities nationally
 - increase certainty and efficiency in the management of plantation and exotic continuous-cover forestry activities
 - ensure the effects of plantation and exotic continuous-cover forestry activities are effectively managed in a nationally consistent manner
 - enable local authorities to control the location and scale of plantation and exotic continuous-cover afforestation, while recognising the local and national benefits of exotic commercial forestry.
- Agree/Not agree
- 2b) Note that amending the scope of NES-PF will have consequential impacts, including the type of forests that will be controlled through the regulations, activity status and stringency provisions relating to particular activities and effects.
- Noted
- 2c) Agree that the NES-PF should be expanded to manage exotic forests that are deliberately established for commercial purposes being:

- at least 1 ha in size of continuous forest cover of forest species
 - a minimum of 75% canopy cover is maintained at all times for any given hectare
 - forestry infrastructure
 - excludes forests types current excluded within the definition of a plantation forest.
- Agree/Not agree

2d) Note that plantation forests are already defined within the NES-PF.

Noted

2e) Agree to insert the following definitions into the NES-PF to achieve recommendation 2c above:

Term	Definition
basal area*	means the cross-sectional area of the stem of a tree measured over bark at a point that is 1.4 metres from ground level on the uphill side of the tree and expressed in square metres
Continuous-cover forest	means a forest containing forest species that is deliberately established for commercial purpose being: <ul style="list-style-type: none"> (a) at least 1 ha of continuous forest cover of forest species that has been planted and has or may be low-intensity harvested or replanted; and (b) includes all associated forestry infrastructure; but (c) does not include— <ul style="list-style-type: none"> (i) a shelter belt of forest species, where the tree crown cover has, or is likely to have, an average width of less than 30 m; or (ii) forest species in urban areas; or (iii) nurseries and seed orchards; or (iv) trees grown for fruit or nuts; or (v) long-term ecological restoration planting of indigenous forest species; or (vi) willows and poplars space planted for soil conservation purposes.
Exotic forest	means a forest that consists of more than 50 per cent, by basal area, of exotic forest species
Exotic forest species	means a forest species that is not an indigenous forest species
Indigenous forest	means a forest that consists of more than 50 per cent, by basal area, of indigenous forest species
Indigenous forest species	means a forest species that occurs naturally in New Zealand or has arrived in New Zealand without human assistance
Low-intensity harvesting#	Harvesting where a minimum of 75% canopy cover is maintained at all times for any given hectare of forest land
Transitional forest	A forest that has been planted and has or will be change from an exotic forest to an indigenous forest

Note: * These definitions are from the Climate Change Response Act (CCRA), or secondary legislation under the CCRA

This definition is within regulation of 63(3) of the NES-PF

Agree/Not agree

- 2f) Note the following consequential changes to existing definitions:
- | | | |
|-------------------|---|-------|
| Plantation forest | amend the definition to clarify that indigenous forests planted for long-term ecological restoration are not plantation forestry. This is to ensure that all indigenous continuous cover forests are outside the scope of the regulations | Noted |
|-------------------|---|-------|
- 2g) Agree to consequential changes to the other definitions to ensure that definitions that refer to plantation forests include appropriate reference to exotic continuous-cover forests. This includes the definitions for: afforestation, earthworks, forest quarrying, harvesting, landing, pruning and thinning to waste, replanting, river crossing, slash, stump line, vegetation clearance, and wilding conifer.
- Agree/Not agree
- 2h) Agree, subject to advice from PCO, to change of the name of the regulations such that they reflect the range of forests covered by the regulations.
- Agree/Not agree
- 2i) Agree that the NES-PF is to manage exotic continuous-cover forests on broadly similar terms to plantation forests.
- Agree/Not agree
- 2j) Agree that exotic continuous-cover forestry will be subject to the existing (and modified) standards for the following, as if they were plantation forests:
- Afforestation (Subpart 1)
 - Pruning and thinning to waste (Subpart 2)
 - Earthworks (Subpart 3)
 - River crossings (Subpart 4)
 - Forest quarrying (Subpart 5)
 - Mechanical land preparation (Subpart 7)
 - Replanting (Subpart 8)
 - Ancillary activities (Subpart 9)
 - General provisions (Subpart 10)
- Agree/Not agree
- 2k) Agree that harvesting of exotic continuous-cover forests will be subject to the following controls:
- Low intensity harvesting of exotic continuous-cover forests will be permitted in all ESC classes if:
 - existing Regulations 64 to 69 are complied with, and
 - Any relevant forest planning requirements are complied with (discussed below).
 - Low intensity harvesting of exotic continuous cover forests will be controlled in all ESC classes if:
 - any of regulations 64 to 69 are not complied with, or
 - or the forest planning requirements are not complied with.
 - If a consent is required for low intensity harvesting due to non-compliance with regulations 64 to 69, it will be a controlled activity; matters of control that will be specified be those in 70(4), and an additional matter enabling consideration of any forest planning requirements.
 - Harvesting (other than low intensity harvesting) of an exotic continuous-cover forests is a discretionary activity on a regional level.
- Agree/Not agree

- 2l) Agree to modifications of the matters of discretion in 17(4) which applies when afforestation is occurring on red zone land, as follows:
- Future harvesting and earthworks effects is made a matter of discretion in its own right, rather than only as a subset of erosion;
 - Planting location and species is also made a matter of discretion in its own right, rather than just as a subset of erosion. Additionally, this should be expanded to include discretion over planting density and establishment practice.
 - Add a new matter of discretion enabling any residual risk to downstream communities and infrastructure to be assessed
 - A new matter of discretion giving council the ability to control forest type – plantation or exotic continuous-cover forests – to enable the link to be made with the relevant harvesting provisions (either low intensity or regular) discussed above at (2k).
 - A new matter of discretion enabling council to prescribe any ongoing management of the forest required to avoid adverse effects on ecosystems, freshwater, coastal water, communities, and infrastructure.

Agree/Not agree

- 2m) Agree that wind effects will not be added as a matter of discretion to regulation 17.

Agree/Not agree

Timing, Transitional and Administrative Matters

- 2n) Note that all provisions in the amended NES-PF will come into force 28 days after gazettal unless otherwise specified.

Noted

- 2o) Agree to expand the ability for local authorities to charge for the monitoring of a permitted activity to include Afforestation.

Agree/Not agree

- 2p) Confirm that forests which come into scope of the regulations as a result of the basal area change over time are to be considered as afforesting at the time they come into scope.

Agree/Not agree

- 2q) Confirm that forests which eventually fall out of scope of the regulations as a result of basal area changes over time need no additional management controls in the NES.

