

# Supplementary Analysis Report (SAR): Resource Management (National Environmental Standards for Plantation Forestry) Amendment Regulations 2023. Coversheet

Purpose of Document	
Decision sought:	<i>Note the analysis in the report.</i>
Advising agencies:	<i>Ministry for the Environment and Ministry for Primary Industries</i>
Proposing Ministers:	<i>Minister for the Environment Minister of Agriculture Minister of Forestry Associate Minister for the Environment (Biodiversity)</i>
Date finalised:	<i>26 September 2023</i>
Problem Definition	
<p>The introduction of the New Zealand Emissions Trading Scheme (<b>NZ ETS</b>) and the need to support the transition to a low emissions economy, has incentivised an increase in exotic continuous-cover forests<sup>1</sup> throughout New Zealand.</p> <p>The regulations<sup>2</sup> that manage exotic forests in New Zealand, do not contain provisions that manage exotic continuous-cover forests specifically.</p> <p>There is a lack of national direction to manage the environmental (biophysical effects) of exotic continuous-cover forests. Councils have the power to make plan rules over these forests, but few have exercised this power given limited capacity and technical capability. Providing national direction for the purpose of managing exotic continuous cover forestry sets a consistent approach, while still permitting councils to maintain decision-making powers over these forests to also meet their broader community needs.</p> <p>The inclusion of exotic continuous cover forests in a national direction instrument closes the existing regulatory gap by making these forest subject to the same environmental regulatory framework as plantation forests.</p>	
Executive Summary	
<p>This Supplementary Analysis Report assesses the risks and benefits of policy decisions taken by Ministers to amend the Resource Management National Environmental Standards for Plantation Forestry (<b>NES-PF</b>).</p>	

<sup>1</sup> An exotic forest (of a least 1 ha in size) that is deliberately established for commercial purposes. This excludes forest species in urban areas, nurseries and seed orchards, trees grown for fruit or nuts.

<sup>2</sup> Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017

Throughout October and November 2022, consultation was undertaken on a range of options for amending the NES-PF. The options sought to support the right mix, level, and location of afforestation throughout New Zealand, as well as updating existing legislation to ensure they are fit for purpose.

The proposals were presented in four parts (see **Appendix 1** for the complete list), as follows:

- **Part A:** Managing the environmental (biophysical) effects of exotic continuous-cover forestry.
- **Part B:** Controlling the location of plantation and exotic continuous-cover afforestation to manage social, cultural, and economic effects. There is no preferred option for Part B.
- **Part C:** Improving wildfire risk management in all forests within the scope of the NES-PF.
- **Part D:** Enabling foresters and councils to better manage the environmental effects of forestry by addressing matters identified through the Year One review of the NES-PF.

Feedback received during consultation was used to inform development of the final proposals. Ministers have agreed to the following policy proposals:

- expanding the types of forests controlled by the NES-PF to include exotic continuous-cover forests;
- enabling councils to have full control over the location of new plantation and exotic continuous-cover afforestation; and
- improving the operational provisions of the NES-PF including slash provisions, sediment control, harvest plans and wilding tree risk management provisions.

**Limitations and Constraints on Analysis**

Ministers have agreed on a preferred approach. As such, this supplementary analysis focuses on assessing that preferred approach.

Due to limitations of available data, the site-specific nature of forestry activities and assumptions necessary to assess changes from the baseline (i.e. benefits and costs without the amendments), it has not been practicable to quantify all benefits and costs in this analysis. Therefore, the benefits and costs have been assessed in a qualitative way.

Further limitations and constraints can be found in the 'Limitations and Constraints on Analysis' section on page 9 of the accompanying Regulatory Impact Statement.

**Responsible Manager(s) (completed by relevant manager)**

*Jo Burton*  
*Manager Land and Water Systems*  
*Ministry for the Environment*



*26 September 2023*

*Shannon Tyler*  
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*Ministry for Primary Industries*



*26 September 2023*

Quality Assurance (completed by QA panel)	
Reviewing Agency:	The Ministry for Primary Industries Quality Assurance Panel has reviewed the: Resource Management (National Environmental Standards for Plantation Forestry) Amendment Regulations 2023 Supplementary Analysis Report (SAR) prepared by the Ministry for Primary Industries and Ministry for the Environment and considers that the information and analysis summarised in the SAR <b>partially meets</b> the quality assurance criteria.
Panel Assessment & Comment:	Analysis of the potential options has been significantly constrained by the shortened timeframes and Ministerial direction on options. Given this, the panel considers that the information in the SAR is as complete as could reasonably be expected in the timelines provided and identifies the main judgements, benefits, and risks as well as uncertainties within the policy.

