



Submission

- to -

Ministry for the Environment
PO Box 10-362
Wellington 6143

By email to: standards@mfe.govt.nz

PROPOSED NATIONAL ENVIRONMENTAL STANDARD FOR PLANTATION FORESTRY

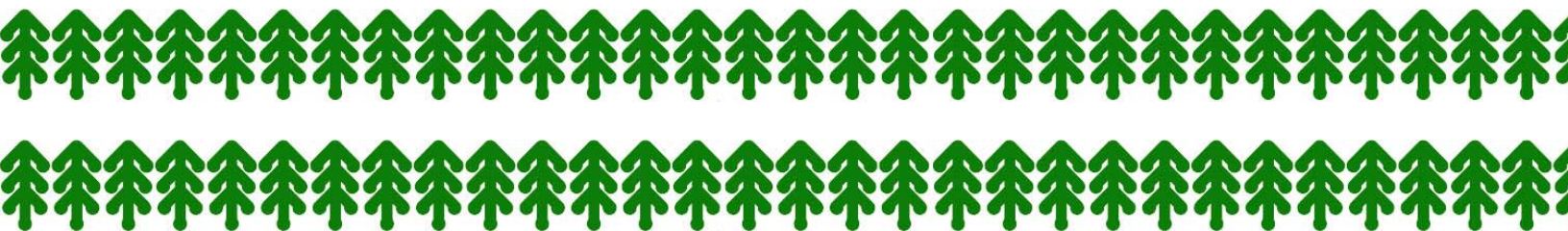
REVISED PROPOSAL

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1. Introduction

This submission has been prepared by the NZ Forest Owners Association (FOA), on behalf of the New Zealand plantation forest industry.

The FOA is a voluntary organisation representing the interests of commercial forest growers, facilitating co-operation and co-ordination within the forest industry. FOA member companies collectively manage around 1.4 million ha of rural land, 80% of which is planted in plantation trees. We represent around 70% of all the planted forest managed in New Zealand. The FOA has the mandate to speak on behalf of their combined interests.

Thank you for the opportunity to submit on the revised proposed National Environmental Standard for plantation forestry (NES).

Ministry for the Environment will appreciate that the effect of the proposed NES is very variable to our membership across the country. For those who currently operate in only one region, particularly in areas where the current regulatory regime is supportive of plantation forestry, there is only disadvantage in advancing the NES in terms of more consents and more onerous rules resulting in more cost. For those of our larger members who operate across many regions, there is ongoing support for the concept, but that is contingent on fixing some fundamental injustices embodied in the proposed approach. If these issues are not addressed it is the opinion of all of our members in all regions, that the NES will overall ramp up regulatory requirements above the status quo, and is hence unacceptable and should be discarded.

The FOA have consulted with our members, and the following submission is based on the collective position that was reached. This submission is not intended to address every detailed issue in the NES (as have been covered by our members) but to identify the key issues that we believe must be addressed if the NES is to be advanced further.

2. Submission

The FOA:

- Supports the objectives** for the proposed standard;
- Is **opposed** to the proposed standard in its current (revised) form; and
- requests** substantial changes to the proposed (revised) standard.

We note that the majority of the NES meets the requirements of the plantation forest industry. While the NES will result in an increase in regulation for many of our members, a suitable NES will for some of our members increase certainty and reduce bureaucracy while resulting in superior environmental outcomes throughout the industry.

The FOA remains supportive of the concept of an NES. We believe that significant gains can be made from developing one set of consistent rules throughout New Zealand for plantation forestry through increased productivity and efficiency and reduced bureaucracy and transaction cost both for the Plantation forest sector and for the councils that monitor our operations, in improved environmental outcomes and a greater understanding of the logic of 'the rules' amongst all of our work force.

We are in agreement with the stated objectives developed by the working group for the National Environmental Standard of:

1. Reduced litigation of plan provisions
2. Unnecessary resource consents eliminated and transaction costs reduced
3. Variation between consent conditions
4. Inappropriate use of bundling addressed
5. Good Environmental outcomes
6. Consistency with other legislation/government policies
7. Use of good practice/self management regimes
8. Clear bottom line standards established
9. Whole forestry cycle considered (certainty of harvest)
10. Options easily monitored
11. Cost effective

We do however have grave concerns that aspects of the proposed NES have not achieved some of the above proposed objectives. We understand that the brief to the Ministry for the Environment in developing the NES was to develop a set of rules that is broadly consistent with the status quo and does not significantly tighten or loosen controls. We appreciate that it was somewhat inevitable that there would be some tightening of rules in some areas with very permissive regimes (notwithstanding the fact that both councils and forestry companies in those regions reporting that this is not resulting in negative environmental outcomes). Likewise we anticipated in some regions there would be aspects where the NES rules would be more permissive than the status quo to be reflective of the overall approach across New Zealand. We are therefore very disappointed to find that the NES in our view appears to be aimed at the very upper end of current regulation, with some aspects being considerably tighter in *all* regions. The end result is that our members will face more consents, more regulatory cost and less certainty than what currently exists.