Agree/Not agree

Part 3 Operational Improvements – Recommendations and decisions

Wildfire Risk Management Plans (FRMPs)

- 3.1a) Agree to not to proceed with including a requirement for Wildfire Risk Management Plans in the NES-PF
Agree/Not agree
- 3.1b) Agree to modify current information requirements for the afforestation notice to include a map of the property boundary and the location of the forest within it, access points and gates; the size and species of the forest; and contact information for the forest owner.
Agree/Not agree
- 3.1c) Agree that the information referred to in (3.1b) should be provided in GIS format that is easily shared across agencies and organisations.
Agree/Not agree
- 3.1d) Agree that these information requirements apply to plantation and exotic continuous-cover forests covered by the NES-PF.
Agree/Not agree

Wilding Tree Risk Management

- 3.2a) The permitted activity notice requirements for wilding tree risk are amended to require a worksheet style form requiring each element of wilding risk to be assessed for each relevant area of forest and setting out how the assessment has been made to be submitted prior to afforestation.
Agree/Not agree
- 3.2b) The permitted activity notice requirements for wilding tree risk at afforestation and replanting are amended to extend the maximum time for submitting a wilding tree risk score to 8 months.
Agree/Not agree
- 3.2c) Amend the permitted activity notice requirements for wilding tree risk at replanting only to require all replanting activities to carry out a wilding tree risk assessment and, where a score is 12, or higher than 12, the default resource consent is a controlled activity.
Agree/Not agree
- 3.2c) Agree that if consent is required under 3.2(c), matters of control will include all the matters in reg 17(1) in NES-PF and an additional matter enabling the council to consider actual spread of wilding trees and measures to mitigate an actual spread that has occurred.
Agree/Not agree
- 3.2d) Amend regulation 79(6) for replanting to limit it to the same property limits as those set out in regulation 11(5) for afforestation.
Agree/Not agree

Slash Management

- 3.3a) Agree to amend regulation 69(1) to ensure it refers to slash produced at or on a landing.
Agree/Not agree

- 3.3b) Agree to amend 69(2) to clarify that it refers to any slash pile at or on a landing that could cause the collapse of the ground under it.
Agree/Not agree
- 3.3c) Agree to amend Schedule 3(5)(c) to clarify that planning for slash management is not only in relation to protecting the features identified in clause 3(3), and should consider any relevant environmental effect.
Agree/Not agree
- 3.3d) Agree that regulation 69 should be amended to require to removal of slash on the cutover that meets certain thresholds, with exact thresholds informed by expert advice (for example, in relation to soil type, slope and fragment size).
Agree/Not agree
- 3.3e) Agree not to include reference to slash management planning requirements in regulation 66 as that regulation is a process standard and such a change would not introduce any new additional requirement.
Agree/Not agree

Forest Planning Requirements (FPRs)

- 3.4a) Agree to introduce forest management requirements which will be named ‘forest planning requirements’ (FPRs), in order to accurately reflect the scope of the requirements recommended.
Agree/Not agree
- 3.4b) Agree to require that FPRs apply to both exotic continuous-cover forests and plantation forests.
Agree/Not agree
- 3.4c) Note that schedule 3 of the NES-PF already sets out forestry earthworks management plan and harvest plan specifications and schedule 4 of the NES-PF sets out quarry erosion and sediment management plan specifications, and these will be substantially incorporated into the FPR regime.
Noted
- 3.4d) Agree that a FPR should be required by permitted activity conditions for each of the following activities:
 - afforestation and replanting
 - earthworks
 - harvest
 - forest quarrying.
Agree/Not agree
- 3.4e) Agree to the general content requirements, including person and property, map, activity and management details for all FPRs listed in table 2.
Agree/Not agree
- 3.4f) Agree to the specific map, activity and management requirements for each FPR listed in table 3.
Agree/Not agree
- 3.4g) Note that all information supplied in the FPRs, irrespective of whether it is in general content or specific content, will need to be supplied in sufficient detail to demonstrate compliance with the permitted activity standards associated with the activity and enable audit of the management practices to be carried out, either on site or remotely.
Noted

River Crossings

- 3.5a) Agree to clarify that a natural ford is a river crossing (for example, by adding a natural ford to the definition of a river crossing in regulation 3), and that use of a natural ford needs to comply with any relevant permitted activity conditions.
Agree/Not agree
- 3.5b) Agree to clarify the existing 20 axle moments exclusion as a permitted activity threshold for using a ford.
Agree/Not agree
- 3.5c) Agree to amend the definition of 'existing river crossing' in regulation 3 to remove the exclusion of fords.
Agree/Not agree
- 3.5d) Agree in principle to the inclusion of a new river crossing activity ('temporary structure') to be included in the regulations, subject to expert advice on permitted activity conditions.
Agree/Not agree
- 3.5e) Agree in principle to the inclusion of a new river crossing activity ('double culverts') to be included in the regulations, subject to expert advice.
Agree/Not agree
- 3.5f) Agree to amend Schedule 2 of the regulations by deleting documents 3 and 5 and including a new document, the NIWA Regional Flood Estimation Tool.¹⁷
Agree/Not agree
- 3.5g) Agree to not proceed with amending regulation 31(4) and proceed with amending regulation 46(1)(c) to clarify that it refers to internal diameter.
Agree/Not agree

Treaty Settlement Areas

- 3.5h) Agree to amend the regulations to enable Treaty of Waitangi Settlement Areas relating to outstanding waterbodies to be a matter of discretion for resource consent processes, wherever discretion over effects on an outstanding waterbody is already enabled.
Agree/Not agree

Notice periods

- 3.5i) Agree to amend the notice periods for earthworks and forestry quarrying in green and yellow zones to require notice at least 10 and no more than 60 working days before the date on which they are to begin.
Agree/Not agree
- 3.5j) Do not proceed with amending regulations 25(2) and 64(2) to enable councils to waive the minimum 20-day notice period when unforeseen circumstances require foresters to start operations earlier than planned, as the requirement is uncertain.
Agree/Not agree
- 3.5k) Amend the regulations to clarify that where notice of more than one activity is being provided at the same time for the same forest, a joint notice is allowed.
Agree/Not agree

¹⁷ <https://niwa.co.nz/natural-hazards/hazards/floods>

3.5l) Note that officials will provide guidance material on annual notice for plantation forestry activities, including where areas of activities are not contiguous in the same forest.

Noted

Traffic management

3.5m) Agree to repeal regulation 57, due to the unclear link with council rules on traffic generating activities, and its insufficiently certain approach.