## Section 1: Diagnosing the policy problem

### What is the context behind the policy problem and how is the status quo expected to develop?

1. This Supplementary Analysis Report assesses the impacts of policy decisions taken by Ministers to amend the NES-PF. This report supplements interim analysis undertaken on National Direction for plantation and exotic carbon afforestation. A full problem definition is provided in the accompanying Recommendations and Decisions Report on amendments to the National Environmental Standards for Plantation Forestry.
2. These amendments to the NES-PF are not aimed at addressing recommendations that were identified through the Ministerial Inquiry into Land Use (MILU) following adverse weather events in Tairāwhiti/Gisborne and Wairoa in early 2023. The MILU report, delivered on 12 May 2023, highlighted the urgent need for action, including to improve the regulatory settings to reduce risk and strengthen resilience.
3. In response to the MILU the Government has committed a range of measures including “a further review of national-level direction and guidance for forestry, including the NES-PF, to consider if new national-level changes are needed”. Recommendations from the MILU relevant to the NES-PF will need to be addressed as a separate package of work.
4. In summary:
  - The rate of exotic afforestation in New Zealand has increased, and it is expected to remain high. This has been incentivised by the rising the price of New Zealand Units under the NZ ETS and a need to transition to a low-emissions economy.
  - The increase in exotic afforestation as lead to an increase in continuous-cover exotic forests (i.e., exotic forest that is not intended for harvesting). This brings some risks:
    - Increased forest cover will impact the versatility of land (e.g., by restricting space available for other uses such as agriculture).
    - Potential impacts to existing community and commercial services.
    - Increased and new environmental risks from wilding trees and extreme weather events.
  - Existing regulations do not support councils with a framework to manage the location and scale of continuous-cover exotic forests in their communities. They are reliant on

their own capacity and capability to undertake plan rule changes under the Resource Management Act 1991 (RMA) process. The current regulations are solely for the intention of managing and controlling the environmental effects of plantation forestry/harvesting through technical standards, methods or requirements under the Resource Management Act 1991 (RMA).

- The location and scale of exotic forests have potentially medium and long term cumulative social, cultural, economic and environmental effects. Afforestation in the incorrect place could affect existing economic and community services.
- Whilst the RMA enables councils to make their own rules to manage afforestation for forests not within scope of the NES-PF, it is understood that in many cases councils have adopted a permissive approach. Typically, forestry is a permitted activity in rural zones subject to basic controls, for example, on shadowing roads and neighbours.
- The Government is seeking to ensure that regulatory settings deliver the right type and scale of forests, in the right place.

### What is the policy problem or opportunity?

5. The Government is seeking to ensure that regulatory settings deliver the right type and scale of forests, in the right place.
6. Changes 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, type 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.
7. National direction under the RMA is principally focussed on the management and control of environmental effects associated with plantation forestry. Whilst the RMA enables councils to make their own rules to manage afforestation for forests outside the NES-PF, it is understood that in many cases councils have adopted a permissive approach. Typically, forestry is a permitted activity in rural zones subject to basic controls, for example, on shadowing roads and neighbours.
8. In December 2019, Te Uru Rākau – New Zealand Forest Service and the Ministry for the Environment undertook a review of the NES-PF.<sup>3</sup> The review found that the NES-PF is effective, but changes could be made to improve environmental outcomes in the following areas:
  - further implementation support for councils and the forestry sector would lift performance and compliance.
  - changes to the regulations could improve environmental outcomes in some areas, including changes to the Wilding Tree Risk Calculator, slash management, biodiversity provisions, and improved alignment with other national direction.

### What objectives are sought in relation to the policy problem?

9. The policy objectives sought in relation to the problem are to:

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<sup>3</sup> Report on the Year One Review of the National Environmental Standards for Plantation Forestry <https://www.mpi.govt.nz/dmsdocument/44914-Report-on-the-Year-One-Review-of-the-National-Environmental-Standards-for-Plantation-Forestry>

- 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.
10. These objectives are aimed at updating existing policy objectives and supporting the achievement of the Government's vision for New Zealand's forests for 2050 set out in the Emissions Reduction Plan (ERP).
11. The Objectives aim to provide a balance between the national requirement to address climate change including through transition to a bio-economy, as well as to supply timber and wood products for domestic and export markets.

### Consultation / engagement with tangata whenua and stakeholders

12. 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:
- a. managing the environmental effects of exotic carbon forests;
  - b. controlling the location of afforestation (plantation and exotic carbon) to manage social, cultural, and economic effects;
  - c. improving wildfire risk management in all plantation and exotic carbon forests; and
  - d. addressing matters identified through the Year One Review of the NES-PF.
13. 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.
14. 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 supported the proposal for wildfire risk management plans but did not support the plans being placed into the regulations.
15. There were mixed views and a lack of consensus across the iwi/Māori submissions on the proposals consulted on. Concerns raised by iwi/Māori included;
- The lack of meaningful engagement with Māori on the project.
  - The proposals resulting in more regulatory constraint that may discourage continued expansion of plantation forests which could unfairly impact Māori commercial interests.
  - the detrimental effect of the proposals on the Māori right to exercise tino rangatiratanga on their land.
  - a lack of clarity on the actual environmental effects of carbon continuous-cover forests.
  - a lack of evidence of negative social, cultural and economic effects of increased carbon continuous-cover forestry and plantation forestry on Māori.

- The potential harmful impacts of carbon continuous-cover forests and any expansion of plantation forests, including on employment opportunities and changes to the structure of small rural communities.

**What criteria will be used to compare options to the status quo?**

16. The criteria used to evaluate the options provided for consultation can be found in section 2 of the accompanying Regulatory Impact Statement.

**What scope will options be considered within?**

17. The scope of options has been agreed by Cabinet and can be found in section 2 of the accompanying Regulatory Impact Statement.