On that basis, the FOA cannot support the NES in its current form. We do however believe that the document can be amended to be workable, and still meet the objectives.

The following is a summary of all of the key items that the FOA believes **must** be addressed in the current NES before a decision is made for the document to progress to cost benefit analysis and cabinet approval.

If these critical items are not able to be satisfactorily addressed, the FOA requests that the process of developing an NES be suspended and the multiple existing, inconsistent approaches be allowed to continue. Given the other substantive changes that have been agreed we are hopeful that this outcome can be avoided.

The FOA is aware that some of our members have made detailed submissions on many aspects of these submissions as they impact on their operations. We refer the Ministry to those submission for further background detail on the list of issues below.

General Issues

1. Activity status: Where activities are not permitted the FOA seeks that the default status be amended to controlled in all cases, with the one exception being afforestation in the red zone (being the worst of the worst land in NZ). One of the goals of the NES was to achieve certainty for forest investors, that when a forest has been planted and tended, that at the end of a cycle the trees can be harvested for a return and replanted. There are no activities in the plantation forestry cycle that are 'optional' – if any activity in the chain cannot take place then it impacts all other activities potentially rendering the land unproductive. For routine forestry activities, all issues of concern can be addressed through controlled activity status, ensuring good environmental outcomes whilst providing certainty to forest owners.
2. Erosion Risk Mapping: Many FOA members have reported concerns with the accuracy of mapping in relation to forests under their management. Key concerns relate to mapping resolution (boundaries between high and low risk units being inaccurate, effectively resulting in inaccurate classification for pockets of land along the boundary) and also whether the appropriate classification is applied to some units. We appreciate that the mapping has been produced under a very tight time frame, and was by necessity based on LUC data that was of relatively low spatial resolution due to the lack of an alternative consistent national dataset. However given it is now to be used as the basis for regulation it is absolutely essential that a system be put in place to review and update the data to be accurate.

The review system must include:

- o A process for reviewing, amending and updating the risk classification of units and/or boundaries between units. The FOA is supportive of this being carried out at a national level to maintain consistency;

- o immediate inclusion of the most up to date information for a region, where more recent accurate spatial mapping has been undertaken, provided that is consistent with the original LUC approach (such as has been undertaken in Gisborne with overlay 3A);
 - o a process for review of unit boundaries when applying rules at a regional level. Where it is clear that a unit boundary is misplaced an approval should be able to be given at a regional level to apply the appropriate activity status to that pocket of land in the interim, prior to formal boundary changes taking place at a national level.
3. Inclusion in the description of all relevant permitted activity rules, the associated discharge of contaminants to land and water, to make it clear that all aspects of the effects of an activity are covered by the rule. Some aspects of discharge have been covered in some permitted activity descriptions but others not, leaving the possibility that regional councils could require a separate discharge consent to be obtained.
 4. Bundling: This was one of the key objectives and does not appear to have been addressed. As described in members' submissions inappropriate bundling (both spatially and between different activities) is a very real and material issue that must be clearly addressed in the NES.
 5. No setbacks that could incur Emissions Trading Scheme (ETS) liabilities or nationalize privately owned productive land: The ETS issue in relation to replanting has been described in the NES document but no clear indication is given that the document will not contain rules that would result in an ETS liability. The FOA is absolutely opposed to inclusion of any rule in the NES that would require foresters to not replant in a situation that could then incur ETS liabilities. Likewise we are opposed to rules that would require retirement of significant areas of private productive land. We can think of no equivalent in regulation in New Zealand and note the very strong resistance from other productive sectors to retirement of riparian areas, despite significantly greater impacts on the nation's waterways.
 6. The "ability to be more stringent" needs to be precisely defined and very sparingly used. The overall goal of the NES is to achieve consistency across the country. To leave open wide ranging and vaguely worded ability to be more stringent, could result in development of a whole further layer of rules over and above the NES, effectively negating any gains made by the NES.

7. Reference to generic plan templates (harvest/earthworks) must be clear that the requirements are indicative only with the ability to use a company's standard templates provided they cover all relevant issues. All larger FOA members have harvest planning systems in place, and to require companies to separately fill out an additional harvest plan and earthworks plan using the templates provided would be a considerable waste of time and resource.