Agree/Not agree

Erosion Susceptibility Classification

3.5n) Agree in principle to amend the regulations to enable a council, whatever is contained in the Erosion Susceptibility Classification incorporated by reference as item 1 in Schedule 2, to rely on remapped erosion susceptibility zones for forestry activities if they are:

- Undertaken and provided by a suitably qualified person as defined by criteria to be determined and
- Undertaken in accordance with set processes and reporting requirements to be determined.
- The criteria, process and reporting requirements will be incorporated by reference in Schedule 2 of the regulations.
- A limited, targeted consultation process, including at least all submitters on this proposal and all regional councils, is required to confirm the criteria, process and reporting requirements before recommending to the Minister for the Environment that it be incorporated by reference in the regulations.

Agree/Not agree

Sediment Management

3.5o) Agree not to proceed with the minor change, clarifying discharge permit relationship as consulted on.

Agree/Not agree

3.5p) Agree not to proceed with the minor change to the sediment regulation as consulted on.

Agree/Not agree

Charging for Monitoring Permitted Activities

3.5o) Agree not to proceed with the technical change attempting to better clarify relationship between administrative fees and monitoring.

Agree/Not agree

Vegetation Clearance and Significant Natural Areas

3.5q) Agree to add in a standard for vegetation clearance that occurs as a result of afforestation. Regulation to state that afforestation must comply with any relevant term or condition of a plan which restricts vegetation clearance within that area.

Agree/Not agree

3.5r) Agree that, if 3.5q results in a consent being required for afforestation, consent is required on the same terms as the relevant plan

Agree/Not agree

Part 4 Controlling the Locations of Forests - Recommendations and decisions

Controlling the location of forests

- 4a) Agree to enable councils to have full control over the location of new plantation and exotic continuous-cover forests.
- Agree/Not agree
- 4b) Note that councils are already empowered to make more stringent rules for a number of matters, as specified in regulation 6 of the NES-PF.
- Noted
- 4c) Agree to expand the matters that councils may make more stringent rules for to include all matters in or associated with sub-part 1 of the NES-PF, including, but not limited to
- more stringent rules for plantation and exotic continuous-cover forests (ECF) generally
 - more stringent permitted activity standards
 - additional matters of discretion if consent is required
 - modifying the activity status of afforestation, or some types of afforestation, provided that activity status is more stringent.
- Agree/Not agree
- 4d) Note that more stringent rules, even if solely applied to the activity of afforestation, may result in additional management requirements over the life of the forest.
- Noted

Part 5 Relationship with other National Direction - Recommendations and decisions

Recommendations to align with other national directions

- 5a) Agree to taking the **fish passage on river crossing** proposal forward to add sentence at the end of regulation 40(1) to state, at the end of the existing regulation: "...river crossing, or where the regional council has determined that fish passage must be restricted".

Agree/Not agree

- 5b) Agree to amend the regulation on **culvert depth** (reg 46(1)(f)) to 25%, while noting that where achieving or maintaining 25% is not possible due to bed substrate that maximum possible embedment must be achieved.

Agree/Not agree

- 5c) Agree to amend the amend the **definition of sediment control measures** in the NES-PF to be the same as the NES-F.

Agree/Not agree

- 5d) Agree to amend the NES-PF to be consistent with regulation 55(12) of the NES-F, that applies to **machinery use in wetlands**, by incorporating those requirements into the general provisions. This includes reference to natural inland wetlands to carry forward the exclusions identified in the NPS-FM.

Agree/Not agree

Appendix 2: Table of operational changes - analysis and recommendations

Feedback from submissions	Analysis	Recommendation
RIVER CROSSINGS		
<p>Issue / Description - Fords: The definition and intent of ‘ford’ is not clear in the regulations.</p> <p>A ford is a type of river crossing managed under the NES-PF. It is defined as <i>“a hard surface on the bed of a river (that is permanently or frequently overtopped by water) that allows the crossing of a river by machinery or vehicles.”</i></p> <p>A river crossing is defined in the NESPF as <i>“a structure that is required for the operation of a plantation forest and provides for vehicles or machinery to cross over a water body”</i>. However, the definition of a ford does not include the word ‘structure’:</p> <p>NES-PF Guidance says a ford can be a graded riverbed or naturally rocky bed, however this is at odds with the definition of a structure. The proposal is to clarify that the definition of a ‘ford’ includes the word ‘structure’. There is no intent to take a more permissive approach to the construction or use of fords.</p>		
<p>There was general support for this proposal, though a number with the condition that regulation 97(6) is referenced to be clear that use of a natural ford is permitted.</p> <p>It was noted the original intent was that a ford could be both a structure or a firm natural base. Recognising the disturbance of the natural bed and generated sediment yields which could arise, the stringent limit on axle passes was applied in regulation 97(6). Without this or other changes a natural ford would not be permitted. Use of natural fords in plantation forests is important for crossing with light vehicles during forest establishment and silviculture when usage will be very low.</p> <p>The individual submitter suggested that the definition of river crossing could be amended to include natural fords.</p>	<p>The various responses to this proposal illustrate the uncertainty over how this regulation (and by extension) regulation 97(6) should be interpreted.</p> <p>The intent of the regulations as a whole was to set conditions for the construction, use, maintenance and removal of river crossings used for the operation of a plantation forest and provide for vehicles or machinery to cross over a water body. It was also the intent that the use of ‘natural riverbed fords’ be permitted, though that use as a permitted activity is constrained by regulation 97(6)(a) to ‘vehicles using a ford to cross the wetted riverbed at a rate of up to 20 axle movements per day’.</p>	<p>Proceeding, review recommendation above.</p>