**Section 2: The approved approach**

18. Ministers have agreed to the following policy proposals.

- expanding the types of forests controlled by the NES-PF to include exotic continuous-cover forests;
- enabling councils to have full control over the location of new plantation and exotic continuous-cover afforestation; and
- improving the operational provisions of the NES-PF including slash provisions, sediment control, harvest plans and wilding tree risk management provisions.

19. These are discussed in more detail below.

**Proposal One – Amend the NES-PF to include exotic continuous-cover forests.**

20. This option would amend the NES-PF to apply to exotic continuous-cover forests. It would use many of the existing regulations, particularly afforestation provisions, to manage the environmental effects of exotic continuous-cover forests.

21. This option would incorporate regulation for all exotic forestry (and the small amount of indigenous plantation forestry) in one set of regulations. This would look at existing effects being managed under the NES-PF and identify where they are relevant to exotic continuous-cover forests as well as developing additional rules where necessary to manage other effects.

*Key risks and benefits*

Risks	Benefits
<p>The NES -PF was developed to address the effects and manage risks of plantation forestry. Expanding its scope could increase complexity and cover effects that do not relate to that type of forest.</p> <p>Retention of council ability to make plan rules for exotic afforestation could result in variance in the regulatory approach.</p>	<p>A single integrated regulatory framework that covers all exotic afforestation.</p> <p>A nationally consistent approach across the country whilst reducing complexity and uncertainty for all parties.</p>
<p>Compliance issues for councils as plantation and exotic continuous-cover forests are often</p>	<p>Increased participation by Māori, iwi, hapū and communities in managing the environmental effects of exotic continuous-</p>



the same, and foresters' intentions may change over time.	cover forests, through council planning processed.
Increased regulatory burden for Māori foresters and related businesses who own or are intending to invest in carbon forests.	Provisions which could be included, or modified, to allow for councils to develop more stringent, and / or lenient rules, to reflect local circumstances.
	Capacity and capability within the sector are anticipated to increase over time if support is provided.
	Participation of iwi/Māori and communities in the resource management system, albeit that opportunities to participate in a consenting approach are limited.

*Conclusion*

- 22. Establishing a regulatory regime to manage the environmental effects of exotic continuous-cover forestry alongside plantation forestry in the NES-PF will provide a nationally consistent approach for forestry broadly, whilst still enabling councils to make plan rules for their communities.
- 23. Proposal One will enable expansion of the types of forests controlled by the NES-PF to include permanent and exotic forests.

**Proposal Two – Empowering Local Authorities.**

- 24. Under this proposal communities and local authorities would be enabled to make decisions about the location of forestry in their regions and/or districts, and what effects (outside the NES-PF) should be controlled in their plans, consistent with the status quo. The NES-PF's stringency clause would also be amended to enable councils to make more stringent or more lenient rules for the NES-PF activity of afforestation. This would apply to both plantation and exotic continuous-cover forests.

*Key risks and benefits*

<b>Risks</b>	<b>Benefits</b>
Could still be different approaches across the country adding complexity and uncertainty for all parties.	Allows councils to prioritise local issues and develop an approach to meet local needs and decide on the location.
Complexity of regulating these forests within the purpose of the RMA.	Allows communities and councils to prioritise certain types of forest, on certain types of land.
Potential for some councils to not take adequate steps to manage the social, cultural, and economic effects of exotic continuous-cover forests, as these effects are not dealt with by the NES-PF	Recognition there are cultural values such as spirituality and kaitiakitanga for Māori in forestry, that councils can address in plans.

<p>Increased regulatory burden for Māori foresters and related businesses who own or are intending to invest in carbon forests, creating additional barriers to plantation and carbon forestry. This may have a negative impact on the continued use or enjoyment of their resources.</p>	<p>Recognition of the impact afforestation has on local communities, iwi and hapū (this could be both positive and negative effects such as more job opportunities in the area, but possibly also less jobs if productive land and associated value chains are replaced with carbon forestry).</p>
<p>Councils implementing solutions that discourage or restrict exotic afforestation, which could impact delivery of national priorities, and international climate change obligations.</p>	<p>Recognition that not all communities and regions are the same, and they may not all be affected by, or concerned about, exotic afforestation.</p>
<p>Councils may be focused on the resource management reform causing them to delay making the necessary plan changes.</p>	

*Conclusion*

- 25. Proposal Two will enable councils to have full control over the location of new plantation and exotic continuous-cover afforestation.
- 26. Proposal two will result in costs and additional regulatory burden on the public, iwi/Māori and stakeholders as a result of involvement in plan change processes that determine the location of, and control the effects of, exotic and commercial forestry. However, this is balanced against the desire of communities and local authorities to decide in the extent and location of forestry in their regions and/or districts.

**Proposal Three – Operational improvements to the NES-PF.**

- 27. Under proposal three, five operational improvements have been agreed and are outlined below.