Specific amendments requested, by topic:

Ability to be More Stringent

1. Amend Geothermal and karst areas to only apply to areas that are *mapped* or *identified* in a district or regional plan.
2. Indigenous vegetation: Amend the ability to be more stringent for indigenous vegetation to apply to SNA's only, to exclude the exceptions already listed in the activity conditions (understory, failed plantings etc) and to exclude temporary damage as a result of cable logging.
3. Amend the "Outstanding Natural Features and Landscapes" to only apply to the afforestation provisions.

Afforestation

1. Review the wilding risk calculator to ensure that it is ground truthed and accurate for all areas of New Zealand – in particular the North Island.
2. Amend road shading provisions to apply only to sealed roads.
3. Delete the exceptions list for increasing setbacks to 10m or at the very least clearly define each of the terms listed and how they would be applied.
4. Delete the discretionary rule if archaeological conditions are not met – the provision is redundant as the activity could only go ahead with a Historic Places Trust Authority.
5. Amend the status for afforestation of the orange zone to permitted as is the status quo across the country.

Replanting

1. Amend setback provisions for replanting to ensure ETS liabilities are not incurred as a result.
2. Amend replanting in the red zone to a permitted activity subject to conditions as is the status quo.

Mechanical Land Preparation

1. Amend Mechanical Land Preparation to be permitted in all zones with the removal of conditions relating to the depth that can be impacted – this is counterproductive to the purpose of some forms of mechanical land preparation.
2. Amend setback provisions to be consistent with replanting provisions.

Harvesting

1. Amend reference to the harvest plan to allow for a plan that is in general accordance with the harvest plan template in Appendix 1 of the NES (as described above).
2. Remove the requirement for any subsequent changes to the harvest plan to be provided 20 working days prior to the work being undertaken – amendments are made in the field while the work is underway. This provision could result in harvesting crews being held up awaiting approval.
3. Amend harvesting in the red zone to be “controlled” (currently restricted discretionary) in line with the stated objective of increasing certainty.

Earthworks

1. Maintenance and upgrade of earthworks in all zones must remain a permitted activity.
2. Amend the planning and reporting provisions to only apply to new construction above a given area threshold, to enable minor earthworks and maintenance to be carried out without the need to submit plans to the Regional Council.
3. Delete the newly inserted slope and area thresholds – both are redundant with the erosion risk mapping and will effectively make all plantation forestry earthworks in the yellow zone a controlled activity.
4. Precisely and clearly define “earthflow areas” using mapping.
5. Amend the activity status of earthworks in orange areas:
 - o To allow as a permitted activity very small scale earthworks and earthworks carried out on slopes <20 degrees (with the exception of earthflow country as already covered by provisions);
 - o default all other earthworks in the orange area to a controlled activity, as is consistent with MfE’s existing Electricity Transmission NES.

Quarrying

1. Amend the permitted quarrying provisions to apply to all zones with provisions as required relating to overburden disposal within the red zone.

Stream Crossings

1. Amend the permitted stream crossing provisions to apply to all zones, removing more stringent status for higher erosion risk zones. The NZLRI mapping was never intended to apply to, and did not consider stream crossings or quarries.
2. Amend the trigger level for requiring a culvert consent from 100ha to a minimum culvert size which results in a more consistent assessment of relative risk across the country. FOA is supportive of the approach of Environment Bay of Plenty to allow permitted culverts up to 1.2m diameter, sized to pass a design flood of 1 in 20 years.
3. Remove the requirement to construct a diversion while constructing all stream crossings – this provision is impractical in most plantation forest situations and will result in greater environmental impacts.
4. Remove the provision:
 - to require the culvert to be buried by 20% of the culvert diameter – this provision is impractical in head water streams typically encountered in plantation forests.
 - requiring the culvert width to be 0.5m plus 1.2 x wetted stream bed width. These provisions are impractical for small streams typically encountered in plantation forests and would be environmentally unacceptable.
5. Amend the provision for permanent culverts to be 600mm dia or greater, to apply only to perennial streams.
6. Either remove the requirement for each culvert to be a single structure, or alternatively install new provisions for low level crossings that are typically used in plantation forests (battery culverts and drift decks).
7. Amend the default status for stream crossings that do not meet the permitted provisions to controlled, with matters over which control applies including the stream crossing siting and design. Stream crossings are not an activity that can be avoided and inability to obtain a crossing consent will result in land becoming landlocked and incapable of productive use.

3. Conclusion

FOA is aware many of our members have submitted on more detailed matters and we are supportive of those issues being addressed. However as noted in our introduction, the FOA have deliberately kept our submission to those issues that we believe are critical and **must be addressed** if the NES is to be developed to the next stage. The FOA remains strongly supportive of an NES and believes that the document as proposed can be amended to be workable. **However if these critical items are not able to be satisfactorily addressed, the FOA requests that the process of developing an NES be suspended and the multiple existing, inconsistent approaches be allowed to continue. Given the other substantive changes that have been agreed we are hopeful that this outcome can be avoided.**