Feedback from submissions	Analysis	Recommendation
<p>Issue / Description - Fords: There is some uncertainty about the interaction between construction and discharge regulations for fords interact.</p>		
<p>Regulation 37 sets the permitted activity conditions for constructing, using, maintaining or removing a river crossing as long as a range of other conditions are complied with. Regulation 46(4) sets those conditions for fords and 46(4)(b) sets the conditions for use.¹⁸</p>		
<p>Regulation 97 sets discharge conditions for several activities. 97(6)(a) says that vehicles using a ford to cross the wetted riverbed at a rate of up to 20 axle movements per day is not to be regarded as a disturbance of the bed or vegetation in the bed of a perennial river. This use of the term ‘ford’, in a way that seems to contradict regulation 46(4)(b), has caused some uncertainty.</p>		
<p>There was general support for this proposal that two submitters thought the distinction was already clear.</p> <p>Several foresters thought that regulation 97(6) was convoluted and confusing, and that it would benefit from being framed in the positive (i.e., specifying that the activity is permitted, rather than saying it’s not a disturbance of the bed if it’s up to 20 axle movements per day).</p> <p>The regional council supported the proposal, but questioned who is responsible for monitoring whether vehicles fording a wetted riverbed is at 20 axle movements a day.</p>	<p>Regulations should be clear and unambiguous and regulation 97(6) is confusing, both because of its position in the regulations and because there is uncertainty about whether a ford includes a natural ford.</p> <p>The intent, in conjunction with the recommendation for D5a, should be clarified, for example by adding a reference to 97(6) and/or rewording 97(6) to phrase it in positive language. Guidance on this provision should also be reviewed.</p> <p>Regional councils are responsible for monitoring whether permitted activities are being breached under regulation 97(6), though outside harvest activities the crossing of the wetted riverbed is likely to be of a similar nature and intensity as that of other rural land users fording rivers.</p>	<p>Proceeding, review recommendation above.</p>
<p>Issue / Description - Fords: ‘Existing river crossing’ is defined in the regulations but exempts fords and temporary river crossings from the definition. Regulation 37(3) allows the use of existing river crossings, and regulation 37(1)(d) permits the construction, use, maintenance or removal of fords. The intent of regulation 37(3) was to ensure existing crossings were permitted when the NES-PF came into force. There was no intent to exempt existing fords.</p>		
<p>All submitters favoured the proposal. One called it a reasonable and practical change, another noted they use several concrete fords legally constructed in the beds of rivers that predate the NES-PF.</p>	<p>Three submitters supported the proposal as long as there is a cross reference to regulation 97(6) to enable the use of natural fords. We do not consider this necessary as regulation 37(3) already allows for this and amending the definition of an existing river crossing in the manner proposed simply removes the current exclusion for fords.</p>	<p>Proceeding, review recommendation above.</p>

¹⁸ 46(4)(b) use of the ford must not cause a conspicuous change in colour or visual clarity beyond a 100 m mixing zone downstream of the ford for more than 30 consecutive minutes after use of the ford.

Feedback from submissions	Analysis	Recommendation
<p>Issue / Description - Temporary structures for river crossings: The NES-PF permits the use of temporary river crossings for up to 2 months. Engineered structures that can be placed in rivers and removed are used in some regions as an alternative to a permanent river crossing, particularly as a replacement for a permanent ford. This is a built structure that allows fish passage and can be placed in the river for an extended period (e.g., to carry laden logging trucks) and removed when no longer required for regular use.</p> <p>These crossings could be classed as a temporary river crossing, and permitted, but generally their use will be required for longer than 2 months which is the permitted activity limit for temporary river crossings.</p>		
<p>Most submitters agreed temporary engineered structures should be permitted. One eNGO supporting the proposal noted that riverbed scouring is a main source of sediment so options to reduce this are beneficial, and a forestry company noted the significant, low risk environmental benefits from the use of temporary engineered structures. One council said that the proposed crossing was highly technical and should be investigated by an engineer.</p> <p>Commonly suggested permitted activity conditions were in line with existing controls.</p> <p>The proposal included a timeframe of two years for this crossing as a permitted activity and both longer and shorter periods were suggested.</p>	<p>If appropriately constructed (including for fish passage), sited and monitored temporary structures would have fewer environmental effects than built structures such as fords, and would be in the river for a short time over a forestry cycle. They are preferable to driving in the bed of the river as they would significantly reduce sediment discharge.</p> <p>Suggested permitted activity conditions cover a range of appropriate criteria but require further consideration from river engineering and hydrological professionals to determine limits (including in relation to siting and monitoring).</p> <p>The meaning of ‘temporary’ must balance practicality of installation, projected volume of use and the sensitivity of the site (for example, the bedrock and the size of the catchment). A one-year permitted activity with a process for renewal would increase the versatility of the crossings while requiring council oversight at the one year point.</p>	<p>Proceeding, review recommendation above.</p> <p>Seek professional engineering and hydrological advice for the development of permitted activity conditions (including the definition of temporary).</p>
<p>Issue / Description - D5e Dual culverts: Regulation 46 sets out the permitted activity conditions specific to various classes of river crossings. It includes single culverts and battery culverts. Installation of two adjacent culverts is not covered, though in some cases it may be desirable to install a double culvert, for example, 2 x 1200mm culverts.</p> <p>Although a single culvert may be 3.5m above the river at its highest point, a battery culvert must not exceed 800mm above the river. This means there is no permitted activity rule for larger double culverts, where they don’t meet the battery culvert height limit of 800mm.</p>		
<p>Most submitters were in favour of the proposal. A council who did not favour the proposal said that [the current culvert provision] already works so why complicate it. Another council said this was too technical and an engineer was needed.</p> <p>Commonly suggested permitted activity conditions were in line with existing controls for single culverts with allowance for appropriate flood flow thresholds, stability and erosion-proofing.</p>	<p>During development of the regulations commonly used river crossings were assessed and conditions developed accordingly. Double culverts were not included, though feedback from submitters is that they do not have different effects to other crossings that are permitted.</p> <p>Technical specifications need to be informed by a river crossing engineering specialist, including indicating the thresholds beyond which resource consent is required.</p>	<p>Proceeding, review recommendation above.</p> <p>Seek professional engineering and hydrological advice to determine the points of difference between the two options, and suitable permitted activity conditions.</p>