<p><b>Wilding conifer risk management</b></p>
<p>Wilding tree risk score notification period (afforestation and replanting)</p> <p>The period of time that a wilding tree risk score must be calculated at afforestation would be increased to a maximum of 8 months (currently 6) and introduced for replanting.</p> <p>Require a controlled activity consent for the replanting of conifer species in areas with a wilding tree risk score of 12 or more.</p> <p>Consenting requirements are introduced for the replanting of conifers in areas with a wilding tree risk score of 12 or more to manage the effects of high-risk forestry activities.</p>
<p><b>Slash and debris management</b></p>
<p>Amendments to provide more certainty, improve clarity and direction for foresters and council compliance staff.</p> <p>Specific amendments to the permitted activity rules are outlined as follows:</p> <ul style="list-style-type: none"> <li>• require slash from harvesting at or on a landing site to be managed to avoid the collapse of a slash pile or the ground under a slash pile.</li> </ul>



<ul style="list-style-type: none"> <li>require slash from harvesting that is sound wood in an orange or red zone to be removed unless it is unsafe to do so if it has a length of over 2 metres, and a large end diameter of over 10 centimetres.</li> <li>Enable up to 15 cubic metres of slash that would otherwise be required to be removed to potentially be left on the cut over.</li> </ul>
<p><b>Initial alignment of the NES-PF with the NES-Freshwater</b></p>
<p>Minor amendments to the NES-PF relating to fish passage, definitions, and wetlands (use of machinery and vehicles).</p> <p>A range of minor alignment amendments, which all have the same effect on our objectives and are therefore considered as a single item.</p>
<p><b>Forest Planning Requirements</b></p>
<p>Afforestation management plan requirements for exotic forestry</p> <p>Afforestation Management Plans would also apply to exotic carbon forests in the same way as they do for plantation forestry.</p>
<p><b>Other operational and technical issues</b></p>
<p>Minor amendments.</p> <p>The proposed changes are considered minor, and all have the same effect on our objectives so are therefore considered as a single item.</p> <p>For a complete breakdown of the proposed changes see Appendix two of the accompanying Regulatory Impact Statement.</p>

28. Proposal Three will improve the operational provisions of the NES-PF and include clarification and clearer provisions for slash management, sediment control and harvest plans.

**Wilding conifer risk management**

*Timeframes for notification of wilding tree risk scores and requirements for replanting:*

29. Increasing the timeframe that foresters have to provide the wilding tree risk score from six months to eight will provide councils more time to assess the risk of afforestation in their regions/districts.

Risks	Benefits
Potential for commencement of afforestation activities to be delayed, relative to the status quo	Provides councils more time and flexibility to assess the risk of afforestation activities in their regions/districts

*Controlled activity consent requirements for replanting of conifers in areas with a wilding tree risk score of 12 or more:*

30. Controlled activity consent requirements for replanting of conifers in areas with a wilding tree risk score of 12 or more

31. Requiring a controlled activity consent for the replanting of conifers only in areas with a risk score of 12 or greater ensures that only higher risk replanting activities are subject to consenting requirements. A controlled activity status also provides a level of certainty to foresters in terms of continuity of their operations as it must be granted.

Risks / Costs	Benefits
Increased costs for foresters where consent is required, particularly where the risk score has increased through no fault of their own.	Ensures that wildfire risk from high-risk replanting activities can be managed through the resource consent process.

*Conclusion*

32. Increasing the notification period to no later than 8 months before afforestation occurs provides more time for councils to analyse risk scores, while ensuring the risk scores will not change within that time period. Introducing these requirements for replanting recognises that wilding risk changes over time, and scores should be reassessed before any replanting occurs. Where scores at replanting are 12 or greater, a controlled activity consent is required to both manage the effects of high-risk replanting activities and provide certainty to foresters to continue their activities.

**Slash and debris management**

33. A number of changes to permitted activity rules for slash and debris management are proposed to provide more certainty to foresters and council staff including management of slash on the cutover. These amendments could result in more controlled activity consents being required relative to the status quo for slash activities.

34. The Review identified that the NES-PF would benefit from improvements in how it manages slash. The amendments will deliver the following outcomes:

- protection of waterways and communities through good slash management; and
- improving effectiveness and efficiency through greater regulatory clarity in the management of slash in cutover and at landings.

*Key risks and benefits*

Risks	Benefits
Regulations alone cannot manage slash risk. Those who implement regulations must manage this risk, and additional tools are required to do this. There is a risk that people assume regulations alone will suffice, and additional tools are not provided.	Improving clarity for users about the risks and the different ways in which this should be managed, including documenting that risk in management plans.
	<p>Improved environmental outcomes over time as land managers implement appropriate risk mitigations and councils enforce well understood requirements.</p> <p>Enables councils to better manage the effects of forestry slash activities on site</p>

	where controlled activity consents are required.
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*Conclusion*

35. These changes will increase compliance requirements for land-managers. However, they will also improve certainty around what the risks of the activity are and how they should be managed. Arguably, the increased costs of complying with the revised standards are outweighed by the costs avoided from mitigating the effects of slash and other debris leaving the harvest site and damaging ecosystems, infrastructure and neighbouring properties (e.g., in extreme weather events).

**Initial alignment of the NES-PF with the NES-Freshwater**

36. The NES-Freshwater sets requirements for carrying out certain activities that pose risks to freshwater and freshwater ecosystems.

37. The standards are designed to:

- protect existing inland and coastal wetlands.
- protect urban and rural streams from in-filling.
- ensure connectivity of fish habitat (fish passage).
- set minimum requirements for feedlots and other stockholding areas.
- improve poor practice intensive winter grazing of forage crops.
- restrict further agricultural intensification until the end of 2024.
- limit the discharge of synthetic nitrogen fertiliser to land and require reporting of fertiliser use.