Feedback from submissions	Analysis	Recommendation
<p>Issue / Description - Flood flow estimation methods: The NES-PF specifies the methods for calculating flood flows ahead of constructing river crossings and incorporates these by reference in Schedule 2. Specifying the methods ensures that calculations use well-accepted, tested methods to ensure river crossings are safe in- situ and in relation to the downstream environment and communities.</p>		
<p>When the NES-PF was gazetted in 2017, improved methods have been published. The proposal is to replace two outdated methods with the NIWA Flood Flow Estimation Tool.</p>		
<p>Most submitters supported replacing outdated methods with Henderson Collins 2018, which describes the latest updates to the NIWA Regional Flood Estimation Tool available on the website. It was pointed out that the actual reference should be to the website tool https://niwa.co.nz/natural-hazards/hazards/floods.</p> <p>There was common support for retaining additional methods for occasions when NIWA flood data isn't at an appropriate scale for local sites - the NIWA tool may underestimate flows in smaller catchments. Options for alternative empirical methods should be retained for comparison, in particular the Rational Method – TM61.</p>	<p>Most submitters recommended the substitution of this method and it should be included in the regulations as a document incorporated by reference. Several methods will remain, including TM61 (document 4, incorporated by reference).</p>	<p>Proceeding, review recommendation above.</p> <p>Delete documents 3 and 5 from Schedule 2 (References for material incorporated by reference) and include a new document (NIWA Regional Flood Estimation Tool).</p> <p>https://niwa.co.nz/natural-hazards/hazards/floods.</p>
<p>Issue / Description - Culvert diameter specifications:</p>		
<p>Clauses 31(4) and 46(1)(c) define required culvert size by internal diameter. This has reportedly restricted product choice as culverts that would allow the required flow do not meet the specifications, due to the wording of the regulations.</p>		
<p>The proposal is to amend regulation 31(4)(b) to include a 375mm internal diameter or 400 mm outside diameter. 46(1)(c) is unclear as it does not specify whether the diameter is internal or external.</p>		
<p>Submitters were divided on this proposal. Those opposed to the change noted that internal diameter is the only metric that matters for ensuring adequate flow capacity and adding external minimums would be confusing. Also, that the current culvert sizes are minimums, and engineers can use larger culverts if the minimum is not available.</p> <p>No reasons were given in favour of the change.</p>	<p>The important metric for specifying minimum flood flow is internal diameter, and there is no evidence to change this. As noted, a larger internal diameter is not precluded by the current regulations.</p> <p>No one mentioned the lack of internal or external specification in regulations 46(1)(c). As it is internal diameter that matters, we consider the presumption is that the regulation refers to internal diameter which should be clarified.</p>	<p>Partially Proceeding, Review recommendation above.</p> <p>Do not proceed with amending regulation 31(4)</p> <p>Proceed with amending regulation 46(1)(c) to clarify that it refers to internal diameter.</p>

Feedback from submissions	Analysis	Recommendation
TREATY SETTLEMENT AREAS		
Issue / Description - Outstanding water bodies: An outstanding natural water body being assessed under the NES-PF may include Treaty settlement areas. Matters of discretion for a consent for doing something within or adjacent to an outstanding natural water body need to allow a council discretion to consider the settlement legislation and values, so they can apply Part 2 of the RMA.		
<p>All submitters were supportive of this proposal.</p> <p>One submitter suggested it would be helpful if there could be a decision support tool developed which indicates the waterbodies (or stretches of waterbody) which are identified as outstanding freshwater bodies and where they are subject to Treaty of Waitangi Settlement and who the Statutory Authority is for the waterbody.</p>	<p>Proceeding with this amendment will remove the anomaly of councils not being able to consider this as a matter of discretion.</p>	<p>Proceeding, review recommendation above.</p>
NOTICE PERIODS		
<p>Notice periods may be inefficient and in some cases insufficiently calibrated for risk</p>		
<p>Permitted activity conditions in the NES-PF require foresters to give notice to regional councils and territorial authorities of the intended start dates of certain plantation forestry activities. The intent is to make councils aware of key forestry work in their area, and enable them to undertake risk-based compliance monitoring where appropriate. Five permitted activities require notice periods, setting out the location of the activity and the start and finish dates. There are also specific information requirements. In some cases, notice is proving more complex than intended, increasing the costs for both foresters and councils, without noticeably improving environmental outcomes. We have identified 5 potential amendments. The proposed change to afforestation notifications in regulations 10 and 11(4) is set out in the section on wilding conifer control.</p>		
Issue / Description - Notice periods are the same in low- and high-risk zones		
<p>Many environmental controls in the regulations are based on erosion risk, as defined by the erosion susceptibility classification. Greater controls are required in high-risk zones, but notice periods are the same for all zones. This means councils receive a large number of notifications for low-risk activities, and foresters must provide these and juggle work around the need to harvest.</p>		
<p>This has placed a new (and in some cases onerous) burden on foresters and councils to provide and process documentation and wait to begin jobs that pose very little risk to the environment. Activities in green and yellow ESC zones are generally low risk.</p>		
<p>The proposal is to reduce or waive the notice period for low-risk activities, specifically earthworks, forestry quarrying and harvesting in green and yellow zones.</p>		
<p>About two thirds of submitters agreed with reduced or waived notice periods for activities in green and yellow zones. The forestry sector was mostly in favour, while councils were more evenly split.</p> <p>Support predominantly favoured reducing the notice period to either five or ten working days for low-risk activities rather than waiving the notice</p>	<p>The intent of the 20-working day minimum notice period was to provide councils with sufficient time to set up processes, especially around preparing public roads.</p> <p>There was support for reducing the notice periods for low-risk activities where risk is low. While a single notice period is simple, the regulations need to</p>	<p>Proceeding, review recommendation above</p>

Feedback from submissions	Analysis	Recommendation
<p>period. Creating a complex array of notice periods across different risk levels was not favoured.</p> <p>Several submitters pointed out that notices for permitted activities are to inform councils of the beginning of activities. There is a risk that with notice periods, councils begin treating them like a pseudo-consenting process. The intent is to provide councils with enough time to set up systems and triage compliance monitoring based on risk.</p>	<p>manage risk as it exists. Although the risk of significant environmental effects from harvest on green and yellow land are considered low, they still require development of a management plan and we do not consider reducing the notice period would give councils enough time to consider a plan. In addition, harvest is the time when traffic effects are highest, and councils should have the full period to allow for this. For earthworks and forestry quarrying on green and yellow land this is not a significant issue.</p>	
<p>Issue / Description - Notice periods for emergency earthworks: Regulation 25 requires notification between 20 and 60 working days before earthworks begin. There is a minimum notice period of 2 days to enable salvage operations. A salvage operation is defined as the urgent extraction of trees that have been damaged by fire or wind throw. This recognises the need for rapid salvage after fire or storms to ensure safety and salvage value in a natural disaster.</p> <p>The proposal is to enable councils to waive the minimum 20-day notice period when unforeseen circumstances, such as fire and economic disruption that triggers force majeure require foresters to start an operation sooner than 20 working days after notice.</p>		
<p>The forestry submitters were in favour of enabling councils to waive the minimum 20-day notice period when unforeseen circumstances require activities to start earlier than planned. Several submitters suggested extending this to other activities that can be affected and require emergency works such as earthworks.</p> <p>Two submitters pointed out that section 37 and section 87BB(1) of the RMA allow councils to waive timeframes. Within their roles in the council, they already use this discretion. Creating additional waiver powers under the NES-PF could increase complexity to the system.</p>	<p>Councils already have waiver powers available to them under the RMA. This might not be apparent to all foresters and council staff. Although including specific provisions in the NES-PF may provide clear direction to councils it would be providing them with a power they already have. The proposal is not to require a waiver, so adding it would not change the status quo.</p> <p>Providing guidance on the type of circumstances in which a waiver might be appropriate and clarifying how the RMA manages this would address this concern.</p>	<p>Not proceeding, review recommendation above</p>
<p>Issue / Description - Notice periods – joint notice: The regulations require notice for earthworks, harvesting and river crossings. In many cases these will be planned as part of a harvest. Council practice varies - some councils allow joint notice, but others require separate notices for each activity. It would be more efficient for foresters and councils to receive a single notice setting out the activities.</p>		
<p>All submitters supported the proposed changes.</p> <p>One submitter suggested that efficiency could be improved if all notices were of a standardised format (for paper copies) and run through a single portal, automatically directing the notice to the relevant council.</p>	<p>A joint notice for multiple activities undertaken for earthworks, harvesting, or river crossing activities would decrease the administrative burden. There were no objections to a joint notice for contemporaneous activities.</p>	<p>Proceeding, review recommendation above.</p>