38. The proposed changes are considered minor alignment issues, and all have the same effect on our objectives and therefore considered as a single item. In summary the proposals are to amend:

- regulation 40(1) to allow local authorities to advise where fish passage must not be enabled.
- regulation 46(1)(f) of the NES-PF to align the depth of culverts to those within the NES-Freshwater.
- the definition of:
  - sediment control measures in the NES-PF to be the same as the NES-Freshwater.
  - the NES-PF to align with general conditions for the use of vehicles, machinery, equipment and material within the NES-Freshwater.
  - the NES-PF to align with the rules relating to the cleaning of all machinery / vehicles before entering a wetland within the NES-Freshwater.

39. There are other areas where alignment needs to be considered, such as culverts, sediment, wetlands, and further definitions. These are being considered for later alignment through the national planning framework and will require consultation.

*Key risks and benefits*

Risks	Benefits
The NES-Freshwater allowed for the NES-PF to prevail. There may be unintended effects that we are unaware of created through aligning.	The benefits of aligning the NES-PF with the NES-Freshwater will ensure all sectors are managing freshwater to the same standards

	(albeit sometimes requiring different pathways to meeting these).
The NES-Freshwater was developed after the NES-PF. As a consequence, there are areas where the regulations overlap, and in some cases set different standards.	<p>These changes are technical amendments that will improve the operability of the regulations and build on the Review findings. The analysis noted that:</p> <ul style="list-style-type: none"> <li>• freshwater is an important taonga and aligning the regulatory controls supports the investment Māori and iwi have made into the NPS-FM and NES-Freshwater.</li> <li>• aligning regulatory frameworks simplifies the regulatory landscape reducing costs for users and regulators.</li> <li>• there may be minor improvement in environmental outcomes as amendments are relatively minor.</li> </ul>
These changes are technical amendments which will improve the operability of the regulations and build on the Review findings. The analysis did however note that it may introduce uncertainty with the new requirements into forestry operations.	

*Conclusion*

40. Improving the alignment between the NES-PF with the NES-freshwater will provide greater clarity to users and local authorities around which regulations prevail where and will help avoid unnecessary costs determining which rules apply. Although these changes do not address all possible overlaps between the two regulations, they will go some way to resolving alignment issues.
41. Other national directions that have links to forestry were considered but not deemed to be in scope of the amendments to the NES-PF. These include:
  - a. The NPS for Indigenous Biodiversity aims to protect biodiversity on private land (and some public conservation land) and provides clarity on how indigenous biodiversity should be managed. Some primary production activities, such as plantation forestry have specific management pathways to continue while managing the biodiversity.
  - b. The NPS for Highly Productive Land seeks to protect highly productive land for primary production, 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.

**42. Forest Planning Requirements**

43. The NES-PF contains requirements for foresters to prepare and provide management plans to manage the environmental effects of higher risk activities.
44. As detailed in the accompanying Regulatory Impact Statement, the discussion document sought views on introducing forest management plans to manage the effects of exotic continuous-cover forests (Part A) and Wildfire Management Plans (Part C).
45. Following further analysis an alternative approach was developed which seeks to amend the plan requirements by:

- re-structuring and updating the plan requirements by clarifying the information requirements including the management requirements, and
- introducing a new requirement for afforestation and replanting plans to address the increased risks associated with afforestation.

*Key risks and benefits*

Risks	Benefits
The effectiveness of plans is dependent on the quality and accuracy of the plans.	Clarifying definitions to reduce operational and regulatory ambiguity.
Relies on compliance with the plans.	Improving environmental outcomes for exotic continuous-cover forests as well as plantation forests, by clarifying requirements at a site-specific level.
	Improving access to information, to assist with compliance, monitoring and enforcement.

*Conclusion*

46. Amending the forest planning requirements will provide greater clarity to land managers on what information they need to include in their plans, which will help reduce the time/effort required to develop compliant plans. In addition, requiring the plans to address the increased risks of afforestation ensure the plans align with other proposed changes to the NES-PF, and will help ensure greater awareness of environmental impacts of afforestation. However, the impact of this change depends on land managers preparing quality plans with a high level of accuracy, and compliance with those plans.

**Operational implementation and technical issues**

47. The regulations were developed over nine years with significant input from the forestry industry, local authorities, and environmental experts to ensure the regulations are sufficiently robust to meet the objectives.
48. A range of minor implementation and technical issues have emerged since the Review that should be addressed to ensure the regulations remain fit-for-purpose.
49. The proposed changes are considered minor, and all have the same effect on the objectives and are therefore considered as a single item. A full list of the proposed changes can be found in Appendix 2 of the accompanying Regulatory Impact Statement

*Key risks and benefits*

Risks	Benefits
Acknowledging Treaty obligations in relation to an identified omission without broader consideration of Treaty of Waitangi obligations. In considering this risk we noted that this is a simple matter that can be rectified now, and broader consideration of	Provides an opportunity to seek feedback on, and evidence for proposed changes, and craft practical and effective regulations.

<p>Treaty of Waitangi obligations will be required when the NES-PF is transitioned into the National Policy Framework, once the Natural and Built Environments Act replaces the RMA.</p>	
<p>Risk of some stakeholders and agencies seeking to relitigate the policy and content of the NES-PF, which is not proposed in relation to the matters covered in this section.</p>	<p>Provides an opportunity to clarify definitions to reduce operational and regulatory ambiguity.</p>
	<p>Explicitly enables (with conditions) an environmentally benign river crossing that is not clearly permitted through the regulations.</p> <p>Enabling councils to acknowledge Treaty of Waitangi settlement areas in consenting decisions which include outstanding water bodies.</p> <p>Amending notification periods to improve regulatory efficiency and target council effort to environmental risk.</p> <p>Removing a confusing and unnecessary regulation relating to traffic management so district councils continue to control district road use equitably for all users.</p> <p>Clarify regulations relating to discharges and sediment management that have been interpreted differently in different part of the country.</p> <p>Maintaining the intent of the ESC to indicate erosion risk while removing a burdensome administrative process.</p> <p>Clarifying conditions under which councils can and cannot charge for monitoring permitted activities in line with amendments to the NES-Freshwater.</p>

*Conclusion*

50. These are minor changes that will improve the overall operation and implementation of the regulations. The impact of such changes is marginal.

**What are the marginal costs and benefits of the option?**

51. Cost benefit analysis of the options can be found in the accompanying Regulatory Impact Statement and the Cost Recover Impact Statement (Appendix 2).



### **Cost recovery for monitoring afforestation**

52. A draft recommendation report<sup>4</sup> outlined the policy recommendations and decisions for amending the NES-PF.
53. During analysis of responses and the preferred option, an additional proposal was identified to support councils' address resourcing their compliance, monitoring and enforcement for afforestation.
54. This change was explicitly proposed by a number of submitters and enables councils to charge for monitoring permitted activities that relate to afforestation.

### **Enabling Councils to Charge for Monitoring Permitted Activities under the National Environmental Standards for Plantation Forestry**

55. A full Cost Recover Impact Statement (CRIS) of options to enable councils to charge for monitoring permitted activities was undertaken in 2017.<sup>5</sup>
56. Section 43A(8) of the RMA allows an NES to empower councils to charge for monitoring specified permitted activities; the NES-PF currently enables councils to charge for the monitoring of forestry activity involving earthworks, river crossings, forestry quarrying and harvesting, excluding afforestation at present.
57. The proposal to allow councils to also charge for monitoring of afforestation is an acknowledgment that afforestation also creates risks and requires councils' attention.
58. This proposal is not establishing charges – merely empowering councils to do so if they choose to do so.
59. In accordance with cost recovery principles<sup>6</sup>, the ability for councils to charge for monitoring permitted activities is consistent with the principles of equity, efficiency, justifiability, and transparency as follows:
  - Equity – councils charging for monitoring forestry activities is fair because foresters are being charged for services that they use, compared to other forms of recovering this cost, such as through general rates,
  - Efficiency – the ability for councils to charge for monitoring forestry activities is efficient because it is the most direct form of charging for this service and is both productively efficient and is also an allocatively efficient means of recovering the cost to monitor for services.
  - Justifiability – councils will need to justify any charging regime to demonstrate that the cost being charges are justified.
  - Transparency - councils will need to consult on proposals to cost recover, in accordance with the legislation as set out below.
60. Local councils will be able to decide whether the cost recovery will be full or partial and the form of the charge; permitted activity monitoring charges will be incurred by foresters that require monitoring based on the level of environmental risk associated with their activities.
61. In terms of charging for permitted activity monitoring, an initial review of the RIS identified that local authorities have adopted different approaches to charging for permitted activity

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<sup>4</sup>The final recommendations report will accompany the final advice to Ministers

<sup>5</sup> [RIS Enabling Councils to Charge for Monitoring Permitted Activities under the National Environmental Standards for Plantation Forestry \(mpi.govt.nz\)](https://www.mpi.govt.nz/~/media/documents/default/document/2017/04/settingcharges-apr17.pdf)

<sup>6</sup> <https://www.treasury.govt.nz/sites/default/files/2017-04/settingcharges-apr17.pdf>

monitoring, however all councils have general monitoring charges, which apply to all resource users in the region. A summary of the Stage 1 Cost Recovery Impact Statement conducted in 2017, which assesses the cost recovery impacts of this proposal, is set out in Appendix 2.

62. An implementation programme is being developed that aims to provide targeted communications, and overarching and technical guidance and support to councils and foresters to ensure they understand and can implement their own obligations under the NES-PF.

## Section 3: Delivering an option

### How will the new arrangements be implemented?

63. Implementation of these proposals will require amendments to the NES-PF, or a new National Environmental Standard. Once the national direction has been Gazetted in 2023, local councils and foresters will need to abide by the standards and rules established in the instrument. The administering agency for the regulations will remain the Ministry for Primary Industries, and the Ministry for the Environment will remain the policy agency lead given the regulations are an RMA instrument.
64. Guidance will be developed to support implementation of these changes.
65. This approach builds on the implementation plan developed when the NES-PF was introduced and will include but not be limited to identifying and taking into account lessons learnt, needs and expectations of those impacted, and development of appropriate support material.

#### *Communication and training*

66. A communications plan will also be developed to raise awareness of the amendments to the regulatory framework. Existing guidance and training material will be reviewed and refined to incorporate the changes as well as the development of any sector specific guidance or training identified as part of the engagement with Māori, industry stakeholders and local councils.