Feedback from submissions	Analysis	Recommendation
<p>Issue / Description - Notice periods – continuous activity: Regulation 64(2)(c) allows forestry companies to notify a council annually of its harvest work if this is an ‘ongoing harvesting operation’. This applies to large forests with long-term operations. Practice varies - some councils accept annual notifications while others require individual notifications for any harvest area that is not contiguous in the same forest.</p>		
<p>We sought feedback on current practice for receiving notice for continuous activity, and where more regular notice is sought by the council on what environmental risks this is intended to manage.</p>		
<p>Providing an annual notice cuts out multiple notices being issued. Submitters highlighted that plans with sufficient detail were required. These can be requested by the council with the notice, or at any time. One forester noted their council allows for notices to be extended, and in some cases, they allow notice for up to 3 years.</p> <p>Several forestry sector submitters queried the need for resubmitting notices yearly. A re-notice should only be required if the time frame of operations changes from that proposed. This would benefit councils and large forests by reducing ongoing administration replication when the plans which cover the detail can be requested. However, some councils explicitly stated they find annual notices useful, and some are provided with quarterly updates that they use for tracking progress against plans.</p>	<p>No feedback was received that identified the risks that need to be managed with more regular notices. Most groups agreed annual notices worked well with appropriately prepared harvest, earthworks, and quarrying plans. Several submitters said that notice should only be required once. At least one council may already be allowing this. However, some councils use the annual notice period to update progress against plans.</p> <p>The notice serves a purpose in reminding councils that forestry activities are occurring. While waiving the yearly notice requirement could reduce administrative burden on councils and foresters, it would only benefit those councils which are set up appropriately. It is unknown how many manage this.</p>	<p>Provide guidance material on annual notice for plantation forestry activities, including where areas of activities are not contiguous in the same forest.</p>
<p>TRAFFIC MANAGEMENT</p>		
<p>Issue / Description - Traffic management: Regulation 57 sets requirements for vehicles carrying quarry materials on public roads. It allows for transport of material between related forestry operations that might cross district roads. It is the only regulation that controls vehicle movements on public roads. It is not clear why this aspect of road use by forestry vehicles is regulated. It raises equity issues for forestry, compared to other commercial entities using public roads.</p>		
<p>All submitters supported removing the regulation, saying the provision has resulted in the need for consents for no reason other than vehicles travelling on a public road, which is nonsensical.</p>	<p>There was no case given for retaining regulation 57. Removing this regulation will not change the environmental effects of vehicle use but will remove an anomalous provision that has been confusing and inefficient.</p>	<p>Proceeding, review recommendation above.</p>

Feedback from submissions	Analysis	Recommendation
EROSION SUSCEPTIBILITY CLASSIFICATION¹⁹		
Issue / Description - The process for remapping an ESC polygon is disproportionate to the risk it seeks to manage.		
The ESC is a national tool mapped at a 1:50,000 scale. This means it may over- or under-risk erosion susceptibility at a forest/farm scale. A process was developed for remapping ESC polygons where a party disagreed with the ESC. ²⁰ The process is time consuming and expensive for all parties and requires national level changes to the ESC to be gazetted.		
The proposal is to enable a council to waive resource consent, or require it, if it is satisfied that re-mapping by a suitably qualified mapper indicates that at a 1:10,000 scale the land in question fits within a different erosion susceptibility zone to that recorded in the ESC. This will also allow a council to have an ESC polygon re-mapped if it uses a suitably qualified mapper.		
<p>Most submitters were supportive of this proposal. Several noted that current council practice differs, with some already using this approach while others require resource consent, even where a remapped polygon indicates that a different risk level applies. It was also noted that the requirement to have a suitably qualified mapper to undertake the assessment provides a level of assurance to ensure the correct rules apply without the significant cost and delay associated with needing to update the ESC itself after remapping of ESC units.</p> <p>One submitter noted the ESC was never intended to be used at farm or within forest scale; it was a broad "drafting gate". The ability to provide higher resolution information at a farm scale is possible with remote sensed data such as LiDAR, and erosion susceptibility models. However, there is no consistency in the approaches taken by councils and/or their mappers. This has the potential to "dilute" the nationally consistent approach the ESC provides and poses a risk that different methodologies are used to derive farm scale information.</p>	<p>The proposal is to improve the efficiency with which the ESC is applied and to ensure that where scale issues or misclassification have caused an ESC polygon to be incorrectly classified the process to have it reclassified is not unnecessarily onerous.</p> <p>This is a neutral process that can be used by landowners, foresters, councils and any other party who questions the accuracy of an ESC polygon. It does not change the essential nature of the ESC as a 'drafting gate' but will ensure that all councils are treating this matter in a consistent manner.</p> <p>The use of additional tools for risk assessment is sensible and encouraged. Many foresters do use additional risk assessment tools in their forestry planning. Te Uru Rākau will look to provide guidance on some of these tools.</p>	<p>Proceed in principle, review recommendation above.</p>

¹⁹ See Appendix F for more analysis relating to the Erosion Susceptibility Classification.