### How will the new arrangements be monitored, evaluated, and reviewed?

67. A monitoring and evaluation plan will be developed once a confirmed policy approach has been agreed. This will need to be done with councils as they hold the responsibility for compliance, monitoring and enforcement.
68. At this stage it is anticipated that the monitoring and evaluation will be targeted and seek to address the:
- effectiveness of implementing the changes by the forestry sector and local councils.
  - effectiveness of the changes in meeting the objectives with respect to:
    - ensure the environmental effects of all exotic afforestation are effectively managed in a nationally consistent manner.
    - enable local councils to control the location and scale of exotic afforestation in local communities, while ensuring national objectives for afforestation are met.
69. In many cases responsibility for delivering monitoring and evaluation will rest with local councils, however information and insights from existing programmes and activities will be used where possible, for example the Ministry for the Environment National Monitoring System that captures high level information regarding local council resource consent activities.

## Appendix 1: Full list of options consulted on.

70. The options and proposals principally focus on amending the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017 (NES-PF).
71. The proposals presented were in four parts:
- **Part A:** Managing the environmental (biophysical) effects of exotic continuous-cover forestry. The options considered are<sup>7</sup>:
    - *Option one:* Status quo.
    - *Option two:* Amend the NES-PF to include a new forest category, 'exotic continuous-cover forest' (preferred).
    - *Option three:* Develop a new NES for exotic continuous-cover forests.
    - *Option four:* Amend the NES-PF to require forest management plans for exotic continuous-cover forests.
  - **Part B:** Controlling the location of plantation and exotic continuous-cover afforestation to manage social, cultural, and economic effects. There was no preferred option for Part B. The options considered are:
    - *Option one:* Status quo.
    - *Option two:* Local control - amend the NES-PF to clarify councils' ability to make rules for matters outside the scope of the NES-PF, and add a new power to enable councils to make more stringent (or lenient) rules relating to afforestation than established by the NES-PF.
    - *Option three:* National direction – design and implement a new consent requirement, either under the RMA by amending the NES-PF or developing a new NES, or under the proposed new resource management legislation as part of the National Planning Framework (NPF). This consultation is seeking views on the factors and thresholds that if taken forward will require further consultation and therefore there is no specific proposal to consider for this option.
  - **Part C:** Improving wildfire risk management in all forests within the scope of the NES-PF. The options identified were:
    - *Option one:* Status quo.
    - *Option two:* Amend the NES-PF to add a new requirement for forests over one hectare to have a wildfire risk management plan (preferred).
    - *Option three:* A suitably qualified professional must certify a wildfire risk management plan.
  - **Part D:** Enabling foresters and councils to better manage the environmental effects of forestry by addressing matters identified through the Year One review of the NES-PF. In particular:
    - managing wilding conifer risk (natural spread of seed).
    - slash management (management of harvesting residues).
    - initial alignment with the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (NES-Freshwater).
    - operational and technical issues.

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<sup>7</sup> Note that in places the numbering of options in this SAR differs from the consultation document. This is because the SAR assesses a wider range of options.

72. Feedback received during the consultation on the Emissions Reduction Plan (ERP) and 'Managing exotic afforestation incentives'<sup>8</sup> was reflected in the views expressed during targeted engagement undertaken earlier in 2023. These included:
- the cumulative impact of concurrent changes on the pace and scale of afforestation.
  - the need to meet the challenges and opportunities presented through the climate crisis as well as meeting international targets. It should be noted that there was a difference with some placing greater emphasis on the role of indigenous afforestation and nature-based solutions.
  - the regulatory impost for the introduction of a resource consenting system was a concern for industry and local government.
  - Māori have shown concern that limits on exotic continuous-cover forestry will negatively impact economically viable land-use options on their land and will interfere with tino rangatiratanga over their land.
73. In ERP consultation, many submitters said that kaitiakitanga and te tino rangatiratanga, especially in relation to forestry and other land uses were of central importance. Māori submitters requested that a partnership approach should be used more than consultation, support for Māori to participate as equals in decision-making, and scaling up Māori-led initiatives. Many submitters, including both Māori and other submitters, emphasised the need for the Government to consider and support a more holistic kaupapa Māori approach and integrate mātauranga Māori concepts.
74. Other points included:
- emissions pricing should incentivise afforestation.
  - given the longevity of tree crops it is important that our forestry owners have all the information required to make informed decisions.
  - forestry owners should have the flexibility to utilise their land in an effective manner.
  - concerns about the loss of biodiversity and cultural practices associated with these places and species such as mahinga kai and rongoā.
75. In response to the consultation on 'Managing exotic afforestation incentives', Māori submitters held varying views although there was agreement on most issues. Most Māori submitters wanted the permanent forestry category in the NZ ETS to remain open for exotic species. Some thought it should be closed but with exceptions. Some Māori submitters raised concerns related to:
- while there is support for native afforestation, the cost and rates of sequestration meant it could not be relied upon to achieve targets without significant government intervention.
  - Māori landowners were better placed than government to make the trade-offs for their communities between the jobs, profits, environmental and cultural impacts of different land uses.
  - exotic afforestation was one of the few viable options for Māori land given its physical characteristics and the difficulty of accessing capital for other uses.
  - any environmental risks from permanent forestry could be managed as they are for plantation forestry.