²⁰ <https://www.mpi.govt.nz/dmsdocument/28542-Process-to-update-the-NES-PF-ESC-on-a-case-by-case-basis>

Feedback from submissions	Analysis	Recommendation
SEDIMENT MANAGEMENT		
<p>Issue / Description - Discharge permits: Regulation 97(1) permits discharges associated with permitted forestry activities if all other activity conditions are complied with, including sediment standards. The rest of the regulation sets specific restrictions on discharges.</p> <p>Foresters report that some councils accept activities in line with this requirement, while others require separate discharge permits.</p>		
<p>Submitters had a range of responses. Some thought the regulations were clear, but some councils are not interpreting them correctly, and Te Uru Rākau should provide formal advice. One forestry company noted that if the council does not specifically consent the discharge associated with an activity, some council compliance staff have interpreted this to mean that no discharge has been authorised.</p>	<p>There is general consensus that the status of discharge should be clear in the permitted activity standards, though no one argued that the intent of the regulations wasn't clear. The difficulty appears to lie with the placement of regulation 97 along with other general provisions.</p> <p>It is easier to change guidance than regulation so that should be the first option.</p>	<p>Do not proceed, review recommendation above.</p>
<p>Issue / Description - D11b 2-stage regulations to manage sediment: The term 'reasonable mixing' occurs as part of five 2-stage regulations which set requirements for sediment. The intent of the regulations is to ensure sedimentation of waterways does not cause downstream effects that are more than minor requiring that 'after reasonable mixing', sediment does not cause specific downstream effects.²¹ That is, they set out the effects that must be avoided, while allowing sediment to enter waterways.</p> <p>Feedback is that sometimes these regulations are read as meaning all sediment must be kept out of waterways.</p>		
<p>All submitters supported the proposal. One noted that this has been an ongoing source of debate with a small number of compliance staff and contractors, who take the view that the meaning is that there must be zero discharge of sediment, which is clearly not practically achievable for any land use</p> <p>The regional council supported the clarification but also said consideration should be given to providing a definition of reasonable mixing, and that a better measure of silt and sediment discharge into rivers should also be provided, rather than the 'Any conspicuous change in colour or visual clarity' rule.</p>	<p>This proposal will reduce ambiguity to achieve the intent of the regulations.</p> <p>We note the suggestion about the definitions of 'reasonable mixing' and 'visual clarity' and acknowledge that this is a difficulty which has been raised by a number of parties during development of the regulations and subsequently. However, it is not an issue unique to forestry and should be addressed in relation to sediment in general.</p>	<p>Do not proceed, review recommendation above.</p>

²¹ a) any conspicuous change in colour or visual clarity; b) the rendering of fresh water unsuitable for consumption by farm animals; c) any significant adverse effect on aquatic life. These effects are the same as those covered in section 70(1)(d, f and g) of the RMA. Effects 70(1)(c) and 70(1)(e) are not caused by sediment, so do not appear in these regulations.

Feedback from submissions	Analysis	Recommendation
Health and Safety		
<p>Issue / Description - Health and Safety exemption: The regulations have a range of exemptions for removing slash where ‘to do so would be unsafe’. This has led to some questions over what constitutes ‘unsafe’ which is a subjective term. Operators are continually required to make judgement calls on site, and sometimes under pressing conditions. Worker safety is a crucial factor in decision-making and in some instances environmental outcomes may be compromised by health and safety requirements.</p>		
<p>Only five submitters provided feedback on this question. All pointed out their statutory duty of care and said it was critical that they and their contractors retain discretion to not undertake activities which will put workers at risk. To do so would be a prosecutable offence.</p>	<p>No amendment was proposed but we sought feedback on information or resources could help foresters and councils make decisions balancing environmental outcomes with worker safety when managing slash. The information will be used in developing guidance on slash risk assessment and management.</p>	<p>No recommendation, no change was proposed in this area, gathering information only.</p>
CHARGING TO MONITOR PERMITTED ACTIVITIES		
<p>Issue / Description - Charging to monitor permitted activities: The Year One review found that some councils thought the power to charge for permitted activities did not cover all associated costs, while foresters had a range of concerns about charging practices in some councils, including failure to apply a risk-based approach in some cases.</p>		
<p>Guidance on regulation 106 states:</p>		
<p><i>It is the on-site monitoring of earthworks, river crossings, forestry quarrying and harvesting that should be the focus of Regulation 106. Monitoring the permitted activities in Regulation 106 will not cover the time spent before the activity began, such as:</i></p>		
<ul style="list-style-type: none"> • <i>Reviewing management plans to determine whether they are complete or to better understand the activity (although reviewing may inform a more focused and efficient site visit –see section 5.3 above), and</i> • <i>Determining the activity status of a plantation forestry activity (i.e., checking documentation against NES-PF requirements and conditions).</i> 		
<p>All council submitters were opposed to the proposal and all forestry submitters were in favour of the proposal. Council submitters said they carried a burden under the regulations. For example, “Recording, auditing, and acknowledging a routine NES-PF notice typically takes about 40 minutes. An inability to charge for this activity results in a cost burden to ratepayers. Reviewing a notice is a key part of determining the risk associated with the activity and confirming whether a consent is in fact required for the activity and risk-based prioritising of monitoring. We encourage the administrative burden to be reduced through the implementation of a national fee structure (regulated) that would provide certainty for industry. Notices could also be streamlined by requiring digital</p>	<p>This question was poorly understood as some interpreted it to mean that we were removing the right to charge for monitoring permitted activities which has not been proposed. Regulation 106 is clear that it enables charging for the monitoring of four activities (earthworks, river crossings, forestry quarrying and harvesting). The guidance is also clear that this does not include charging to receive notices and plans.</p> <p>Permitted activities should not be subject to an external permission, and the purpose of notice is to let a council know that an activity is being undertaken, not to seek agreement that the activity <i>may be undertaken</i>. Notice and</p>	<p>Do not proceed, review recommendation above.</p> <p>Note this is a different proposal to expanding charging for monitoring afforestation which is discussed above.</p>

Feedback from submissions	Analysis	Recommendation
<p>spatial data of the site of the activities to be electronically provided to Councils.”</p> <p>Forestry submitters said the regulation is relatively clear that charging to receive and assess notice is not provided for but supported greater clarity. Additional guidance on this would be helpful. One submitter thought some councils and their [compliance and enforcement] contractors use the cost recovery mechanism in the NES-PF as a cash cow. Support is given to any clarification on what councils cannot charge time out for.</p>	<p>management plans are not a proxy consenting process and should not be treated accordingly.</p> <p>This proposal is not for a change in policy, but to be explicit within the regulations for the removal of doubt. However, we agree with the council comment that the administrative burden could be reduced, and guidance tools should be developed to assist with this.</p>	
<p>VEGETATION CLEARANCE AND SIGNIFICANT NATURAL AREAS (formerly s.3.4 of recs report)</p>		
<p>Issue / Description – Meaning of stringency for SNAs is changed by the NPSIB: Regulation 6(2)(b) enables councils to make more stringent rules than the NES-PF, if the rule provides for the protection of significant natural areas (SNAs). When the NES-PF was gazetted, SNAs were identified by district councils under section 6(c) of the RMA according to locally determined criteria. The NPSIB is introducing new criteria for significance and has specific policies for plantation forestry.</p>		
<p>The forestry sector was in favour of amending the NES-PF to apply only to SNAs outside the productive areas of the forest. There were some concerns raised that the definition of what is a productive area is not clear in either the NES-PF or NPSIB. Councils were almost all against the proposal. Feedback from councils included the need to retain stringency no matter where an SNA is located to ensure protections are maintained. Some submitters pointed out that any amendments should not occur until the NPSIB is in place.</p>	<p>Some respondents appeared to be unsure of the requirements for plantation forests within the NPSIB. This likely affected their responses. The intent of regulation 6(2)(b) is to allow for the use of regionally specific rules to manage unique regional situations where general rules are not suitable.</p> <p>Although the management requirements of threatened species will vary within plantation forests, the habitat and how the identified species use this habitat that exists within and under a canopy of a plantation forest is unlikely to vary much across regions. Maintaining stringency where management requirements are unlikely to vary within species groups across regions will result in different rules being developed unnecessarily.</p> <p>However, clear guidance is required to support the implementation of the NPSIB on the management requirements of SNAs within productive areas of a plantation forest. Greater clarity on defining what areas the term “productive” refers to is also required.</p>	<p>Do not proceed as the NPSIB is not yet in force.</p> <p>Review this and seek a further decision if the NPSIB comes into force while the NES-PF process is ongoing.</p>

Feedback from submissions	Analysis	Recommendation
<p>Issue / Description – Definition of indigenous vegetation may be unclear: The NPSIB will introduce a different definition of indigenous vegetation from the NES-PF. It is not clear whether the term ‘predominantly’ in the NESPF definition refers to composition, cover, or something else. Therefore, it may not be sufficiently enforceable. Draft NPS-IB: indigenous vegetation means vascular and non-vascular plants that, in relation to a particular area, are native to the ecological district in which that area is located. NES-PF: indigenous vegetation means vegetation that predominantly occurs naturally in New Zealand or that arrived without human assistance. The NES-PF definition was taken from the definition of ‘indigenous’ in the Forests Act 1949.</p>		
<p>Most submitters did not see any issues with the NES-PF aligning to the NPSIB definition for “indigenous vegetation”. Most in favour of aligning to the NPSIB definition felt like it was clearer and agreed with using consistent definitions. A significant amount of feedback from submitters appeared to not address the question but raise concern about the impact of the policy intent of the proposed NPSIB generally on plantation forestry activities.</p>	<p>Few submitters raised any practical or operational issues with using the NPSIB definition. Two issues raised addressed the possible long-term benefits of a less precise definition, and the potential over management risks due to complex definitions.</p> <p>However, the practical objective between the two definitions remains the same, and consistency between national direction was strongly favoured across all submitter groups.</p>	<p>Do not proceed as the NPSIB is not yet in force.</p> <p>Review this and seek a further decision if the NPSIB comes into force while the NES-PF process is ongoing.</p>
<p>Issue / Description – Definition of vegetation clearance may be unclear: In the NES-PF Vegetation clearance (a) means the disturbance, cutting, burning, clearing, damaging, destruction or removal of vegetation that is not a plantation forest tree; but (b) does not include any activity undertaken in relation to a plantation forest tree. Doubt has been raised about the wording of part (b) which may be read as enabling any vegetation clearance as long as it is associated with any activity involving plantation trees, which could potentially cover most activities in a plantation forest.</p>		
<p>The forestry sector was mostly in favour of this proposal, whilst the councils were mostly against it. Across the board, those in favour of retaining part (b) as is believe it provides clarity and context to regulations 93 to 95, specifically in regard to the clearance of any understory development.</p> <p>Those who saw no negative consequences in amending part (b) or removing it felt that regulation 93 was sufficiently clear on permitted indigenous vegetation clearance.</p>	<p>Regulation 93(1), (2) and (3) address where the clearance of indigenous vegetation associated with plantation forestry activities is a permitted activity. This includes regulation 93(2)(a) that covers indigenous vegetation that has developed within an understory of a plantation forest.</p> <p>Maintaining part (b) of the definition for ‘vegetation clearance’ as it is does not aid in clarity to where clearance is permitted.</p>	<p>Do not proceed as the NPSIB is not yet in force.</p> <p>Review this and seek a further decision if the NPSIB comes into force while the NES-PF process is ongoing.</p> <p>We note this recommendation is not directly related to the NPS-IB, but is so closely linked to above recommendations that they should be considered together.</p>
<p>Issue / Description – Definition of incidental damage (in relation to indigenous vegetation) may be unclear: Regulation 93 sets out the permitted activity thresholds for clearing indigenous vegetation within and adjacent to the productive part of the forest. The definition of clearance includes damage.</p>		

Feedback from submissions	Analysis	Recommendation
<p>Regulation 93(5) sets out three mutually exclusive elements of what is considered ‘incidental damage’. Damage to adjacent vegetation can be unavoidable when felling trees in some situations. The intention is to specify a permitted level of damage. Regulation 93(5)(a) and (b) provide an ecosystem approach and a specific tree/stand measure respectively; regulation 93(5)(c) relates to SNAs.</p> <p><i>In this regulation, incidental damage means— (a) damage where the ecosystem will recover to a state where, within 36 months of the damage occurring, it will be predominantly of the composition previously found at that location; or (c) if it occurs in a significant natural area, damage that— (i) does not significantly affect the values of that significant natural area; and (ii) allows the ecosystem to recover as specified in paragraph (a). Subclauses (a) and (c) have a degree of subjectivity, and it has been noted that this definition requires a degree of judgement not appropriate for a permitted activity.</i></p>		
<p>Feedback on how the definition of “incidental damage” is causing issues was limited. Examples relevant to the question were provided by two local government bodies and one forestry sector member. These included issues with interested parties unable to consider the wider picture, potential use of the term to clear vegetation for a forestry activity, and the management of planted riparian zones.</p>	<p>Most respondents didn’t identify whether the definition was an issue. Of those that did, the focus was on the need for guidance to understand how to interpret incidental damage.</p>	<p>Do not proceed as NPS-IB is not yet in force.</p> <p>Review this and seek a further decision if the NPSIB comes into force while the NES-PF process ongoing.</p> <p>We note this recommendation is not directly related to NPSIB, but so closely linked to above recommendations that they should be considered together.</p>