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<sup>8</sup> Managing exotic afforestation incentives by changing the forestry settings in the NZ Emissions Trading Scheme. <https://www.mpi.govt.nz/consultations/managing-exotic-afforestation-incentives>

- perceptions that the intention is to plant and leave forests. Tangata whenua indicated that many whenua Māori are working towards transitioning exotic to indigenous forest, and managing forests that provide jobs and economic returns to their communities.

## Appendix 2: Stage 1 Cost Recovery Impact Statement

### Cost recovery for monitoring afforestation

#### Status quo

Councils are responsible for monitoring forestry activity, currently the NES-PF enables councils to charge for the monitoring of earthworks, river crossings, forestry quarrying, and harvesting.

At the time charging was enabled these activities were identified as the higher risk activities of forestry. Allowing councils to also charge for monitoring of afforestation is an acknowledgment that afforestation also creates risks and requires councils attention. Charging for forestry will provide councils with the ability to undertake more complete risk assessment for monitoring priorities that reflect local issues relating to factors such as land type, receiving environments and their sensitivity, the nature of forestry operations, and community priorities. It also ensures that environmental outcomes are achieved at the start of the process.

Increasing the ability to charge will provide councils with the money needed to undertake the monitoring activity.

Section 43A(8) of the RMA allows an NES to empower councils to charge for monitoring specified permitted activities. In relation to the charging powers for councils, s.106 of the RMA sets out the charging powers, and this power is enabled by s.36(1)(cc) and s.43A(8) of the RMA. Any charges set under these sections must be carried out under the usual requirements of the RMA and the Local Government Act, including:

- Use of a special consultative procedure (either through a Long-Term Plan consultation or a separate consultation);
- Establishing clear links between charges and the activities being charged for; and
- Ensuring the charges are both actual and reasonable.

This is an expansion of the existing ability to charge for forestry activities.

#### Policy Rationale: Why a user charge? And what type is most appropriate?

When NES-PF monitoring charges were introduced a decision was made that it is appropriate for foresters to pay for the monitoring of their higher risk activities. This change recognises that afforestation is also a higher risk activity. It is appropriate for foresters to pay for monitoring because they are creating the risk through their commercial activities. While forestry can have positive environmental outcomes it has also caused a number of environmental issues. This is a version of polluter pays and user pays.

The output from the service being provided is improved compliance with legislative requirements. This improved compliance is a merit good. However, forestry, the industry being regulated produces private goods.

Local councils will be able to decide whether the cost recovery will be full or partial and the form of the charge.

Permitted activity monitoring charges will be incurred by foresters that require monitoring based on the level of environmental risk associated with their activities and the level of risk posed by the particular forestry operation.

## High level cost recovery model (the level of the proposed fee and its cost components)

This proposal is not establishing charges – merely empowering councils to do so if they choose to do so. The costs will relate to councils' costs for the monitoring of afforestation activities. The costs are likely to relate to staff time and direct costs including disbursements.

MPI forecasts indicate afforestation rates between 2021 and 2030 are between 355,000 and 475,000 hectares and between 0.97 and 1.44 million hectares of new forests is projected to be established over the period 2021 – 2050. Noting that at present exotic forests cover approximately 2.1 million hectares.

In terms of charging for permitted activity monitoring, the Review identified that regional councils have adopted different approaches to charging for permitted activity monitoring. Based on 2018/19 annual plan information. It identified that:

- all councils have general monitoring charges, which apply to all resource users in the region
- five councils<sup>9</sup> include a specific NES-PF monitoring charge (or charges). If other councils are charging for permitted activity monitoring under the NES-PF, this appears to be through standard administrative charges, and/or a general hourly rate (which applies to all resource users)
- councils have adopted a range of charging methods, including annual charges, fixed fees, hourly charges, and on an actual cost basis for the use of consultants.

One example of the approach currently taken for charging for monitoring forestry activity is from Waikato regional council, their approach is stated as:

*Monitoring of permitted activities under the National Environmental Standard for Plantation Forestry (NESPF) pursuant to Part 3, Regulation 106 will be charged on an actual and reasonable cost basis.*

*Actual and reasonable costs for monitoring will be directly charged according to the following formula:*

*Charge = (staff time x charge rate) + direct costs including disbursements.*

*Costs incurred will be charged on an ongoing basis as they occur, unless otherwise agreed by Waikato Regional Council.*

*Waikato Regional Council may fix specific amounts to be charged for monitoring activities undertaken under the NESPF and require forestry operators to pay the full charge towards monitoring the activity prior to monitoring of the activity to be*

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<sup>9</sup> Taranaki Regional Council, Gisborne District Council, Greater Wellington Regional Council, Nelson District Council, and Environment Southland



*undertaken. The authorisation holder will pay for costs incurred on an ongoing basis as they occur, unless otherwise agreed by Waikato Regional Council.*

## Consultation

Officials conducted public consultation between 6 October and 18 November 2022 on a range of issues relating to forestry, including clarifying charging for monitoring permitted activities.

The proposal to expand the cost recovery for monitoring provisions to also cover afforestation, while not consulted on, was explicitly proposed by a number of submitters.

An implementation programme is being developed that aims to provide targeted communications, and overarching and technical guidance and support to councils and foresters to ensure they understand and can implement their own obligations under the NES-PF.